

The Senate Banking and Financial Institutions Committee offered 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 foreclosed real property registry; to provide for definitions; to provide for required
4 elements of a form for such registration; to provide for exemptions from registration; to
5 provide for maximum fees and penalties for registration and failure to register; to provide for
6 appellate rights; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

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

13 "44-14-14.

14 (a) As used in this Code section, the term:

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

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

19 (3) 'Foreclosed real property' means real property that has a building, structure, or
20 wastewater collection system on it that is held pursuant to a judicial or nonjudicial
21 foreclosure of a mortgage, deed of trust, security deed, deed to secure debt, or other
22 security instrument securing a debt or obligation owed to a creditor or a deed in lieu of
23 foreclosure in full or partial satisfaction of a debt or obligation owed to a creditor. Such
24 term shall not include a building or structure containing multiple units with common
25 ownership that has at least one unit occupied and is not held pursuant to a foreclosure
26 instrument.

27 (4) 'Street address' means the street or route address. Such term shall not mean or
 28 include a post office box.

29 (b) Effective July 1, 2012:

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

32 (2) No county or municipal corporation shall require registration of foreclosed real
 33 property or real property on any basis other than as set forth in this Code section or as
 34 may be hereafter authorized by general law, and all existing county or municipal
 35 ordinances or resolutions to the contrary shall hereby be preempted; provided, however,
 36 that county or municipal ordinances or resolutions that require registration of foreclosed
 37 properties for repeated ordinance violations that remain uncorrected for at least 60 days
 38 shall not be preempted; and

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

42 (c) Each registrant shall be required to file with a specifically identified office or officer
 43 a registration form, in paper or electronic format, as required by the county or municipal
 44 corporation, requiring submission of only the following information:

45 (1) The foreclosed real property owner's name, street address, mailing address, phone
 46 number, facsimile number, and e-mail address;

47 (2) The agent's name, street address, mailing address, phone number, facsimile number,
 48 and e-mail address;

49 (3) The foreclosed real property's street address and tax parcel number;

50 (4) The transfer date of the instrument conveying the foreclosed real property to the
 51 owner; and

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

54 (d) The department may promulgate a standard foreclosed real property registry form, in
 55 paper and electronic format, that requires only the information set forth in subsection (c)
 56 of this Code section. If such form is promulgated by the department, all counties and
 57 municipal corporations with a foreclosed real property registry shall use such form.

58 (e) When any foreclosed real property is acquired by foreclosure under power of sale
 59 pursuant to Code Section 44-14-160 or acquired pursuant to a deed in lieu of foreclosure
 60 and:

61 (1) The deed under power of sale or deed in lieu of foreclosure contains the information
 62 specified in subsection (c) of this Code section;

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

64 (3) Proof of the following is provided to the office or officer in charge of the county or
65 municipal foreclosed real property registry:

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

67 (B) The entire deed under power of sale or entire deed in lieu of foreclosure.

68 a county or municipal corporation shall not require the transferee to register such
69 foreclosed real property pursuant to this Code section or the payment of any administrative
70 fees pursuant to subsection (h) of this Code section.

71 (f) An ordinance or resolution establishing a registry pursuant to this Code section may
72 require a foreclosed real property owner to update the information specified in subsection
73 (c) of this Code section within 30 days after any change in such required information.

74 (g) A foreclosed real property owner, or the agent of such owner, may apply to remove
75 such foreclosed real property from the registry at such time as the real property no longer
76 constitutes foreclosed real property. The county or municipal corporation shall grant or
77 deny such application within 30 days, and if no such determination is made within 30 days,
78 the application shall be deemed granted.

79 (h) An ordinance or resolution establishing a foreclosed real property registry may require
80 the payment of administrative fees for registration which shall reasonably approximate the
81 cost to the county or municipal corporation of the establishment, maintenance, operation,
82 and administration of the registry. Such fees shall not exceed \$175.00 per registration.

83 (i) An ordinance or resolution establishing a foreclosed real property registry may require
84 penalties for failure to register or failure to update the information specified in subsection
85 (c) of this Code section, provided that such penalties shall not exceed \$500.00 per month
86 and \$2,000.00 total.

87 (j) A county or municipal ordinance or resolution requiring the registration of foreclosed
88 real property shall provide for administrative procedures. The administrative procedures
89 shall include the right to appeal to the municipal or recorder's court in the city where the
90 foreclosed real property is located or to the magistrate or recorder's court of the county in
91 which the foreclosed real property is located, subject to applicable jurisdictional
92 requirements. Any foreclosed real property owner affected by a county or municipal
93 ordinance or resolution requiring foreclosed real property registration may challenge any
94 determination made pursuant to such ordinance or resolution.

95 (k) An ordinance or resolution adopted by the governing authority of a county to establish
96 a registry pursuant to this Code section may, subject to and in accordance with the
97 requirements of this Code section, require registration of foreclosed real property within
98 the entire territory of the county, except territory located within the boundaries of any
99 municipal corporation, unless otherwise allowed by intergovernmental agreement between
100 the county and municipal corporation.

101 (l) Nothing in this Code section shall be construed to prohibit a county or municipal
102 ordinance or resolution requiring the registration of foreclosed real property from providing
103 for exemptions from such registration.

104 (m) Nothing in this Code section shall be construed to impair, limit, or preempt in any way
105 the power of a county or municipal corporation to enforce any applicable codes, as defined
106 in Code Section 41-2-8, or to define or declare nuisances and to cause their removal or
107 abatement by summary proceedings or otherwise.

108 (n) Notwithstanding Code Section 36-74-30, an ordinance or resolution establishing a
109 foreclosed real property registry may require the registration of residential rental property
110 if such property is foreclosed real property."

111 **SECTION 2.**

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