

Senate Bill 397

By: Senators Watson of the 1st, Stone of the 23rd, Cowser of the 46th, Hufstetler of the 52nd, Kirk of the 13th and others

**AS PASSED SENATE**

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Chapter 37 of Title 36 of the Official Code of Georgia Annotated, relating to the  
2 acquisition and disposition of real and personal property generally, so as to allow  
3 municipalities to hire state licensed real estate brokers to assist in the sale of real property;  
4 to provide for the duties of the state licensed real estate broker; to provide for related matters;  
5 to repeal conflicting laws; and for other purposes.

6 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

7 **SECTION 1.**

8 Chapter 37 of Title 36 of the Official Code of Georgia Annotated, relating to the acquisition  
9 and disposition of real and personal property generally, is amended in Code Section 36-37-6,  
10 relating to the disposition of municipal property generally, by revising subsection (a) as  
11 follows:

12 "36-37-6.

13 (a)(1) Except as otherwise provided in subsections (b) through (j) of this Code section,  
14 the governing authority of any municipal corporation disposing of any real or personal  
15 property of such municipal corporation shall make all such sales to the highest  
16 responsible bidder, either by sealed bids or by auction after due notice has been given.  
17 Any such municipal corporation shall have the right to reject any and all bids or to cancel  
18 any proposed sale. The governing authority of the municipal corporation shall cause  
19 notice to be published once in the official legal organ of the county in which the  
20 municipality is located or in a newspaper of general circulation in the community, not  
21 less than 15 days nor more than 60 days preceding the day of the auction or, if the sale  
22 is by sealed bids, preceding the last day for the receipt of proposals. The legal notice  
23 shall include a general description of the property to be sold if the property is personal  
24 property or a legal description of the property to be sold if the property is real property.  
25 If the sale is by sealed bids, the notice shall also contain an invitation for proposals and  
26 shall state the conditions of the proposed sale, the address at which bid blanks and other

27 written materials connected with the proposed sale may be obtained, and the date, time,  
28 and place for the opening of bids. If the sale is by auction, the notice shall also contain  
29 the conditions of the proposed sale and shall state the date, time, and place of the  
30 proposed sale. Bids received in connection with a sale by sealed bidding shall be opened  
31 in public at the time and place stated in the legal notice. A tabulation of all bids received  
32 shall be available for public inspection following the opening of all bids. All such bids  
33 shall be retained and kept available for public inspection for a period of not less than 60  
34 days from the date on which such bids are opened. The provisions of this subsection  
35 shall not apply to any transactions authorized in subsections ~~(b)~~ (c) through (j) of this  
36 Code section.

37 (2)(A) Municipal corporations may retain the services of a Georgia licensed real estate  
38 broker to assist in the disposition of surplus real property; said brokerage services shall  
39 be procured by request for proposals in response to an issued solicitation. The proposal  
40 must include the minimum stated broker qualifications and experience.

41 (B) In the event a municipal corporation does retain the services of a qualified and  
42 experienced Georgia licensed real estate broker to assist in the disposition of surplus  
43 real property, the broker so retained shall:

44 (i) Represent the municipal corporation and comply with the requirements of this  
45 Code section, including, but not limited to, issuing a call or request for sealed bids  
46 from the public and causing notice to be published once in the official legal organ of  
47 the county in which the municipality is located or in a newspaper of general  
48 circulation in the community, not less than 15 days nor more than 60 days preceding  
49 the day of the auction or, if the sale is by sealed bids, preceding the last day for the  
50 receipt of proposals. The legal notice shall include a legal description of the real  
51 property to be sold. The notice shall also contain a request for proposals and shall  
52 state the conditions of the proposed sale, the address at which bid blanks and other  
53 written materials connected with the proposed sale may be obtained, and the date,  
54 time, and place for the opening of bids;

55 (ii) Actively market the disposition of the real property;

56 (iii) Comply with all federal, state, and local laws;

57 (iv) Create a website which posts: the request for sealed bids; questions submitted by  
58 interested parties; responses to submitted questions as prepared by the municipal  
59 corporation; dates the real property will be made available for public inspection;  
60 public information regarding the property; and other related communication and  
61 marketing information;

62 (v) Immediately forward the sealed bids to the governing authority of the municipal  
63 corporation, which shall open such bids at the specified date, time, and place;

64 (vi) Only serve in the capacity of a broker engaged by a seller as provided for in  
65 Code Section 10-6A-5. A real estate broker representing a municipal corporation  
66 shall be prohibited from working with or aiding a prospective buyer in connection  
67 with the disposition of real property for which the real estate broker was contracted;  
68 and

69 (vii) Agree to accept the agreed upon sales commission based on the highest  
70 responsive bid received as so adjudicated by the governing authority of the municipal  
71 corporation, in its sole discretion.

72 (C) In the event the municipal corporation decides to reject all bids and not award the  
73 sale to any of the bidders, the broker must agree to accept the minimum payment in lieu  
74 of the commission as so agreed upon by the parties in an engagement contract."

75 **SECTION 2.**

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