

Senate Bill 141

By: Senator Hamrick of the 30th

AS PASSED SENATE

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 notice of foreclosure; to provide for related matters; to provide for an effective
 10 date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

16 “(p) Unless the purchaser cannot file the deed under power due to a legal action having
 17 been filed that prevents or delays the filing of the deed under power, additional sums for
 18 filing documents and other instruments pertaining to a deed under power more than 30 days
 19 following the exercise of a power of sale in a mortgage, security deed, or other lien contract
 20 or, in the event a deficiency judgment is sought, more than 30 days following the date of
 21 confirmation of the sale, whichever is later, shall be as follows:

22 (1) Filing a deed under power more than 30 days but less than 60
 23 days following the exercise of a power of sale in a mortgage,
 24 security deed, or other lien contract or, in the event a deficiency
 25 judgment is sought, more than 30 days but less than 60 days
 26 following the date of confirmation of sale, whichever is later \$250.00

63 'foreclosed' and the deed book and page number on which is recorded the deed under power
 64 conveying the real property; provided, however, that, in counties where the clerk keeps the
 65 records affecting real estate on microfilm, the notation provided for in this Code section
 66 shall be made in the same manner in the index or other place where the clerk records
 67 transfers and cancellations of deeds to secure debt. Unless the purchaser cannot file the
 68 deed under power due to a legal action having been filed that prevents or delays the filing
 69 of the deed under power, the purchaser shall present the deed under power to the clerk of
 70 the superior court to have the same recorded no later than 30 days following the date of the
 71 exercise of a power of sale in a mortgage, security deed, or other lien contract or, in the
 72 event a deficiency judgment is sought, 30 days following the date of confirmation of the
 73 sale, whichever is later. Failure to record the deed shall result in a late filing penalty
 74 pursuant to subsection (p) of Code Section 15-6-77."

75 **SECTION 3.**

76 Said article is further amended in Code Section 44-14-162.2, relating to sales made on
 77 foreclosures under power of sale, by adding a new subsection to read as follows:

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

81 'NOTICE

82 A foreclosure notice on the property located at (insert address) will be published in the
 83 legal organ for (insert county) advertising the property located at (insert address) for sale
 84 on (insert date).

85 A foreclosure sale of the property may occur on the date advertised. You may want to
 86 consult with an attorney because you could be evicted, even if you are a tenant who has
 87 fully paid rent and complied with your lease."

88 **SECTION 4.**

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

90 **SECTION 5.**

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