

The Senate Committee on Judiciary offered the following substitute to SB 13:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Sections 9-13-161 and 44-14-162 and Chapter 4 of Title 48 of the Official
2 Code of Georgia Annotated, relating to where and when sales under execution held and
3 change of place of public sales by court order, sales made on foreclosure under power of sale,
4 and tax sales, 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 a constable or other levying officer to conduct certain sales; to
7 provide for related matters; to repeal conflicting laws; and for other 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. Any fee, including, but not limited to, a buyer's premium, charged to any
28 purchaser for a sale conducted pursuant to this subsection shall be applied at the time of
29 the sale and shall not exceed \$250.00."

30

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."

53

SECTION 3.

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

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

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

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

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

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

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

86

SECTION 4.

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

89 "48-4-3.

90 The tax collector or tax commissioner may place his or her executions in the hands of any
 91 constable of the county, who shall be authorized to collect or levy the executions in any
 92 part of the county. The constable or other levying officer to whom the tax collector or tax
 93 commissioner delivers the tax executions for collection shall proceed promptly to enforce
 94 by levy and sale the collection of the executions. Such constable or other levying officer

95 shall be authorized to conduct any sale in the same manner and under the same conditions
96 as set forth in subsection (a) of Code Section 48-4-1. The levying or collecting officer shall
97 make prompt settlements with the tax collector or tax commissioner and in no event shall
98 be allowed longer than 90 days from the time the executions are placed in his or her hands
99 within which to make final settlement with the tax collector or tax commissioner and return
100 to the tax collector or tax commissioner the tax collected and the uncollected executions
101 with proper entries on the executions. Any constable or other levying officer who fails or
102 refuses to make a final return or settlement within the time provided in this Code section
103 shall forfeit all costs due him or her on the executions and shall be subject to be ruled
104 before any court of competent jurisdiction and made to account as required by this Code
105 section."

106

SECTION 5.

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