

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 439

Short Title: Foreclosure Trustee Auctions. (Public)

Sponsors: Senators McInnis, Johnson, and Craven (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 3, 2023

A BILL TO BE ENTITLED

AN ACT TO ALLOW FOR CERTAIN FORECLOSURE SALES TO BE CONDUCTED AT DESIGNATED PUBLIC LOCATIONS, TO EXPAND THE TIME ALLOWED FOR A SCHEDULED FORECLOSURE SALE TO COMMENCE, AND TO ESTABLISH A PROCEDURE FOR REMOTE BIDDING AT A FORECLOSURE SALE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 45-21.4 reads as rewritten:

"§ 45-21.4. Place of sale of real property.

(a) Every sale of real property shall be held in the county where the property is situated unless the property consists of a single tract situated in two or more counties.

(b) A sale of a single tract of real property situated in two or more counties may be held in any one of the counties in which any part of the tract is situated. As used in this section, "single tract" means any tract which has a continuous boundary, regardless of whether parts thereof may have been acquired at different times or from different persons, or whether it may have been subdivided into other units or lots, or whether it is sold as a whole or in parts.

(c) When a mortgage or deed of trust with power of sale of real property designates the place of sale within the county, the sale shall be held at the place so designated.

(d) When a mortgage or deed of trust with power of sale of real property confers upon the mortgagee or trustee the right to designate the place of sale, the sale shall be held at the place designated by the notice of sale, which place shall be either on the premises to be sold or as follows:

(1) Property situated wholly within a single county shall be sold at the courthouse door of the county in which the land is ~~situated~~-situated or at another public location within the county where the land is situated as designated by the mortgagee or trustee.

(2) A single tract of property situated in two or more counties may be sold at the courthouse door of any one of the counties in which some part of the real property is ~~situated~~-situated or at another public location within any one of the counties in which some part of the real property is situated as designated by the mortgagee or trustee.

(e) When a mortgage or deed of trust with power of sale of real property does not designate, or confer upon the mortgagee or trustee the right to designate, the place of sale, or when it designates as the place of sale some county in which no part of the property is situated, such real property shall be sold as follows:

(1) Property situated wholly within a single county shall be sold at the courthouse door of the county in which the land is ~~situated~~-situated or at another public



1 location within the county where the land is situated as designated by the clerk
2 of the superior court of the county where the land is situated.

- 3 (2) A single tract of property situated in two or more counties may be sold at the
4 courthouse door of any one of the counties in which some part of the real
5 property is ~~situated~~situated or another public location within one of the
6 counties in which some part of the real property is situated as designated by
7 the clerk of the superior court of one of the counties in which some part of the
8 real property is situated."

9 **SECTION 2.** G.S. 45-21.23 reads as rewritten:

10 **"§ 45-21.23. Time of sale.**

11 A sale shall begin at the time designated in the notice of sale or as soon thereafter as
12 practicable, but not later than ~~one hour~~three hours after the time fixed therefor unless it is delayed
13 by other sales held at the same ~~place~~place, upon which the sale may occur later than three hours
14 from the time fixed therefor on the same day, as reasonably determined by the person exercising
15 the power of sale. The sale shall be held between the hours of 10:00 A.M. and 4:00 P.M. on any
16 day when the clerk's office is normally open for transactions."

17 **SECTION 3.** Part 2 of Article 2A of Chapter 45 of the General Statutes is amended
18 by adding a new section to read:

19 **"§ 45-21.25A. Bids placed remotely.**

20 (a) The person exercising the power of sale of real property, or that person's agent, may
21 accept remote bids from bidders not physically present at the place of sale, as designated pursuant
22 to G.S. 45-21.4. All bids accepted at the sale must be clearly announced to all participating
23 bidders, whether physically present or not.

24 (b) Prior to accepting a remote bid, the person exercising the power of sale of real
25 property, or that person's agent, shall collect all funds required to be paid by the winning bidder
26 in accordance with G.S. 45-21.10.

27 (c) Any charges incurred by the person exercising the power of sale of real property, or
28 that person's agent, in connection with remote bidding authorized under this section shall not be
29 chargeable to the mortgagor or otherwise recoverable as costs and expenses of the foreclosure."

30 **SECTION 4.** This act becomes effective October 1, 2023, and applies to notices of
31 foreclosure sale filed with the clerk of superior court on or after that date.