

House Bill 264

By: Representative May of the 111th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
2 relating to conveyances to secure debt in general, so as to revise provisions relating to
3 regulation of security conveyances; to repeal certain obsolete provisions relating to due on
4 sale clauses which have been preempted by federal law; to provide certain new regulations
5 with respect to certain residential mortgages and deeds to secure debt; to prohibit prepayment
6 penalties, negative amortization, and yield spread compensation of loan originators; to
7 require loan originators to verify ability to repay; to provide for related matters; to provide
8 for an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Article 1 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to
12 conveyances to secure debt in general, is amended by striking in its entirety Code Section
13 44-14-5, relating to regulation of due on sale clauses, and inserting in its place a new Code
14 Section 44-14-5, relating to regulation of residential mortgages and security deeds, to read
15 as follows:

16 "44-14-5.

17 (a) As used in this Code section, the term 'residential mortgage' shall mean a mortgage or
18 deed to secure debt encumbering single-family residential property that is owner occupied
19 at the time of origination, securing indebtedness in a maximum amount of \$417,000.00.

20 (b) Prepayment premiums, prepayment charges, and prepayment fees in residential
21 mortgages shall be void and unenforceable.

22 (c) No residential mortgage shall secure indebtedness which encompasses or contemplates
23 negative amortization. Any amount of indebtedness in a promissory note that is secured
24 by a residential mortgage and which amount is derived from negative amortization shall
25 be void and unenforceable.

26 (d) No residential mortgage loan shall be originated unless the borrower's ability to repay
27 the indebtedness is independently verified by the loan originator.

28 (e) The originator of the loan secured by a residential mortgage shall not receive any
29 compensation in the form of a yield spread premium, yield differential, or service release
30 fee."

31 **SECTION 2.**

32 This Act shall become effective upon its approval by the Governor or its becoming law
33 without such approval.

34 **SECTION 3.**

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