

The House Committee on Judiciary offers the following substitute to HB 1042:

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 9, 15, and 23 of the Official Code of Georgia Annotated, relating to civil
2 practice, courts, and equity, respectively, so as to revise provisions for judicial sales relative
3 to acceptable tenders by purchasers and to permit certain purchasers to submit credit bids;
4 to provide for the protection of personally identifiable data of judges and spouses; to require
5 state and local governments to indicate on official records indices that personally identifiable
6 information has been restricted; to provide for the release of restricted information to the
7 protected person upon written request; to provide that a protected person may authorize the
8 release of restricted information to a third-party individual or entity; to provide for the
9 removal of the restriction on personally identifiable information after the death of a protected
10 person; to provide penalties; to provide for construction; to provide for the qualification of
11 special masters in certain quiet title actions; to provide for definitions; to provide a short title;
12 to provide for related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 This Act shall be known and may be cited as the "Real Estate Security and Title Act."

H. B. 1042 (SUB)

16 **SECTION 2.**

17 Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended in
 18 Part 2 of Article 7 of Chapter 13, relating to conduct and effect relative to judicial sales, by
 19 revising Code Section 9-123-166, relating to form of tender, as follows:

20 "9-13-166.

21 Purchasers at judicial sales need not tender cash but, as an alternative, may tender a
 22 cashier's ~~or certified~~ check or certified funds which is drawn for the amount of the purchase
 23 price and which is issued by or certified by any financial institution insured by the Federal
 24 Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or the
 25 Federal Savings and Loan Insurance Corporation; provided, however, that the holder of the
 26 security instrument being foreclosed or its designated representative shall be authorized to
 27 submit a credit bid for the purchase price in lieu of cash, a cashier's check, or certified
 28 funds."

29 **SECTION 3.**

30 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended in Article
 31 8 of Chapter 5, relating to protection of personally identifiable data of judges and spouses,
 32 by revising Code Section 15-5-110, relating to definitions, as follows:

33 "15-5-110.

34 As used in this article, the term:

35 (1) 'Personally identifiable information' means ~~any personal phone number, each~~ home
 36 address, ~~or property or tax records~~ the parcel number of each such address, and each
 37 personal telephone number of a protected person.

38 (2) 'Protected person' means any ~~current or former~~:

39 (A) Current or former judge ~~Judge~~ or justice of this state ~~and his or her spouse~~;

40 (B) Current or former judge ~~Judge~~ of any county or municipality of this state ~~and his~~
 41 ~~or her spouse~~; and

42 (C) Current or former judge ~~Judge~~ or justice of the United States ~~and his or her spouse;~~
 43 and

44 (D) Spouse of any person who qualifies as a protected person under subparagraphs (A),
 45 (B), or (C) of this paragraph.

46 (3) 'Publicly available content' means any written or electronic document or record that
 47 provides information or that serves as a document or record maintained, controlled, or in
 48 the possession of a state or local government entity that may be obtained by any person
 49 from the state or local government entity's ~~public~~ website or from such state or local
 50 government agency upon request whether free of charge or for a fee.

51 (4) 'State or local government entity' means any:

52 (A) Agency of the executive branch of this state; or

53 (B) Any county or municipality of this state, including, but not limited to, any county
 54 or municipal court clerk's office, board of elections, board of tax assessors, or board of
 55 ethics."

56 **SECTION 4.**

57 Said title is further amended by revising Code Section 15-5-112, relating to restriction of
 58 judicial personally identifiable information from public disclosure and enforcement, as
 59 follows:

60 "15-5-112.

61 (a) As used in this Code section, the term 'restrict from public disclosure' means to conceal
 62 from a copy of an original public record or to conceal from an electronic image that is
 63 available for public viewing the personally identifiable information of a protected person
 64 contained within such record.

65 (b) Notwithstanding any provision of Article 4 of Chapter 18 of Title 50 to the contrary,
 66 a state or local government entity shall restrict from public disclosure any personally
 67 identifiable information that specifically identifies a protected person as a judge, justice,

68 or spouse thereof. The provisions of this subsection shall include, but shall not be limited
69 to, records or filings in the office of the Secretary of State and the State Ethics
70 Commission.

