

House Bill 418

By: Representatives Smith of the 18<sup>th</sup>, Leverett of the 123<sup>rd</sup>, and Reeves of the 99<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 9-13-161 of the Official Code of Georgia Annotated, relating to  
2 where and when sales under execution held and change of place of public sales by court  
3 order, so as to provide for time and place of sales; to provide for virtual sales under certain  
4 circumstances; to limit fees; to amend Code Section 44-14-162 of the Official Code of  
5 Georgia Annotated, relating to sales made on foreclosure under power of sale, manner of  
6 advertisement and conduct necessary for validity, and filing, so as to provide for the time for  
7 sales; to amend Code Section 48-4-1 of the Official Code of Georgia Annotated, relating to  
8 procedures for sales under tax levies and executions, so as to provide for virtual sales; to  
9 provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

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

15 "(a)(1) Unless otherwise provided, sales of property taken under execution shall be made  
16 by the sheriffs or coroners only at the courthouse of the county where the levy was made

H. B. 418

17 on the first Tuesday in each month, between the hours of 10:00 A.M. and 4:00 P.M., at  
18 a time and place ordered by the court, or at a time and place within the discretion of the  
19 sheriff or coroner, and at public outcry; provided, however, that, should if the first  
20 Tuesday of the month fall falls on New Year's Day or Independence Day, such sales shall  
21 take place on the immediately following Wednesday. A change in the time of such sales  
22 from the first Tuesday of the month to the first Wednesday of the month as provided in  
23 this subsection shall also apply to all public sales within the county required to be  
24 conducted at the time of the sheriff's sales.

25 (2) Sales of property pursuant to paragraph (1) of this subsection taken under execution  
26 issued for the collection of state, county, municipal, or school taxes or for special  
27 assessments may, at the discretion of the sheriff or coroner, also be conducted through  
28 internet enabled technology and digital media, including, but not limited to, websites and  
29 consumer applications accessible through computers, smartphones, or other electronic  
30 devices. Any fee, including, but not limited to, a buyer's premium, charged to any  
31 purchaser for a sale conducted pursuant to this subsection shall be applied at the time of  
32 the sale and shall not exceed \$250.00."

## 33 SECTION 2.

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

37 "(a) No sale of real estate under powers contained in mortgages, deeds, or other lien  
38 contracts shall be valid unless the sale shall be advertised and conducted at the ~~time and~~  
39 ~~place and in the usual manner of the sheriff's sales~~ courthouse in the county in which such  
40 real estate or a part thereof is located on the first Tuesday in each month, between the hours  
41 of 10:00 A.M. and 4:00 P.M.; provided, however, that, if the first Tuesday of the month  
42 falls on New Year's Day or Independence Day, such sales shall take place on the

43 immediately following Wednesday and unless notice of the sale shall have been given as  
44 required by Code Section 44-14-162.2. If the advertisement contains the street address,  
45 city, and ZIP Code of the property, such information shall be clearly set out in bold type.  
46 In addition to any other matter required to be included in the advertisement of the sale, if  
47 the property encumbered by the mortgage, security deed, or lien contract has been  
48 transferred or conveyed by the original debtor to a new owner and an assumption by the  
49 new owner of the debt secured by said mortgage, security deed, or lien contract has been  
50 approved in writing by the secured creditor, then the advertisement should also include a  
51 recital of the fact of such transfer or conveyance and the name of the new owner, as long  
52 as information regarding any such assumption is readily discernable by the foreclosing  
53 creditor. Failure to include such a recital in the advertisement, however, shall not  
54 invalidate an otherwise valid foreclosure sale."

55

### SECTION 3.

56 Code Section 48-4-1 of the Official Code of Georgia Annotated, relating to procedures for  
57 sales under tax levies and executions, is amended by revising paragraph (3) of subsection (a)  
58 as follows:

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

67

**SECTION 4.**

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