

Senate Bill 140

By: Senator Hamrick of the 30th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 44-7-55 of the Official Code of Georgia Annotated, relating to the
2 writ of possession, so as to provide that a tenant with a valid lease can stay in a foreclosed
3 property for 60 days; to amend Code Section 44-14-162.2 of the Official Code of Georgia
4 Annotated, relating to sales made on foreclosures under power of sale, so as to provide for
5 notice to the occupant of the property of an impending sale of the property; to provide for
6 related matters; to provide for an effective date; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 44-7-55 of the Official Code of Georgia Annotated, relating to the writ of
11 possession, is amended by revising subsections (a) and (b) as follows:

12 "(a)(1) If, on the trial of the case, the judgment is against the tenant, judgment shall be
13 entered against the tenant for all rents due and for any other claim relating to the dispute.
14 The court shall issue a writ of possession, both of execution for the judgment amount and
15 a writ to be effective at the expiration of seven days after the date such judgment was
16 entered, except as otherwise provided in Code Section 44-7-56.

17 (2) However, if, on trial of the case, the tenant presents proof that he or she is a tenant
18 pursuant to a valid lease in which the landlord on the lease was foreclosed upon for the
19 property at issue, then the writ of possession shall be effective at the expiration of 60 days
20 so long as the tenant tenders one month's rent to the court registry within seven days of
21 the trial of the case and tenders a second month's rent within 30 days of the trial. The
22 provisions of this paragraph shall not be construed so as to establish any landlord tenant
23 relationship between the tenant and the foreclosing party.

24 (b) If the judgment is for the tenant, ~~he~~ the tenant shall be entitled to remain in the
25 premises and the landlord shall be liable for all foreseeable damages shown to have been

26 caused by ~~his~~ the landlord's wrongful conduct. Any funds remaining in the registry of the
 27 court shall be distributed to the parties in accordance with the judgment of the court. Funds
 28 paid into the registry of the court pursuant to paragraph (2) of subsection (a) of this Code
 29 section shall be distributed to the purchaser of a deed under power in a foreclosure sale
 30 within seven days of being received into the registry of the court."

31 **SECTION 2.**

32 Code Section 44-14-162.2, relating to sales made on foreclosures under power of sale, is
 33 amended by adding a new subsection to read as follows:

34 "(c) No later than 30 days before the date of a proposed foreclosure, the secured creditor
 35 shall send by regular mail addressed to 'Current Resident' at the address of the property a
 36 notice in substantially the following form:

37 **NOTICE**

38 A foreclose notice on the property located at (insert address) will be published in the legal
 39 organ for (insert county) advertising the property located at (insert address) for sale on
 40 (insert date).

41 A foreclosure sale of the property may occur on the date advertised. You may want to
 42 consult with an attorney because you could be evicted, even if you are a tenant who has
 43 fully paid rent and complied with your lease. If, during a dispossessory proceeding for
 44 eviction, you can prove that you have a valid lease to rent this property, you will have a
 45 right to remain on the property for up to 60 days so long as you pay the monthly rent to the
 46 clerk of court."

47 **SECTION 3.**

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

50 **SECTION 4.**

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