



# SENATE BILL 196: GSC Sale of Property Amend/Delay Prosec Split.

2021-2022 General Assembly

<b>Committee:</b>	<b>Date:</b>	February 22, 2022
<b>Introduced by:</b>	<b>Prepared by:</b>	Keshawna Roberts Research Assistant
<b>Analysis of:</b>	S.L. 2021-91	

**OVERVIEW:** *S.L. 2021-91 updates the mailing method of notice to a judgment debtor of an execution sale of real property; clarifies the effects of a default bid in private judicial sales and public or private partition sales; amends the tax foreclosure statutes and makes technical changes; makes various amendments relating to the validity of certain notarial acts and certain instruments; and makes various amendments affecting real property, as recommended by the General Statutes Commission. This act also delays the reassignment of District 36, Burke, Caldwell, and Catawba Counties, into two separate prosecutorial districts.*

*Parts I, III, and IV became effective October 1, 2021. The rest of the act was effective when the act became law on July 22, 2021.*

**BILL ANALYSIS: Part I** of this act relating to the execution of sales is as follows:

- Allows for a sheriff, when sending notice of an execution sale to a judgment debtor not found in the county, to send the notice by registered or certified mail.
- This part became effective October 1, 2021, and applies to executions issued on or after that date.

**Part II** of this act, relating to judicial sales and partition sales, is as follows:

- Clarifies G.S. 1-339.30(e) and G.S. 1-339.30(f) to apply to a defaulting bidder in a private judicial sale, which provide that:
  - a defaulting bidder is liable on the bid and that, if there is a resale, the defaulting bidder is liable to the extent that the final sale price is less than the bid and is liable for costs of the resale. It also provides that any deposit by the defaulting bidder shall secure payment of the amount of liability.
  - nothing in that section deprives any person of any other remedy against the defaulting bidder.
- Adds a new section to clarify that if a purchaser in a partition sale defaults on the purchaser's bid, a party to the partition proceeding or the commissioner who made the sale may petition the court to revoke its order confirming the sale. It further provides that the parties and purchaser must be served and that, if the court finds that the purchaser has defaulted and is unable to cure the default, the court must revoke its order of confirmation and order a resale.

**Part III** of this act relating to tax foreclosure actions and proceedings is as follows:

- Removes the requirement for a taxing unit to serve and join a prior owner of the property and a trustee in a deed of trust.

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- Provides that a judgment of confirmation must bear interest at the same rate as a judgment entered under G.S. 105-375 (in rem method of foreclosure).
- Adds a reference to provide that a tax collector must send notice of the tax lien foreclosure to all lienholders of record that would have been required to be served under that statute. It also clarifies that if notice is unsuccessful as to the taxpayer or a lienholder of record, the tax collector must make additional efforts to notify that person but does not need to make additional efforts to notify persons that have already been notified.
- Adds that a sheriff must send notice of an execution sale to all lienholders to record. It also clarifies that if notice is unsuccessful as to the taxpayer or a lienholder of record, the sheriff must make additional efforts to notify that person but does not need to make additional efforts to notify persons that have already been notified.

**Part IV** of this act relating to the validity of certain notarial acts and certain instruments is as follows:

- Amends various statutes curing certain notarial acts taken or instruments executed, recorded, or acknowledged before a certain date by updating the curative date to April 1, 2021 (replacing April 1, 2013, the previous curative date).
- Validates all notary acknowledgments bearing a notarial seal, regardless of the type of potential error, performed before July 1, 2013, by amending G.S. 10B-65.
- Adds that to avoid a requirement that a proof or acknowledgment of an instrument by an out-of-state notary be accompanied by a certain certificate, a statement that the notary's commission does not expire must be part of the proof or acknowledgement or part of the notary's seal.
- Adds that a notarial certificate that complies with the Electronic Notary Act is a sufficient form of probate or acknowledgment.

**Part V** of this act relating to real property is as follows:

- Clarifies that a conveyance of real property from a grantor to the grantor and his or her spouse vests the property in them as tenants by the entirety unless a contrary intention is expressed in the conveyance.
- Adds that an option to purchase, right of first refusal, or right of first offer is not valid until registered in the county where the land lies.
- Creates a definition of "escrow agent" in order to add that a title insurance company or title insurance agent, in addition to a real estate broker or attorney, may deposit certain disputed monies with the clerk of court.
- Clarifies that the S.L. 2017-110 applies to instruments, rather than just curative affidavits.

**Part VI** of this act delays the reassignment of the counties in Prosecutorial District 36 into two separate prosecutorial districts until January 1, 2027. The reassignment will divide 20 assistant district attorneys evenly between the two districts.

This act was recommended by the General Statutes Commission, contains corrections of a technical nature to the General Statutes and session laws. These technical corrections consist of updating or removing obsolete references, fixing incorrect references, fixing the format of citations, replacing legalese with plain English, removing unnecessary language, making stylistic changes for greater clarity or consistency, making language gender-neutral, making changes to conform to this State's drafting conventions, modernizing the format of definition lists and other lists, fixing relative pronouns and typographical errors, and making other conforming changes.

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**EFFECTIVE DATE:** Parts I, III, and IV became effective October 1, 2021. The rest of the act was effective when the act became law on July 22, 2021.