

House Bill 1404

By: Representatives Franklin of the 160th, Jenkins of the 136th, Lott of the 131st, Powell of the 33rd, Burchett of the 176th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 13 of Title 9 of the Official Code of Georgia Annotated,
2 relating to advertisement regarding judicial sales, so as to provide for an online publication
3 to serve as an interim legal organ; to provide for related matters; to repeal conflicting laws;
4 and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 7 of Chapter 13 of Title 9 of the Official Code of Georgia Annotated, relating to
8 advertisement regarding judicial sales, is amended by revising Code Section 9-13-142,
9 relating to requirements for official organ of publication, designation where no journal or
10 newspaper qualifies, how official organ changed, and notice to Secretary of State, as follows:

11 "9-13-142.

12 (a) No journal or newspaper published in this state shall be declared, made, or maintained
13 as the official organ of any county for the publication of sheriff's sales, citations of probate
14 court judges, or any other advertising commonly known in terms of 'official or legal
15 advertising' and required by law to be published in such county official newspaper unless
16 the newspaper shall meet and maintain the following qualifications:

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- 17 (1) 'Newspaper' as used in this Code section means a printed product of multiple pages
18 containing not greater than 75 percent advertising content in no more than one-half of its
19 issues during the previous 12 months, excluding separate advertising supplements
20 inserted into but separately identifiable from any regular issue or issues of the newspaper;
- 21 (2) The newspaper shall be published within the county and continuously at least weekly
22 for a period of two years or is the direct successor of such a newspaper. Failure to
23 publish for not more than two weeks in any calendar year shall not disqualify a
24 newspaper otherwise qualified;
- 25 (3) For a period of two years prior to designation and thereafter, the newspaper shall
26 have and maintain at least 75 percent paid circulation as established by an independent
27 audit. Paid circulation shall not include newspapers that are distributed free or in
28 connection with a service or promotion at no additional charge to the ultimate recipient.
29 For circulation to be considered paid, the recipient of the newspaper or such recipient's
30 employer or household must pay reasonable and adequate consideration for the
31 newspaper. No rules of circulation of audit companies, the United States Postal Service,
32 or accounting principles may be considered in determining paid circulation if they are
33 inconsistent with the provisions of this subsection;
- 34 (4) Based on the published results of the 1990 United States decennial census or any
35 future such census, the newspaper shall have and maintain at least the following paid
36 circulation within the county for which it is designated as the legal organ newspaper:
- 37 (A) Five hundred copies per issue in counties having a population of less than 20,000;
38 (B) Seven hundred fifty copies per issue in counties having a population of at least
39 20,000 but less than 100,000; or
40 (C) One thousand five hundred copies per issue in counties having a population of
41 100,000 or greater; and
- 42 (5) For purposes of this Code section, paid circulation shall include home or mail
43 delivery subscription sales, counter, vendor and newsrack sales, and sales to independent

44 newspaper contract carriers for resale. Paid circulation shall not include multiple copies
 45 purchased by one entity unless the multiple copies are purchased for and distributed to
 46 the purchaser's officers, employees, or agents, or within the purchaser's household.

47 (b)(1) However, in counties where no journal or newspaper meets the qualifications set
 48 forth in subsection (a) of this Code section, the official organ may be designated by the
 49 judge of the probate court, the sheriff, and the clerk of the superior court, or by a majority
 50 of these officers governing from among newspapers otherwise qualified to be a legal
 51 organ that meet the minimum paid circulation in ~~the preceding subsection~~ subsection (a)
 52 of this Code section for the county, or if there is no such newspaper, then the newspaper
 53 having the greatest general paid circulation in the county of at least 100 copies per issue.

54 (2) In the event that no otherwise qualified journal or newspaper has a paid circulation
 55 of at least 100 copies per issue in the county, the judge of the probate court, the sheriff,
 56 the clerk of the superior court, or a majority of these officers may designate a as the
 57 interim legal organ for the county:

58 (A) A newspaper that does not meet the qualifications of paragraph (1) of subsection
 59 (a) of this Code section, but does have a weekly circulation in the county of at least 100
 60 copies per issue, as the legal interim organ for the county; or

61 (B) An online publication that has a demonstrable history of journalism concerning the
 62 county for a period of two years prior to designation, and has at least one agent who is
 63 a current resident of the state.

64 Such interim designation shall terminate in the event that another newspaper meets the
 65 qualifications of subsection (a) of this Code section and is designated as the county's legal
 66 organ pursuant to this Code section.

67 (c) Any selection or change in the official organ of any county shall be made upon the
 68 concurrent action of the judge of the probate court, the sheriff, and the clerk of the superior
 69 court of the county or a majority of the officers. No change in the official legal organ shall
 70 be effective without the publication for four weeks of notice of the decision to make a

71 change in the newspaper in which legal advertisements have previously been published.
72 All changes in the official legal organ shall be made effective on January 1 unless a change
73 has to be made where there is no other qualified newspaper.

74 (d) Notwithstanding the other provisions of this Code section, an official organ of any
75 county meeting the qualifications under the statute in force at the time of its appointment
76 and which was appointed prior to July 1, 1999, may remain the official organ of that county
77 until a majority of the judge of the probate court, the sheriff, and the clerk of the superior
78 court determine to appoint a new official organ for the county.

79 (e) During the month of December in each year, the judge of the probate court of each
80 county shall notify the Secretary of State, on a form supplied by the Secretary of State, of
81 the name and mailing address of the journal or newspaper, or the mailing address of the
82 agent of the online publication, currently serving as the official organ of the county. The
83 judge of the probate court shall also likewise notify the Secretary of State of any change
84 in the official organ of the county at the time that such change is made. The Secretary of
85 State shall maintain at all times a current listing of the names and addresses of all county
86 organs and shall make such list available to any person upon request."

87 **SECTION 2.**

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