

House Bill 741

By: Representatives Mangham of the 94th, Stephenson of the 92nd, Fludd of the 66th, Sinkfield of the 60th, and Benfield of the 85th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia
2 Annotated, relating to foreclosure generally, so as to allow for the right of redemption of
3 foreclosed mortgages under certain circumstances; to provide for related matters; to provide
4 for applicability; to provide an effective date; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 1 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
9 relating to foreclosure generally, is amended by inserting a new Code Section 44-14-160.1
10 immediately following Code Section 44-14-160, relating to recording of foreclosure and deed
11 under power, to read as follows:

12 "44-14-160.1.

13 (a) As used in this Code section, the term:

14 (1) 'Mortgage' means any mortgage, deed of trust, or any other instrument intended to
15 secure the payment of money.

16 (2) 'Sale' or 'sold' means any execution, judgment, or foreclosure sale, whether the sale
17 is made under any power of sale in any mortgage or deed or statutory power of sale or by
18 virtue of any judgment in any court of competent jurisdiction.

19 (b) The statutory rights of redemption given or conferred by this Code section are mere
20 personal privileges and not property or property rights. The privileges must be exercised
21 in the mode and manner prescribed in this Code section and may not be waived in a deed,
22 judgment, or mortgage or in any agreement before foreclosure or execution sale.

23 (c) If a mortgaged property is foreclosed on and sold and the property is purchased at the
24 foreclosure sale by the mortgage holder or its agent, the debtor, if he or she has owned the
25 property for five years or longer, has 90 days to redeem the property and void the sale
26 thereof. In order to redeem the property, the debtor must tender, in cash, the total amount

1 due under the mortgage, plus interest at the rate specified in the mortgage, plus a 12 percent
2 penalty on the amount due and payable.

3 (d) If a mortgaged property is foreclosed on and sold and the property is purchased at the
4 foreclosure sale by a third party, the debtor, if he or she has owned the property for five
5 years or longer, has 90 days to redeem the property and void the sale thereof. In order to
6 redeem the property, the debtor must tender, in cash, a 20 percent redemption fee on all
7 sums exceeding the total amount due under the mortgage amount that the third party paid
8 at the foreclosure sale.

9 (e) Anyone desiring and entitled to redeem may make written demand of the purchaser or
10 his or her transferees for a statement in writing of the debt and all lawful charges claimed
11 by him or her, and such purchaser or their transferees shall, within ten days after such
12 written demand, furnish such person making the demand with a written, itemized statement
13 of all lawful charges claimed by him or her. If the purchaser or his or her transferee fails
14 to furnish a written, itemized statement of all lawful charges within ten days after demand,
15 he or she shall forfeit all claims or right to compensation.

16 (f) The right of redemption contained in this Code section will be extinguished if the
17 mortgage holder offers the debtor a six-month preforeclosure stay on foreclosure on a loan
18 delinquent for at least 61 days.

19 (g) This Code section applies only to mortgages foreclosed on or after January 1, 2006."

20 **SECTION 2.**

21 This Act shall become effective on July 1, 2005.

22 **SECTION 3.**

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