

COMMITTEES OF CONFERENCE SUBSTITUTE TO SB 13

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Sections 9-13-161 and 44-14-162 and Title 48 of the Official Code of
2 Georgia Annotated, relating to where and when sales under execution held and change of
3 place of public sales by court order, sales made on foreclosure under power of sale, and
4 revenue and taxation, respectively, so as to authorize online public sales under tax levies and
5 executions; to provide a time frame for sales of real estate under foreclosure powers; to
6 provide for procedures for an appointed levying officer to conduct certain sales; to require
7 registration to participate in sales conducted in a certain manner; to provide for registration
8 requirements; to replace constables with sheriffs as the proper officer for collecting and
9 levying tax executions on behalf of the tax collector or tax commissioner; to revise the
10 language required to be included in the notices of current assessment; to add hearing officer
11 review for tax assessment of certain business personal property; to further extend the
12 maximum time allowed to meet the job creation requirement for a tax credit for large-scale
13 projects; to provide for related matters; to provide for an effective date; to repeal conflicting
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"(a)(1) Unless otherwise provided, sales of property taken under execution shall be made by the sheriffs ~~or coroners only~~ at the courthouse of the county where the levy was made on the first Tuesday ~~in each of the~~ of the month, between the hours of 10:00 A.M. and 4:00 P.M.; at a time and place ordered by the court; or at a time and place within the discretion of the sheriff, and at public outcry; provided, however, that, ~~should if~~ if the first Tuesday of the month ~~fall~~ falls on New Year's Day or Independence Day, such sales shall take place on the immediately following Wednesday. A change in the time of such sales from the first Tuesday of the month to the first Wednesday of the month as provided in this subsection shall also apply to all public sales within the county required to be conducted at the time of the sheriff's sales.

(2)(A) Sales of property taken under execution, as provided for in paragraph (1) of this subsection, may also, at the discretion of the sheriff, be conducted through internet enabled technology and digital media, including, but not limited to, websites and consumer applications accessible through computers, smartphones, or other electronic devices.

(B) Sales conducted pursuant to this paragraph shall require a bidder to register prior to participation. Such registration shall require submission of:

(i) A completed Internal Revenue Service Form W-9; and

(ii) The name, address, and telephone number of the bidder.

(C) Any fee, including, but not limited to, a buyer's premium, charged to any purchaser for a sale conducted pursuant to this subsection shall be applied at the time of the sale and shall not exceed \$250.00.

(b) In all cases where any sheriff, ~~coroner~~, or other levying officer shall levy any execution or other legal process upon any corn, lumber, timber of any kind, bricks, machinery, or other articles difficult and expensive to transport, the officer may sell the property without carrying and exposing the same at the courthouse door on the day of sale, but the levying officer shall give a full description of the property and the place where it is located in the advertisement of the sale."

SECTION 2.

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

"(a) No sale of real estate under powers contained in mortgages, deeds, or other lien contracts shall be valid unless the sale shall be advertised and conducted at the ~~time and place and in the usual manner of the sheriff's sales~~ courthouse in the county in which such real estate or a part thereof is located ~~and~~ on the first Tuesday of the month, between the hours of 10:00 A.M. and 4:00 P.M., and at public outcry; provided, however, that, if the first Tuesday of the month falls on New Year's Day or Independence Day, such sale shall take place on the immediately following Wednesday; provided, further, that no such sale shall be valid unless notice of the sale shall have been given as required by Code Section 44-14-162.2. If the advertisement contains the street address, city, and ZIP Code of the property, such information shall be clearly set out in bold type. In addition to any other matter required to be included in the advertisement of the sale, if the property encumbered by the mortgage, security deed, or lien contract has been transferred or conveyed by the original debtor to a new owner and an assumption by the new owner of the debt secured by said mortgage, security deed, or lien contract has been approved in writing by the secured creditor, then the advertisement should also include a recital of the fact of such transfer or conveyance and the name of the new owner, as long as information

regarding any such assumption is readily discernable by the foreclosing creditor. Failure to include such a recital in the advertisement, however, shall not invalidate an otherwise valid foreclosure sale."

SECTION 3.

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

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

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

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

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

(2) A copy of the notice provided for in paragraph (1) of this subsection shall also be sent by the same tax officer sending the notice to the defendant to the appropriate tax official

of the state, county, or municipality which also has issued an execution with respect to such property.

(3)(A) A sale for taxes due may be conducted by the tax commissioner or tax collector or his or her duly authorized officer and may be held in the office of the tax commissioner or tax collector or at such other location as may be identified in the notice required by this Code section. Such notice shall also be posted in a conspicuous location in the appropriate courthouse.

