

O.C.G.A. § 48-3-9

Copy Citation

Current through Act 6 of the 2025 Regular Session of the General Assembly but not including corrections and changes made by the Office of Legislative Counsel.

Official Code of Georgia Annotated TITLE 48 Revenue and Taxation (Chs. 1 — 18) CHAPTER 3 Tax Executions (Arts. 1 — 2) Article 1 General Provisions (§§ 48-3-1 — 48-3-29)

48-3-9. Notice of levy to owner of security deed or mortgage; lists; fees.

(a) Whenever any real estate is levied upon by the sheriff for taxes, it shall be the sheriff's duty before proceeding to advertise the property for sale as provided by law to give 20 days' written

notice of the levy to the record owner of the property and the record owner of each security deed and mortgage affecting such property as provided in subsection (b) of this Code section. The period of 20 days shall begin to run from the time the notice is personally delivered or, when delivered by registered or certified mail or statutory overnight delivery as provided in this Code section, from the date of its mailing. The notice shall contain a description of the land levied upon, the name of the owner of the land, the year or years for which the taxes were assessed, and a statement of the amount of the taxes due, together with the accrued cost. The notice shall be delivered to the owner and any secured parties entitled to notice either in person or by registered or certified mail or statutory overnight delivery, with return receipt requested, at the address given on the list. The sheriff shall keep a copy of the notice on which he or she shall enter the date the notice was delivered and how, where, and to whom the notice was delivered.

(b) In order to entitle any owner of a security deed or mortgage to notice as provided in subsection (a) of this Code section, the name and address of such owner must be stated: (1) on the face of a properly recorded security deed or mortgage from the owner of the property; or (2) on the face of a properly recorded transfer of such a security deed or mortgage.

History

Ga. L. 1925, p. 252, § 1; Code 1933, § 92-7408; Code 1933, § 91A-312, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1982, p. 1184, § 1; Ga. L. 1997, p. 727, § 1; Ga. L. 2000, p. 1589, § 3; Ga. L. 2010, p. 878, § 48/HB 1387.

▼ Annotations

JUDICIAL DECISIONS

Constitutionality. —

Notice to persons outside the county under subsection (b) of O.C.G.A. §§ **48-3-9** and § 48-4-46(b) and (c) is not in accord with the requirements of due process because an owner of a security deed or mortgage who lives outside the county in which the land is located will only receive published notice of the foreclosure of the right to redeem. *Funderburke v. Kellet*, 257 Ga. 822, 364 S.E.2d 845, 1988 Ga. LEXIS 65 (1988).

To whom notice given. —

Law provides that notice shall be given to holder of security deed conveying wealth of sale of property under tax fi. fa., but there is no provision as to vendee of bill of sale of personalty to secure debt. *Carroll v. Richards*, 50 Ga. App. 272, 178 S.E. 178, 1934 Ga. App. LEXIS 737 (1934).

Notice as to personal property. —

Summary judgment was properly granted to a county tax commissioner in a taxpayer's action alleging violation of various statutory and constitutional provisions in the commissioner's levying upon the taxpayer's bank account to collect county taxes owed because neither O.C.G.A. § **48-3-9** nor O.C.G.A. §§ 48-2-55 and 48-3-3 required the commissioner to give the taxpayer notice of the levy prior to levying upon the personal property. *Anderson v. Ford*, 261 Ga. App. 34, 581 S.E.2d 623, 2003 Ga. App. LEXIS 464 (2003).

Notice of levy no substitute for valid writ of

execution. —

When no valid levy occurs because of a defect in the writ of execution, the actual notice provided by the notice of levy issued pursuant to O.C.G.A. § **48-3-9** cannot serve as a seizure of the property so as to cure the defect in the writ of execution. *Powers v. CDSaxton Props., LLC*, 285 Ga. 303, 676 S.E.2d 186, 2009 Ga. LEXIS 149 (2009).

Constructive levy. —

Property tax sale was not void because the evidence established that the sheriff had effectuated a levy on the property, pursuant to O.C.G.A. § 9-13-12, prior to issuing the required notices, advertisements, and sale of the property; a constructive levy of the property was made by tacking the Notice of Execution and Tax Levy issued by the sheriff onto the property itself and the tacked notice also was issued to the tenant in possession and to the owner at the address of record. *Tharp v. Vesta Holdings I, LLC*, 276 Ga. App. 901, 625 S.E.2d 46, 2005 Ga. App. LEXIS 1318 (2005), cert. denied, No. S06C0874, 2006 Ga. LEXIS 272 (Ga. May 8, 2006).

