

The House Committee on Judiciary offers the following substitute to SB 141:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
2 relating to foreclosure on mortgages, so as to require recording of documents relating to sales
3 under power; to change provisions relating to sales made on foreclosure under power of sale,
4 mailing of notice to debtor, and applicability of notice requirement; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to
9 foreclosure on mortgages, is amended by revising Code Section 44-14-160, relating to
10 recording of foreclosures and deed under power, as follows:

11 "44-14-160.

12 Within 90 days of a foreclosure sale, all deeds under power shall be recorded by the holder
13 of a deed to secure debt or a mortgage with the clerk of the superior court of the county or
14 counties in which the foreclosed property is located. ~~When the holder of a deed to secure~~
15 ~~debt or a mortgage forecloses the same and sells the real property thereby secured under~~
16 ~~the laws of this state governing foreclosures and sales under power and the purchaser~~
17 ~~thereof presents to the clerk of the superior court his deed under power to have the same~~
18 ~~recorded, the~~ The clerk shall write in the margin of the page where the deed to secure debt
19 or mortgage foreclosed upon is recorded the word 'foreclosed' and the deed book and page
20 number on which is recorded the deed under power conveying the real property; provided,
21 however, that, in counties where the clerk keeps the records affecting real estate on
22 microfilm, the notation provided for in this Code section shall be made in the same manner
23 in the index or other place where the clerk records transfers and cancellations of deeds to
24 secure debt."

25 **SECTION 2.**

26 Said article is further amended by revising Code Section 44-14-162.3, relating to sales made
27 on foreclosure under power of sale, mailing of notice to debtor, and applicability of notice
28 requirement, as follows:

29 "44-14-162.3.

30 (a) The notice requirement of Code Section 44-14-162.2 shall apply only to the exercise
31 of a power of sale of property all or part of which is to be used as a dwelling place by the
32 debtor at the time the mortgage, security deed, or lien contract is entered into.

33 ~~(b) The notice requirement of Code Section 44-14-162.2 shall apply to all nonjudicial~~
34 ~~foreclosure sales under a mortgage, security deed, or other lien contract taking place after~~
35 ~~July 1, 1981, this Code section being procedural and remedial in purpose.~~

36 (c) No waiver or release of the notice requirement of Code Section 44-14-162.2 shall be
37 valid when made in or contemporaneously with the security instrument containing the
38 power of nonjudicial foreclosure sale; but, notwithstanding the requirements of Code
39 Sections 44-14-162.1, 44-14-162.2, this Code section, and Code Section 44-14-162.4, a
40 subsequent quitclaim deed in lieu of foreclosure shall be valid and effective as such."

41 **SECTION 3.**

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