(B) Sales for taxes due pursuant to this subsection may also, at the discretion of the tax commissioner or tax collector, be conducted through internet enabled technology and digital media, including, but not limited to, websites and consumer applications accessible through computers, smartphones, or other electronic devices. Sales conducted pursuant to this subparagraph shall require a bidder to register prior to participation. Such registration shall require submission of:

(i) A completed Internal Revenue Service Form W-9; and

(ii) The name, address, and telephone number of the bidder."

SECTION 4.

Said title is further amended by revising Code Section 48-4-3, relating to duties of levying officers, as follows:

"48-4-3.

The tax collector or tax commissioner may place his or her executions in the hands of ~~any constable~~ the sheriff of the county or a levying officer, who shall be authorized to collect or levy the executions in any part of the county. The ~~constable~~ sheriff or other levying officer to whom the tax collector or tax commissioner delivers the tax executions for collection shall proceed promptly to enforce by levy and sale the collection of the executions. Such sheriff or other levying officer shall be authorized to conduct any sale in the same manner and under the same conditions as set forth in subsection (a) of Code

120 Section 48-4-1. The levying or collecting officer shall make prompt settlements with the
121 tax collector or tax commissioner and in no event shall be allowed longer than 90 days
122 from the time the executions are placed in his or her hands within which to make final
123 settlement with the tax collector or tax commissioner and return to the tax collector or tax
124 commissioner the tax collected and the uncollected executions with proper entries on the
125 executions. Any ~~constable~~ sheriff or other levying officer who fails or refuses to make a
126 final return or settlement within the time provided in this Code section shall forfeit all costs
127 due him or her on the executions and shall be subject to be ruled before any court of
128 competent jurisdiction and made to account as required by this Code section."

129 **SECTION 5.**

130 Said title is further amended in Code Section 48-5-306, relating to annual notice of current
131 assessment, contents, posting notice, and new assessment description, by revising paragraph
132 (2) of subsection (b) as follows:

133 "(2)(A) In addition to the items required under paragraph (1) of this subsection, the
134 notice shall contain a statement of the taxpayer's right to an appeal and an estimate of
135 the current year's taxes for all levying authorities which shall be in substantially the
136 following form:

137 "The amount of your ad valorem tax bill for this year will be based on the appraised and
138 assessed values specified in this notice. You have the right to appeal these values to the
139 county board of tax assessors. At the time of filing your appeal, you must select one
140 of the following options:

- 141 (i) An appeal to the county board of equalization with appeal to the superior court;
142 (ii) To arbitration without an appeal to the superior court; or
143 (iii) To a hearing officer with appeal to the superior court for any:

~~(I) Parcel For a parcel of nonhomestead property with a fair market value in excess of \$500,000.00 as shown on the taxpayer's annual notice of current assessment under this Code section; or for one~~

~~(II) One or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of Code Section 48-5-311 with an aggregate fair market value in excess of \$500,000.00 as shown on the taxpayer's annual notice of current assessment under this Code section; to a hearing officer with appeal to the superior court; or~~

(III) One or more account numbers of any taxable tangible personal property other than wireless property as defined in subparagraph (e.1)(1)(B) of Code Section 48-5-311 with an aggregate fair market value in excess of \$200,000.00 as shown on the taxpayer's annual notice of current assessment under this Code section.

If you wish to file an appeal, you must do so in writing no later than 45 days after the date of this notice. If you do not file an appeal by this date, your right to file an appeal will be lost. For further information on the proper method for filing an appeal, you may contact the county board of tax assessors which is located at: (insert address) and which may be contacted by telephone at: (insert telephone number).'

(B) The notice shall also contain the following statements in bold print:

"The estimate of your ad valorem tax bill for the current year is based on the previous or most applicable year's millage rate and the fair market value contained in this notice. The actual tax bill you receive may be more or less than this estimate. This estimate may not include all eligible exemptions."

SECTION 6.

Said title is further amended in Code Section 48-5-311, relating to creation of county boards of equalization, duties, review of assessments, and appeals, by revising subparagraph (e)(1)(A) of subsection (e) and paragraphs (1) and (2) of subsection (e.1) as follows:

"(e) Appeal.

