

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

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 and Chapter 37 of Title 36 of the Official Code of Georgia Annotated,
2 relating to county property generally and the acquisition and disposition of real and personal
3 property generally, respectively, so as to allow counties and municipalities to hire state
4 licensed real estate brokers to assist in the sale of real property; to provide for the duties of
5 the state licensed real estate broker; to provide for related matters; to repeal conflicting laws;
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 9 of Title 36 of the Official Code of Georgia Annotated, relating to county property
10 generally, is amended in subsection (a) of Code Section 36-9-3, relating to the sale or
11 disposition of county real property generally, by revising paragraph (2) and adding a new
12 paragraph to read as follows:

13 "(2)(A) Counties may retain the services of a Georgia licensed real estate broker to
14 assist in the disposition of surplus real property; said brokerage services shall be
15 procured by request for proposals in response to an issued solicitation. The proposal
16 shall include the minimum stated broker qualifications and experience.

17 (B) In the event a county does retain the services of a qualified and experienced
18 Georgia licensed real estate broker to assist in the disposition of surplus real property,
19 the broker so retained shall:

20 (i) Represent the county and comply with the requirements of this Code section,
21 including, but not limited to, issuing a call or request for sealed bids from the public
22 and causing notice to be published once in the official legal organ of the county not
23 less than 15 days nor more than 60 days preceding the day of the auction or, if the sale
24 is by sealed bids, preceding the last day for the receipt of proposals. The legal notice
25 shall include a legal description of the real property to be sold. The notice shall also
26 contain a request for proposals and shall state the conditions of the proposed sale, the

- 27 address at which bid blanks and other written materials connected with the proposed
 28 sale may be obtained, and the date, time, and place for the opening of bids;
 29 (ii) Actively market the disposition of the real property;
 30 (iii) Comply with all federal, state, and local laws;
 31 (iv) Create a website which posts: the request for sealed bids; questions submitted by
 32 interested parties; responses to submitted questions as prepared by the county; dates
 33 the real property will be made available for public inspection; public information
 34 regarding the property; and other related communication and marketing information;
 35 (v) Immediately forward the sealed bids to the governing authority of the county,
 36 which shall open such bids at the specified date, time, and place;
 37 (vi) Only serve in the capacity of a broker engaged by a seller as provided for in
 38 Code Section 10-6A-5. A real estate broker representing a county shall be prohibited
 39 from working with or aiding a prospective buyer in connection with the disposition
 40 of real property for which the real estate broker was contracted; and
 41 (vii) Agree to accept the agreed upon sales commission based on the highest
 42 responsive bid received as so adjudicated by the governing authority of the county,
 43 in its sole discretion.

44 (C) In the event the county decides to reject all bids and not award the sale to any of
 45 the bidders, the broker shall agree to accept the minimum payment in lieu of the
 46 commission as so agreed upon by the parties in an engagement contract.

47 ~~(2)~~(3) This subsection shall not apply to:

48 (A) Redemption of property held by any county under a tax deed; the granting of
 49 easements and rights of way; the sale, conveyance, or transfer of road rights of way; the
 50 sale, transfer, or conveyance to any other body politic; and any sale, transfer, or
 51 conveyance to a nonprofit corporation in order to effectuate a lease-purchase
 52 transaction pursuant to Code Section 36-60-13;

53 (B) Any option to sell or dispose of any real property belonging to any county of this
 54 state if that option was granted by said county prior to March 17, 1959;

55 (C) The sale of any real property belonging to any county in this state where the proper
 56 governing authority of the county advertised the property for ten consecutive days in
 57 the newspaper in which the sheriff's advertisements for the county are published, and
 58 where the sale was awarded thereafter to the highest and best bidder, in accordance with
 59 the terms of the advertisement, and an option given in accordance with the sale for the
 60 purchaser who had deposited a part of the purchase price to pay the balance within 365
 61 days from the date of the execution of the option, where the sale was awarded and the
 62 option granted prior to May 1, 1961; or

63 (D) The exchange of real property belonging to any county in this state for other real
 64 property where the property so acquired by exchange shall be of equal or greater value
 65 than the property previously belonging to the county; provided, however, that within
 66 six weeks preceding the closing of any such proposed exchange of real property, a
 67 notice of the proposed exchange of real property shall be published in the official organ
 68 of the county once a week for four weeks. The value of both the property belonging to
 69 the county and that to be acquired through the exchange shall be determined by
 70 appraisals and the value so determined shall be approved by the proper authorities of
 71 said county."

72 **SECTION 2.**

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

77 "36-37-6.

78 (a)(1) Except as otherwise provided in subsections (b) through (j) of this Code section,
 79 the governing authority of any municipal corporation disposing of any real or personal
 80 property of such municipal corporation shall make all such sales to the highest
 81 responsible bidder, either by sealed bids or by auction after due notice has been given.
 82 Any such municipal corporation shall have the right to reject any and all bids or to cancel
 83 any proposed sale. The governing authority of the municipal corporation shall cause
 84 notice to be published once in the official legal organ of the county in which the
 85 municipality is located or in a newspaper of general circulation in the community, not
 86 less than 15 days nor more than 60 days preceding the day of the auction or, if the sale
 87 is by sealed bids, preceding the last day for the receipt of proposals. The legal notice
 88 shall include a general description of the property to be sold if the property is personal
 89 property or a legal description of the property to be sold if the property is real property.
 90 If the sale is by sealed bids, the notice shall also contain an invitation for proposals and
 91 shall state the conditions of the proposed sale, the address at which bid blanks and other
 92 written materials connected with the proposed sale may be obtained, and the date, time,
 93 and place for the opening of bids. If the sale is by auction, the notice shall also contain
 94 the conditions of the proposed sale and shall state the date, time, and place of the
 95 proposed sale. Bids received in connection with a sale by sealed bidding shall be opened
 96 in public at the time and place stated in the legal notice. A tabulation of all bids received
 97 shall be available for public inspection following the opening of all bids. All such bids
 98 shall be retained and kept available for public inspection for a period of not less than 60

99 days from the date on which such bids are opened. The provisions of this subsection
100 shall not apply to any transactions authorized in subsections ~~(b)~~ (c) through (j) of this
101 Code section.

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

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

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

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

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

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

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

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

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

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

140 **SECTION 3.**

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