

The House Committee on Judiciary offers the following substitute to HB 110:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
2 relating generally to mortgages, conveyances to secure debt, and liens, so as to provide for
3 a vacant real property registry; to provide for definitions; to provide for required elements
4 of a form for such registration; to provide for exemptions from registration; to provide for
5 maximum fees and penalties for registration and failure to register; to provide for appellate
6 rights; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Article 1 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating
10 generally to mortgages, conveyances to secure debt, and liens, is amended by adding a new
11 Code section to read as follows:

12 "44-14-14.

13 (a) For purposes of this Code section, the term:

14 (1) 'Agent' means an individual with a place of business in this state at which he or she
15 is authorized to accept inquiries, notices, and service of process on behalf of a vacant real
16 property owner.

17 (2) 'Department' means the Department of Community Affairs.

18 (3) 'Street address' means the street or route address. Such term shall not mean or
19 include a post office box.

20 (4) 'Vacant real property' means real property that has a building or structure on it that:

21 (A) Is intended for habitation, has not been lawfully inhabited for at least 60 days with
22 no evidence of utility usage, and is not actively being marketed for sale, lease, or rent
23 with prominent signage posted on such property bearing the name and valid phone
24 number of the vacant real property owner or the individual licensed pursuant to Chapter
25 40 of Title 43 representing the vacant real property owner;

26 (B) Is partially constructed or incomplete, without a valid building permit; or

27 (C) Is held pursuant to a judicial or nonjudicial foreclosure of a mortgage, deed of
 28 trust, security deed, deed to secure debt, or other security instrument securing a debt or
 29 obligation owed to a creditor or a deed in lieu of foreclosure in full or partial
 30 satisfaction of a debt or obligation owed to a creditor.

31 Such term shall not include a building or structure containing multiple units with
 32 common ownership that has at least one unit occupied with evidence of utility usage. A
 33 county or municipal corporation may define such term as using all of this definition or
 34 any combination of subparagraph (A), (B), or (C).

35 (b) Effective July 1, 2011:

36 (1) A county or municipal corporation may establish by ordinance or resolution for the
 37 requirement of registration of vacant real property as provided in this Code section;

38 (2) No county or municipal corporation shall require registration of vacant real property
 39 on any basis other than as set forth in this Code section or as may be hereafter authorized
 40 by general law, and all existing county or municipal ordinances or resolutions to the
 41 contrary shall hereby be preempted; and

42 (3) No county or municipal corporation shall require for purposes of a vacant real
 43 property registry established pursuant to this Code section any information or
 44 documentation other than as set forth in this Code section.

45 (c) Each registrant shall be required to file with a specifically identified office or officer
 46 a registration form, in paper or electronic format, as required by the county or municipal
 47 corporation, requiring submission of only the following information, unless the department
 48 promulgates a form as provided in subsection (d) of this Code section requiring additional
 49 information:

50 (1) The vacant real property owner's name, street address, mailing address, phone
 51 number, fax number, and e-mail address;

52 (2) The agent's name, street address, mailing address, phone number, fax number, and
 53 e-mail address;

54 (3) The vacant real property's street address and tax parcel number;

55 (4) The transfer date of the instrument conveying the vacant real property to the owner;
 56 and

57 (5) At such time as it becomes available, recording information, including deed book and
 58 page numbers, of the instrument conveying the vacant real property to the owner.

59 (d) The department may promulgate rules and regulations to add information that is
 60 required to be collected on a vacant real property registry form, and local governments
 61 shall conform their registries to accept new registrations consistent with the department's
 62 rules and regulations. The department may promulgate a standard form, in paper and
 63 electronic format, for use as the form for a vacant real property registry. If such form is

64 promulgated by the department, all counties and municipal corporations with a vacant real
 65 property registry shall use such form.