71 ~~(b)~~(c) Notwithstanding any provision of Article 4 of Chapter 18 of Title 50 to the contrary,
72 a state or local government entity that possesses records, filings, or other publicly available
73 content that does not specifically identify a person as a judge, justice, or spouse thereof but
74 that includes personally identifiable information of such a protected person shall, upon
75 request of the protected person, restrict from public disclosure any personally identifiable
76 information. A protected person may request that his or her personally identifiable
77 information be restricted from public disclosure pursuant to this subsection by submitting
78 a request in writing to the state or local government entity on the form provided for in Code
79 Section 15-5-111. A state or local government entity receiving such request shall restrict
80 from public disclosure the personally identifiable information within 30 days of receiving
81 a valid request and shall reflect on any official records index entries affected under this
82 Code section, including, but not limited to, any indices related to the recordation of any
83 instrument or document regarding the conveyance of real property, that personally
84 identifiable information contained within the record has been restricted from public
85 disclosure pursuant to this Code section.

86 ~~(c)~~(d) Any protected person may bring an action in a court of competent jurisdiction
87 against any officer or employee of the state or local government entity in his or her
88 individual capacity for failure to comply with subsection ~~(a)~~ or (b) or (c) of this Code
89 section. Any relief granted by such action shall be limited to injunctive relief.

90 (e) Any protected person may request access to information restricted from public
91 disclosure within publicly available content that is maintained by a state or local
92 government entity by submitting to such entity a signed authorization form developed by
93 the Administrative Office of the Courts. Upon receipt of such signed authorization form,

94 the state or local government entity shall provide the authorized protected person access
95 to an unrestricted copy of the documents listed in such signed authorization form.

96 (f) Any protected person may authorize a third-party individual or entity to access
97 information restricted from public disclosure within publicly available content that is
98 maintained by a state or local government entity by submitting to such entity a signed
99 authorization form developed by the Administrative Office of the Courts. Upon receipt of
100 such signed authorization form, the state or local government entity shall provide the
101 authorized third-party individual or entity access to an unrestricted copy of the documents
102 listed in such signed authorization form.

103 (g) A protected person, or his or her attorney in fact or legal representative acting on
104 behalf of such protected person, may submit a written request to release the restriction on
105 publication of such protected person's personally identifiable information. Within 45 days
106 of receipt of a request under this subsection to release the restriction on such publication,
107 the state or local government entity shall remove such restriction.

108 (h) Upon proof of death of a protected person, as verified by a certified copy of a death
109 certificate, the attorney in fact or legal representative of the deceased protected person may
110 request a state or local government entity to release the restriction on publication of such
111 protected person's personally identifiable information unless such release is otherwise
112 prohibited by statute or court order. Such written request to release the restriction on such
113 publication shall include a certified copy of the protected person's death certificate.

114 (i) Any person making a false attestation under this Code section is subject to the penalty
115 of perjury under Code Section 16-10-70.

116 (j) The provisions of this article shall not prohibit any county clerk, register of deeds, tax
117 assessor, treasurer, or any other state or local government office or agency from providing
118 unrestricted copies of recorded instruments affecting title to real property or property tax
119 records that contain protected personally identifiable information to:

120 (1) A title insurer or title insurance agent;

121 (2) A licensed attorney representing such title insurer or title insurance agent; or
122 (3) An agent of such a licensed attorney,
123 in furtherance of providing title insurance, as defined in Code Section 33-7-8, provided that
124 such insurer, agent, attorney, or attorney's agent makes an affirmative representation that
125 they are seeking such information in furtherance of providing title insurance."

126 **SECTION 5.**

127 Title 23 of the Official Code of Georgia Annotated, relating to equity, is amended in Part 2
128 of Article 3 of Chapter 3, relating to quia timet against all the world, by revising Code
129 Section 23-3-63, relating to submission to special master, as follows:

130 "23-3-63.

131 The court, upon receipt of the petition together with the plat and instruments filed
132 therewith, shall submit the same to a special master who shall:

133 (1) Be an individual ~~be a person~~ who is authorized to practice law in this state ~~and;~~

134 (2) Be is a resident of the judicial circuit of the United States wherein the action is
135 brought;

136 (3) Be a citizen of this state for not less than three years; and

137 (4) Have not less than five years of experience litigating or providing opinions on title
138 to land in this state."

139 **SECTION 6.**

140 All laws and parts of laws in conflict with this Act are repealed.