

House Bill 739

By: Representatives McKillip of the 115th, Jacobs of the 80th, Allison of the 8th, and Lindsey of the 54th

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 prohibit a fee
3 for a future conveyance of real property except under limited circumstances; to provide for
4 a definition; to provide for related matters; to provide for an effective date; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

11 "44-14-14.

12 (a) As used in this Code section, the term 'conveyance of real property' shall include a
13 conveyance or other transfer of an interest or estate in real property.

14 (b) A restriction or covenant running with the land applicable to the conveyance of real
15 property that requires a transferee or transferor of real property or the transferee's or
16 transferor's heirs, successors, or assigns to pay a declarant or other person imposing the
17 restriction or covenant on the property or a third party designated by such declarant or other
18 person, or a successor, assignee, or designee of any thereof, a fee in connection with a
19 future transfer of the property shall be prohibited. A restriction or covenant running with
20 the land that violates this Code section or a lien purporting to encumber the land to secure
21 a right under a restriction or covenant running with the land that violates this Code section
22 shall be void and unenforceable.

23 (c) This Code section shall not apply to a restriction or covenant that requires a fee
24 associated with the conveyance of real property to be paid to:

25 (1) An association formed for the purposes of exercising the powers of the association
 26 of any condominium created pursuant to Article 3 of Chapter 3 of this title, the 'Georgia
 27 Condominium Act';

28 (2) A property owners' association formed for the purposes of exercising the powers of
 29 the property owners' association pursuant to Article 6 of Chapter 3 of this title, the
 30 'Georgia Property Owners' Association Act';

31 (3) A property owners' association formed for the purposes of exercising the powers of
 32 an association of property owners that has not been formed pursuant to or which has not
 33 adopted the provisions of Article 6 of Chapter 3 of this title, the 'Georgia Property
 34 Owners' Association Act,' provided that such association shall comply with subsection
 35 (d) of Code Section 44-3-232; or

36 (4) A person or entity under the general supervision of the Public Service Commission
 37 as provided for in subsection (a) of Code Section 46-2-20, provided that the fee is
 38 charged for expenses incurred in the administration of ongoing services or rights provided
 39 to the property interest conveyed.

40 (d) A conveyance of real property by gift, devise, nonjudicial or judicial foreclosure, deed
 41 in lieu of foreclosure, court order, or operation of law shall be exempt from any permissible
 42 fees under this Code section."

43 **SECTION 2.**

44 This Act shall become effective upon its approval by the Governor or upon its becoming law
 45 without such approval.

46 **SECTION 3.**

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