

## COMMITTEE OF CONFERENCE SUBSTITUTE #2 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 provide for related  
12 matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14

**SECTION 1.**

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

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

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

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

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

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

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

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

46

## SECTION 2.

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

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

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

69

### SECTION 3.

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

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

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

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

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

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

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

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

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

- 105 (i) A completed Internal Revenue Service Form W-9; and  
 106 (ii) The name, address, and telephone number of the bidder."

107 **SECTION 4.**

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

110 "48-4-3.

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

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

127

### SECTION 5.

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

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

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

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

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

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

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

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

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

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

165

**SECTION 6.**

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

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

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

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

176 (iii) A hearing officer as to matters of value and uniformity of assessment for a parcel  
177 of nonhomestead real property with a fair market value in excess of \$500,000.00 as  
178 shown on the taxpayer's annual notice of current assessment under Code Section  
179 48-5-306, and any contiguous nonhomestead real property owned by the same  
180 taxpayer, pursuant to subsection (e.1) of this Code section; ~~or~~

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

186 (v) A hearing officer as to matters of values or uniformity of assessment of one or  
187 more account numbers of any taxable tangible personal property other than wireless  
188 property as defined in subparagraph (e.1)(1)(B) of this Code section with an aggregate  
189 fair market value in excess of \$200,000.00 as shown on the taxpayer's annual notice  
190 of current assessment under Code Section 48-5-306, pursuant to subsection (e.1) of  
191 this Code section."



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

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

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

210       (C) For any dispute involving the values or uniformity of one or more account numbers  
211       of any taxable tangible personal property other than wireless property as defined in  
212       subparagraph (B) of this paragraph with an aggregate fair market value in excess of  
213       \$200,000.00 as shown on the taxpayer's annual notice of current assessment under Code  
214       Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing  
215       officer in accordance with this subsection.

216 (2)(A) Individuals desiring to serve as hearing officers and who are either:  
217 (i) State ~~state~~ certified general real property appraisers or state certified residential  
218 real property appraisers as classified by the Georgia Real Estate Commission and the  
219 Georgia Real Estate Appraisers Board for real property appeals; or ~~are~~  
220 (ii) Designated ~~designated~~ appraisers by a nationally recognized appraiser's  
221 organization for wireless property appeals  
222 shall complete and submit an application, a list of counties the hearing officer is willing  
223 to serve, disqualification questionnaire, and resume and be approved by the Georgia  
224 Real Estate Commission and the Georgia Real Estate Appraisers Board to serve as a  
225 hearing officer. The Georgia Real Estate Appraisers Board ~~Such board~~ shall annually  
226 publish a list of qualified and approved hearing officers for Georgia.

227 (B)(i) Any individual who is a former or current Appraiser IV or chief appraiser and  
228 desires to serve as a hearing officer for tangible personal property other than wireless  
229 property shall complete and submit an application, a list of counties the hearing  
230 officer is willing to serve, a disqualification questionnaire, and a resume to the  
231 Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board for  
232 review and approval to serve as a hearing officer with respect to tangible personal  
233 property appeals provided for in subparagraph (C) of paragraph (1) of this subsection.  
234 (ii) The Georgia Real Estate Appraisers Board shall annually publish a list of such  
235 qualified and approved hearing officers and a list of counties such hearing officers are  
236 willing to serve.

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

241

**SECTION 7.**

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