

Senate Bill 13

By: Senators Albers of the 56th, Robertson of the 29th, Dugan of the 30th, Payne of the 54th,
Beach of the 21st and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Sections 9-13-161, 44-14-162, and 48-4-1 of the Official Code of Georgia
2 Annotated, relating to where and when sales under execution held and change of place of
3 public sales by court order, sales made on foreclosure under power of sale, and procedures
4 for sales under tax levies and executions, respectively, so as to authorize online public sales
5 under tax levies and executions; to provide a time frame for sales of real estate under
6 foreclosure powers; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 9-13-161 of the Official Code of Georgia Annotated, relating to where and
11 when sales under execution held and change of place of public sales by court order, is
12 amended by revising subsection (a) as follows:

13 "(a)(1) Unless otherwise provided, sales of property taken under execution shall be made
14 by the sheriffs or coroners ~~only~~ at the courthouse of the county where the levy was made
15 on the first Tuesday ~~in each~~ of the month, between the hours of 10:00 A.M. and 4:00
16 P.M.; at a time and place ordered by the court; or at a time and place within the discretion

17 of the sheriff or coroner, and at public outcry; provided, however, that, ~~should~~ if the first
 18 Tuesday of the month ~~fall~~ falls on New Year's Day or Independence Day, such sales shall
 19 take place on the immediately following Wednesday. A change in the time of such sales
 20 from the first Tuesday of the month to the first Wednesday of the month as provided in
 21 this subsection shall also apply to all public sales within the county required to be
 22 conducted at the time of the sheriff's sales.

23 (2) Sales of property taken under execution, as provided for in paragraph (1) of this
 24 subsection, may also, at the discretion of the sheriff or coroner, be conducted through
 25 internet enabled technology and digital media, including, but not limited to, websites and
 26 consumer applications accessible through computers, smartphones, or other electronic
 27 devices. No fee, including, but not limited to, a buyer's premium, in excess of \$250.00
 28 above the winning bid shall be charged to any purchaser for a sale conducted pursuant
 29 to this subsection."

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SECTION 2.

31 Code Section 44-14-162 of the Official Code of Georgia Annotated, relating to sales made
 32 on foreclosure under power of sale, manner of advertisement and conduct necessary for
 33 validity, and filing, is amended by revising subsection (a) as follows:

34 "(a) No sale of real estate under powers contained in mortgages, deeds, or other lien
 35 contracts shall be valid unless the sale shall be advertised and conducted at the ~~time and~~
 36 ~~place and in the usual manner of the sheriff's sales~~ courthouse in the county in which such
 37 real estate or a part thereof is located ~~and~~ on the first Tuesday of the month, between the
 38 hours of 10:00 A.M. and 4:00 P.M., and at public outcry; provided, however, that, if the
 39 first Tuesday of the month falls on New Year's Day or Independence Day, such sale shall
 40 take place on the immediately following Wednesday; provided, further, that no such sale
 41 shall be valid unless notice of the sale shall have been given as required by Code
 42 Section 44-14-162.2. If the advertisement contains the street address, city, and ZIP Code

43 of the property, such information shall be clearly set out in bold type. In addition to any
 44 other matter required to be included in the advertisement of the sale, if the property
 45 encumbered by the mortgage, security deed, or lien contract has been transferred or
 46 conveyed by the original debtor to a new owner and an assumption by the new owner of
 47 the debt secured by said mortgage, security deed, or lien contract has been approved in
 48 writing by the secured creditor, then the advertisement should also include a recital of the
 49 fact of such transfer or conveyance and the name of the new owner, as long as information
 50 regarding any such assumption is readily discernable by the foreclosing creditor. Failure
 51 to include such a recital in the advertisement, however, shall not invalidate an otherwise
 52 valid foreclosure sale."

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SECTION 3.

54 Code Section 48-4-1 of the Official Code of Georgia Annotated, relating to procedures for
 55 sales under tax levies and executions, is amended by revising subsection (a) as follows:

56 "(a)(1) Except as otherwise provided in this title, when a levy is made upon real or
 57 personal property, the property shall be advertised and sold in the same manner as
 58 provided for executions and judicial sales. Except as otherwise provided in this title, the
 59 sale of real or personal property under a tax execution shall be made in the same manner
 60 as provided for judicial sales; provided, however, that, in addition to such other notice as
 61 may be required by law, in any sale under a tax execution made pursuant to this chapter,
 62 the defendant shall be given ten days' written notice of such sale by registered or certified
 63 mail or statutory overnight delivery, return receipt requested. The notice required by this
 64 Code section shall be sent:

65 (A) In cases of executions issued by a county officer for ad valorem taxes, to the
 66 defendant's last known address as listed in the records of the tax commissioner of the
 67 county that issued the tax execution;

68 (B) In cases of executions issued by a municipal officer for ad valorem taxes, to the
69 defendant's last known address as listed in the records of the municipal officer of the
70 municipality that issued the tax execution; or

71 (C) In cases of executions issued by a state officer, to the defendant's last known
72 address as listed in the records of the department headed by the issuing officer.

73 (2) A copy of the notice provided for in paragraph (1) of this subsection shall also be sent
74 by the same tax officer sending the notice to the defendant to the appropriate tax official
75 of the state, county, or municipality which also has issued an execution with respect to
76 such property.

77 (3) A sale for taxes due may be conducted by the tax commissioner or tax collector or
78 his or her duly authorized officer and may be held in the office of the tax commissioner
79 or tax collector or at such other location as may be identified in the notice required by this
80 Code section; provided, however, that any such sale may, at the discretion of the tax
81 commissioner or tax collector, also be conducted through internet enabled technology and
82 digital media, including, but not limited to, websites and consumer applications
83 accessible through computers, smartphones, or other electronic devices. Such notice shall
84 also be posted in a conspicuous location in the appropriate courthouse."

85 **SECTION 4.**

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