66 (e)(1) When any vacant real property is acquired by foreclosure under power of sale
 67 pursuant to Code Section 44-14-160 or acquired pursuant to a deed in lieu of foreclosure
 68 and:

69 (A) The deed under power of sale or deed in lieu of foreclosure contains the
 70 information specified in paragraphs (1) through (5) of subsection (c) of this Code
 71 section as modified pursuant to subsection (d) of this Code section;

72 (B) The deed is filed with the clerk of superior court within 60 days of the transfer; and

73 (C) Proof of the following is provided to the office or officer in charge of the county
 74 or municipal vacant real property registry:

75 (i) A filing date stamp or a receipt showing payment of the applicable filing fees; and

76 (ii) The entire deed under power of sale or entire deed in lieu of foreclosure,
 77 a county or municipal corporation shall not require the transferee to register such vacant
 78 real property pursuant to this Code section or the payment of any administrative fees
 79 pursuant to subsection (h) of this Code section.

80 (2) The provisions of paragraph (1) of this subsection shall also apply to the transferee
 81 and the deed for the first subsequent transfer of vacant real property after the vacant real
 82 property has been acquired by foreclosure under power of sale pursuant to Code Section
 83 44-14-160 or acquired pursuant to a deed in lieu of foreclosure.

84 (3) No county or municipal corporation may require registration of vacant real property
 85 pursuant to this Code section within 60 days of such vacant real property's transfer:

86 (A) Pursuant to a deed under power of sale or deed in lieu of foreclosure; or

87 (B) To the first subsequent transferee after the vacant real property has been acquired
 88 by foreclosure under power of sale pursuant to Code Section 44-14-160 or acquired
 89 pursuant to a deed in lieu of foreclosure.

90 (f) An ordinance or resolution establishing a registry pursuant to this Code section may
 91 require a vacant real property owner to update the information specified in paragraphs (1)
 92 through (5) of subsection (c) of this Code section as modified pursuant to subsection (d)
 93 of this Code section within 30 days after any change in such required information.

94 (g) A vacant real property owner, or the agent of such owner, may apply to remove such
 95 vacant real property from the registry at such time as the real property no longer constitutes
 96 vacant real property. The county or municipal corporation shall grant or deny such
 97 application within 30 days, and if no such determination is made within 30 days, the
 98 application shall be deemed granted.

99 (h) An ordinance or resolution establishing a vacant real property registry may require the
 100 payment of administrative fees for registration which shall reasonably approximate the cost

101 to the county or municipal corporation of the establishment, maintenance, operation, and
102 administration of the registry. Such fees shall not exceed \$100.00 per registration.
103 (i) An ordinance or resolution establishing a vacant real property registry may require
104 penalties for failure to register or failure to update the information specified in paragraphs
105 (1) through (5) of subsection (c) of this Code section as modified pursuant to subsection
106 (d) of this Code section, provided that such penalties shall not exceed \$500.00 per month.
107 (j) A county or municipal ordinance or resolution requiring the registration of vacant real
108 property shall provide for administrative procedures. The administrative procedures shall
109 include the right to appeal to the municipal or recorder's court in the city where the vacant
110 real property is located or to the magistrate or recorder's court of the county in which the
111 vacant real property is located, subject to applicable jurisdictional requirements. Any
112 vacant real property owner affected by a county or municipal ordinance or resolution
113 requiring vacant real property registration may challenge any determination made pursuant
114 to such ordinance or resolution.
115 (k) An ordinance or resolution adopted by the governing authority of a county to establish
116 a registry pursuant to this Code section may, subject to and in accordance with the
117 requirements of this Code section, require registration of vacant real property within the
118 entire territory of the county, except territory located within the boundaries of any
119 municipal corporation, unless otherwise allowed by intergovernmental agreement between
120 the county and municipal corporation.
121 (l) Nothing in this Code section shall be construed to impair, limit, or preempt in any way
122 the power of a county or municipal corporation to enforce any applicable codes, as defined
123 in Code Section 42-2-8, or to define or declare nuisances and to cause their removal or
124 abatement by summary proceedings or otherwise.
125 (m) Notwithstanding Code Section 36-74-30, an ordinance or resolution establishing a
126 vacant real property registry may require the registration of residential rental property if
127 such property is vacant real property."

128 **SECTION 2.**

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