Tax sale invalid. —

As a county tax commissioner's fieri facias on a parcel of property was defective because no entry of levy was made thereon as required by O.C.G.A. § 9-13-12, and the notice of levy issued under O.C.G.A. § **48-3-9** was not a substitute for a properly-executed fieri facias, the commissioner's subsequent tax sale of the property was

invalid. *Powers v. CDSaxton Props., LLC*, 285 Ga. 303, 676 S.E.2d 186, 2009 Ga. LEXIS 149 (2009).

Tax execution sale proper. —

Trial court properly granted summary judgment to the purchaser of real estate in a quiet title action that involved the taxpayer's home and the taxpayer's failure to pay the property taxes on the property as the property was properly levied upon and no question of fact remained that the sheriff officially seized the property. Further, the affidavits of the civil process coordinator at the time of the tax sale, and the coordinator's successor, were properly admitted into evidence as such affidavits fell within the business records exception to the rule against hearsay. *Davis v. Harpagon Co., LLC*, 283 Ga. 539, 661 S.E.2d 545, 2008 Ga. LEXIS 423 (2008).

Collection of expenses of execution and levy. —

City was not authorized to collect the expenses of execution and levy until the levy was made; hence, because the city failed to show that it was authorized to collect a \$75.00 fee for expenses incurred in connection with the tax execution prior to a levy, the trial court properly found in favor of a taxpayer as to the issue. *Mayor of City of Fort Valley v. Grills*, 282 Ga. App. 397, 638 S.E.2d 830, 2006 Ga. App. LEXIS 1406 (2006).

Tax commissioner immune to action for damages for failure to give notice. —

Property owner's claim for damages based on a county tax commissioner's failure to properly send notices required by O.C.G.A. §§ 9-13-13, 48-3-3, **48-3-9(a)**, and 48-4-1 was barred by sovereign immunity; O.C.G.A. §§ 15-13-2 and 48-5-137 did not render the tax commissioner liable as an ex-officio sheriff because the notices did not constitute a "false return" or legal neglect to make a "proper return". *Raw Properties, Inc. v. Lawson*, 335 Ga. App. 802, 783 S.E.2d 161, 2016 Ga. App. LEXIS 87 (2016), cert. denied, No. S16C1076, 2016 Ga. LEXIS 556 (Ga. Sept. 6, 2016).

Research References & Practice Aids

RESEARCH REFERENCES

Am. Jur. 2d.

30 Am. Jur. 2d, Executions, § 195.

C.J.S.

33 C.J.S., Executions, §§ 131 et seq., 143, 144, 209 et seq.
85 C.J.S., Taxation, § 1175.

ALR.

Failure of advertisement in judicial proceeding for sale of land for delinquent taxes or foreclosure of tax lien, to describe lands affected, as contrary to due process of law or other constitutional objection, 107 A.L.R. 285.

Provisions of tax statute as to time for performance of acts by boards or officers as mandatory or directory, 151 A.L.R. 248.

One in adverse possession as within class of persons entitled to redeem from tax sale, 164 A.L.R. 1285.

Who are entitled to notice, or are necessary parties, in order to perfect tax title, 169 A.L.R. 686.

Statutory limitation of period for attack on tax deed as affected by failure to comply with statutory requirement as to notice before tax deed, 5 A.L.R.2d 1021.

Right of interested party receiving due notice of tax sale or of right to redeem to assert failure or insufficiency of notice to other interested party, 45 A.L.R.4th 447.

Hierarchy Notes:

O.C.G.A. Title 48

O.C.G.A. Title 48, Ch. 3

O.C.G.A. Title 48, Ch. 3, Art. 1

Official Code of Georgia Annotated

Copyright © 2025 All rights reserved.

Content Type: Statutes and Legislation

Terms: 48-3-9

Narrow By: custom: custom Sources: Official Code of Georgia Annotated

Date and Time: Jun 08, 2025 08:38:26 a.m. EDT



LexisNexis®

[Print](#)

[Cookie Policy](#)

[Terms & Conditions](#)