

The Senate Banking and Financial Institutions Committee offered the following substitute to HB 110:

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"44-14-14.

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

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

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

(3) 'Foreclosed real property' means improved or unimproved real property for which a land disturbance permit has been issued by a county or municipal corporation and is held pursuant to a judicial or nonjudicial foreclosure of a mortgage, deed of trust, security deed, deed to secure debt, or other security instrument securing a debt or obligation owed to a creditor or a deed in lieu of foreclosure in full or partial satisfaction of a debt or obligation owed to a creditor.

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

(5) 'Vacant real property' means real property that:

(A) Is intended for habitation, has not been lawfully inhabited for at least 60 days, and has no evidence of utility usage within the past 60 days; or

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

Such term shall not include a building or structure containing multiple units with common ownership that has at least one unit occupied with evidence of utility usage.

(b) Effective July 1, 2012:

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

(2) Notwithstanding county or municipal ordinances or resolutions that require registration for repeated ordinance violations that remain uncorrected for at least 90 days, no county or municipal corporation shall require registration of vacant property or real property that is unoccupied, uninhabited, abandoned, foreclosed, or advertised for foreclosure on any basis other than as set forth in this Code section or as may be otherwise authorized by general law; and

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

Any requirements of a foreclosed real property registry established by a county or municipal ordinance or resolution in effect as of July 1, 2012, that are in conflict with the requirements of this Code section shall be hereby preempted.

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

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

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

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

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

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

(d) The department may promulgate a standard vacant or foreclosed real property registry form that requires only the information set forth in subsection (c) of this Code section, in paper and electronic format. If such form is promulgated by the department, all counties

63 and municipal corporations with a vacant or foreclosed real property registry shall use such
64 form.

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

67 (A) The deed under power of sale or deed in lieu of foreclosure contains the
68 information specified in paragraphs (1) through (5) of subsection (c) of this Code
69 section;

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

71 (C) Proof of the following is provided to the office or officer in charge of the county
72 or municipal foreclosed real property registry:

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

74 (ii) The entire deed under power of sale or entire deed in lieu of foreclosure.

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

78 (2) No county or municipal corporation may require registration of vacant or foreclosed
79 real property pursuant to this Code section within 90 days of such real property's transfer:

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

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

84 (f) An ordinance or resolution establishing a registry pursuant to this Code section may
85 require a vacant or foreclosed real property owner to update the information specified in
86 paragraphs (1) through (5) of subsection (c) of this Code section within 30 days after any
87 change in such required information regardless of whether the information provided to the
88 registry was in the deed under power of sale or deed in lieu of foreclosure.

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

94 (h) An ordinance or resolution establishing a vacant or foreclosed real property registry
95 may require the payment of administrative fees for registration which shall reasonably
96 approximate the cost to the county or municipal corporation of the establishment,
97 maintenance, operation, and administration of the registry. Such fees shall not exceed
98 \$100.00 per registration.

99 (i) An ordinance or resolution establishing a vacant or foreclosed real property registry
100 may require penalties for failure to register or failure to update the information specified
101 in paragraphs (1) through (5) of subsection (c) of this Code section, provided that such
102 penalties shall not exceed \$1,000.00.

103 (j) A county or municipal ordinance or resolution requiring the registration of vacant or
104 foreclosed real property shall provide for administrative procedures. The administrative
105 procedures shall include the right to appeal to the municipal or recorder's court in the city
106 where the vacant or foreclosed real property is located or to the magistrate or recorder's
107 court of the county in which the vacant or foreclosed real property is located, subject to
108 applicable jurisdictional requirements. Any vacant or foreclosed real property owner
109 affected by a county or municipal ordinance or resolution requiring vacant or foreclosed
110 real property registration may challenge any determination made pursuant to such
111 ordinance or resolution.

112 (k) An ordinance or resolution adopted by the governing authority of a county to establish
113 a registry pursuant to this Code section may, subject to and in accordance with the
114 requirements of this Code section, require registration of vacant or foreclosed real property
115 within the entire territory of the county, except territory located within the boundaries of
116 any municipal corporation, unless otherwise allowed by intergovernmental agreement
117 between the county and municipal corporation.

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

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

128 **SECTION 2.**

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