

The House Committee on Insurance offers the following substitute to SB 230:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 9, 15, 23, and 44 of the Official Code of Georgia Annotated, relating to civil  
2 practice, courts, equity, and property, respectively, so as to provide for statutory mechanisms  
3 to protect persons, personal information, title, and property; to revise provisions for judicial  
4 sales relative to acceptable tenders by purchasers and to permit certain purchasers to submit  
5 credit bids; to provide for the protection of personally identifiable data of judges and spouses;  
6 to provide for certain information to be restricted from disclosure; to provide for the  
7 authorized release of certain restricted information; to provide for the removal of such  
8 restriction; to provide for penalties; to provide for construction; to provide for the  
9 qualification of special masters in certain quiet title actions; to provide for definitions; to  
10 increase the maximum amount of insurance deductibles payable by unit owners; to provide  
11 for notice; to provide for related matters; to provide a short title; to repeal conflicting laws;  
12 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."

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 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended in  
 141 Article 3 of Chapter 3, relating to condominiums, by revising Code Section 44-3-94, relating  
 142 to damage or destruction of units, as follows:

143 "44-3-94.

144 (a) Unless otherwise provided in the condominium instruments, in the event of damage to  
 145 or destruction of any unit by a casualty covered under insurance required to be maintained

146 by the association pursuant to Code Section 44-3-107, the association shall cause the unit  
147 to be restored. Unless otherwise provided in the condominium instruments, any funds  
148 required for such restoration in excess of the insurance proceeds attributable thereto shall  
149 be paid by the unit owner of the unit; provided, however, that, in the event that the unit  
150 owner of the unit together with the unit owners of other units to which two-thirds of the  
151 votes in the association pertain agree not to restore the unit, the unit shall not be restored  
152 and the entire undivided interest in the common elements pertaining to that unit shall then  
153 pertain to the remaining units, to be allocated to them in proportion to their undivided  
154 interests in the common elements, and the remaining portion of that unit shall thenceforth  
155 be a part of the common elements. Votes in the association and liability for future common  
156 expenses shall thereupon pertain to the remaining units, being allocated to them in  
157 proportion to their relative voting strength in the association and liability for common  
158 expenses, respectively. To the extent provided for in the condominium instruments, the  
159 association may allocate equitably the payment of a reasonable insurance deductible  
160 between the association and the unit owners affected by a casualty against which the  
161 association is required to insure; provided, however, that the amount of deductible which  
162 can be allocated to any one unit owner shall not exceed ~~\$5,000.00~~ \$25,000.00 per casualty  
163 loss covered under any insurance required to be maintained by the association under this  
164 article. The existence of a reasonable deductible in any required insurance policy shall not  
165 be deemed a failure to maintain insurance as required by this Code section.

166 (b) Each association in this state shall timely notify all unit owners within such association  
167 of any material change in such association's master policy deductible. Such notification  
168 shall be in writing and accomplished by depositing the notice in the United States mail to  
169 be dispatched by at least first class mail to the address of record of the unit owner. Such  
170 notice may alternatively be delivered, with the unit owner's written consent, in person, or  
171 through electronic transmittal or facsimile."

172

**SECTION 7.**

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