(1)(A) Any taxpayer or property owner as of the last date for filing an appeal may elect to file an appeal from an assessment by the county board of tax assessors to:

(i) The county board of equalization as to matters of taxability, uniformity of assessment, and value, and, for residents, as to denials of homestead exemptions pursuant to paragraph (2) of this subsection;

(ii) An arbitrator as to matters of value pursuant to subsection (f) of this Code section;

(iii) A hearing officer as to matters of value and uniformity of assessment for a parcel of nonhomestead real property with a fair market value in excess of \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, and any contiguous nonhomestead real property owned by the same taxpayer, pursuant to subsection (e.1) of this Code section; ~~or~~

(iv) A hearing officer as to matters of values or uniformity of assessment of one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of this Code section with an aggregate fair market value in excess of \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, pursuant to subsection (e.1) of this Code section; or

(v) A hearing officer as to matters of values or uniformity of assessment of one or more account numbers of any taxable tangible personal property other than wireless property as defined in subparagraph (e.1)(1)(B) of this Code section with an aggregate fair market value in excess of \$200,000.00 as shown on the taxpayer's annual notice

of current assessment under Code Section 48-5-306, pursuant to subsection (e.1) of this Code section."

"(e.1) Appeals to hearing officer.

(1)(A) For any dispute involving the value or uniformity of a parcel of nonhomestead real property with a fair market value in excess of \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing officer in accordance with this subsection. If such taxpayer owns nonhomestead real property contiguous to such qualified nonhomestead real property, at the option of the taxpayer, such contiguous property may be consolidated with the qualified property for purposes of the hearing under this subsection.

(B)(i) As used in this subparagraph, the term 'wireless property' means tangible personal property or equipment used directly for the provision of wireless services by a provider of wireless services which is attached to or is located underneath a wireless cell tower or at a network data center location but which is not permanently affixed to such tower or data center so as to constitute a fixture.

(ii) For any dispute involving the values or uniformity of one or more account numbers of wireless property as defined in this subparagraph with an aggregate fair market value in excess of \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing officer in accordance with this subsection.

(C) For any dispute involving the values or uniformity of one or more account numbers of any taxable tangible personal property other than wireless property as defined in subparagraph (B) of this paragraph with an aggregate fair market value in excess of \$200,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing officer in accordance with this subsection.

(2)(A) Individuals desiring to serve as hearing officers and who are either:

(i) ~~State~~ ~~state~~ certified general real property appraisers or state certified residential real property appraisers as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board for real property appeals; or ~~are~~

(ii) Designated ~~designated~~ appraisers by a nationally recognized appraiser's organization for wireless property appeals

shall complete and submit an application, a list of counties the hearing officer is willing to serve, disqualification questionnaire, and resume and be approved by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board to serve as a hearing officer. The Georgia Real Estate Appraisers Board ~~Such board~~ shall annually publish a list of qualified and approved hearing officers for Georgia.

(B)(i) Any individual who is a former or current Appraiser IV or chief appraiser and desires to serve as a hearing officer for tangible personal property other than wireless property shall complete and submit an application, a list of counties the hearing officer is willing to serve, a disqualification questionnaire, and a resume to the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board for review and approval to serve as a hearing officer with respect to tangible personal property appeals provided for in subparagraph (C) of paragraph (1) of this subsection.

(ii) The Georgia Real Estate Appraisers Board shall annually publish a list of such qualified and approved hearing officers and a list of counties such hearing officers are willing to serve.

(iii) With respect to this subparagraph and subparagraph (C) of paragraph (1) of this subsection, no Appraiser IV or chief appraiser shall be eligible to serve as a hearing officer for any county for which such person served as an Appraiser IV or chief appraiser."

SECTION 7.

Said title is further amended in Code Section 48-7-40.24, relating to tax credits for jobs associated with large-scale projects, by revising paragraph (5) of subsection (a) as follows:

"(5) 'Job creation requirement' means the requirement that no later than the close of the sixth taxable year following the withholding start date, the business enterprise will have a minimum of 1,800 eligible full-time employees. If at the close of the sixth taxable year following the withholding start date a minimum of \$600 million in qualified investment property has been purchased or acquired by the business enterprise to be used with respect to a qualified project, the job creation requirement shall be extended for an additional two-year period. If at the close of the eighth taxable year following the withholding start date a minimum of \$800 million in qualified investment property has been purchased or acquired by the business enterprise to be used with respect to a qualified project, the job creation requirement shall be extended for an additional four-year period after the sixth taxable year following the withholding start date. If at the close of the tenth taxable year following the withholding start date a minimum of \$1 billion in qualified investment property has been purchased or acquired by the business enterprise to be used with respect to a qualified project, the job creation requirement shall be extended for an additional two-year period after the tenth taxable year following the withholding start date."

SECTION 8.

This Act shall become effective on January 1, 2024.

SECTION 9.

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