

House Bill 419

By: Representatives Mitchell of the 88<sup>th</sup>, Jacobs of the 80<sup>th</sup>, and Willard of the 49<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 1 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia  
2 Annotated, relating to foreclosure in general, so as to change the time for the delivery of a  
3 notice of the initiation of foreclosure proceedings; to provide, under certain circumstances,  
4 for an opportunity, prior to foreclosure, for a debtor to cure a foreclosure and bring the debt  
5 current by making all past due payments along with any late fees and charges; to provide for  
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Part 1 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,  
10 relating to foreclosure in general, is amended by revising Code Section 44-14-162.2, relating  
11 to sales made on foreclosures under the power of sale, mailing or delivery of notice to debtor,  
12 and procedure, as follows:

13 "44-14-162.2.

14 (a) Notice of the initiation of proceedings to exercise a power of sale in a mortgage,  
15 security deed, or other lien contract shall be given to the debtor by the secured creditor no  
16 later than ~~30~~ 90 days before the date of the proposed foreclosure. Such notice shall be in  
17 writing, shall include the name, address, and telephone number of the individual or entity  
18 who shall have full authority to negotiate, amend, and modify all terms of the mortgage  
19 with the debtor, and shall be sent by registered or certified mail or statutory overnight  
20 delivery, return receipt requested, to the property address or to such other address as the  
21 debtor may designate by written notice to the secured creditor. The notice required by this  
22 Code section shall be deemed given on the official postmark day or day on which it is  
23 received for delivery by a commercial delivery firm.

24 ~~(b) Nothing in this subsection~~ Code section shall be construed to require a secured creditor  
25 to negotiate, amend, or modify the terms of a mortgage instrument; ~~provided, however, that~~  
26 during the 90 day notice period, the debtor shall have a right to cure the foreclosure by

27 paying the creditor the full amount of past due payments along with any late fees and  
28 charges so as to bring the debt current. In the event that the debtor tenders such past due  
29 sums and late fees and charges, the creditor shall not proceed with foreclosure and shall  
30 permit the debtor to resume making payments under the terms of the contract. The  
31 guaranteed opportunity to cure foreclosure provided in this subsection shall not be  
32 available to a debtor during the first 12 months of a mortgage agreement. Moreover, the  
33 guaranteed opportunity to cure foreclosure shall not be available to a debtor more than once  
34 every 24 months and, in any event, no more than a total of three times during an existing  
35 mortgage.

36 ~~(b)~~(c) The notice required by subsection (a) of this Code section shall be given by mailing  
37 or delivering to the debtor a copy of the notice of sale to be submitted to the publisher."

38 **SECTION 2.**

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