

Senate Bill 141

By: Senator Hamrick of the 30th

A BILL TO BE ENTITLED
AN ACT

1 To change provisions relating to foreclosures and deficiency judgements; to amend Code
2 Section 15-6-77 of the Official Code of Georgia Annotated, relating to fees to be collected
3 by clerks of the superior courts, so as to provide for fees for filing documents and other
4 instruments pertaining to a deed under power more than 30 days following the exercise of
5 a power of sale in a mortgage, security deed, or other lien contract; to provide for filing
6 documents when a deficiency judgment is sought; to amend Article 7 of Chapter 14 of Title
7 44 of the Official Code of Georgia Annotated, relating to foreclosure on mortgages, so as to
8 provide for recording of documents relating to sales under power and deficiency judgments;
9 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and
10 for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 Code Section 15-6-77 of the Official Code of Georgia Annotated, relating to fees to be
14 collected by clerks of the superior courts, is amended by adding new subsections to read as
15 follows:

16 “(p) Additional sums for filing documents and other instruments pertaining to a deed under
17 power more than 30 days following the exercise of a power of sale in a mortgage, security
18 deed, or other lien contract or, in the event a deficiency judgment is sought, more than 30
19 days following the date of confirmation of the sale, whichever is later, shall be as follows:

- 20 (1) Filing a deed under power or deficiency judgment more than 30
- 21 days but less than 60 days following the exercise of a power of sale
- 22 in a mortgage, security deed, or other lien contract \$250.00
- 23 (2) Filing a deed under power or deficiency judgment more than 60
- 24 days but less than 90 days following the exercise of a power of sale
- 25 in a mortgage, security deed, or other lien contract \$500.00

26 (3) Filing a deed under power or deficiency judgment more than 90
 27 days following the exercise of a power of sale in a mortgage,
 28 security deed, or other lien contract \$7,500.00

29 (q) The sums provided for in subsection (p) of this Code section shall be assessed and
 30 collected by the clerks of the superior courts and shall be paid monthly:

31 (1) To the governing authority of the county in which such property is located, if such
 32 property is located in the unincorporated area of the county, for use in code enforcement,
 33 public safety, or community development purposes; or

34 (2) To the governing authority of the municipality in which such property is located, if
 35 such property is located within municipal limits, for use in code enforcement, public
 36 safety, or community development purposes.

37 Such funds shall be paid in addition to rather than in lieu of any other such funds. The
 38 court officer charged with the duty of collecting moneys required by subsection (p) of this
 39 Code section shall receive and distribute the funds collected to the appropriate local
 40 governing authority by the last day of the month after the month in which the funds are
 41 received; provided, however, that the court officer shall be authorized to retain an amount
 42 not to exceed 1 percent of such funds for the purposes of defraying the costs of
 43 administration. The court officer shall submit a monthly report of the collection and
 44 distribution of such funds to the Georgia Superior Court Clerks' Cooperative Authority."

45 **SECTION 2.**

46 Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to
 47 foreclosure on mortgages, is amended by revising Code Section 44-14-160, relating to
 48 recording of foreclosure and deed under power and notations of sale in records, as follows:
 49 "44-14-160.

50 When the holder of a deed to secure debt or a mortgage forecloses the same and sells the
 51 real property thereby secured under the laws of this state governing foreclosures and sales
 52 under power and the purchaser thereof presents to the clerk of the superior court his or her
 53 deed under power to have the same recorded, the clerk shall write in the margin of the page
 54 where the deed to secure debt or mortgage foreclosed upon is recorded the word
 55 'foreclosed' and the deed book and page number on which is recorded the deed under power
 56 conveying the real property; provided, however, that, in counties where the clerk keeps the
 57 records affecting real estate on microfilm, the notation provided for in this Code section
 58 shall be made in the same manner in the index or other place where the clerk records
 59 transfers and cancellations of deeds to secure debt. The purchaser shall present the deed
 60 under power to the clerk of the superior court to have the same recorded no later than 30
 61 days following the date of the exercise of a power of sale in a mortgage, security deed, or

62 other lien contract or, in the event a deficiency judgment is sought, 30 days following the
63 date of confirmation of the sale, whichever is later. Failure to record the deed shall result
64 in a late filing penalty pursuant to subsection (p) of Code Section 15-6-77."

65 **SECTION 3.**

66 This Act shall become effective on July 1, 2009.

67 **SECTION 4.**

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