

House Bill 1042

By: Representative Benton of the 31<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 44-14-160 of the Official Code of Georgia Annotated, relating to  
2 the recording of foreclosure and deed under power documents, so as to amend the time in  
3 which a mortgage holder must file deeds under power after a foreclosure sale; to provide for  
4 a cause of action for failure to file a deed under power after a foreclosure sale; to provide for  
5 jurisdiction; to provide for presumed damages and a maximum recovery amount; to provide  
6 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 Code Section 44-14-160 of the Official Code of Georgia Annotated, relating to the recording  
10 of foreclosure and deed under power documents, is amended as follows:

11 "44-14-160.

12 (a) Within ~~90~~ 45 days of a foreclosure sale, all deeds under power shall be recorded by the  
13 holder of a deed to secure debt or a mortgage with the clerk of the superior court of the  
14 county or counties in which the foreclosed property is located. The clerk shall write in the  
15 margin of the page where the deed to secure debt or mortgage foreclosed upon is recorded  
16 the word 'foreclosed' and the deed book and page number on which is recorded the deed  
17 under power conveying the real property; provided, however, that, in counties where the  
18 clerk keeps the records affecting real estate on microfilm, the notation provided for in this  
19 Code section shall be made in the same manner in the index or other place where the clerk  
20 records transfers and cancellations of deeds to secure debt.

21 (b)(1) A private right of action shall be granted to a grantee of a deed under power upon  
22 the failure of a holder of a deed to secure debt or mortgage sold through a foreclosure sale  
23 to comply with the provisions of subsection (a) of this Code section.

24 (2) Failure to record a deed under power within 45 days after a foreclosure sale shall be  
25 prima-facie evidence of untimeliness.

26 (3) Recovery may be had by action in the superior court of the county or counties in  
27 which the foreclosed property is located.

28 (4) Damages shall be presumed in the amount of \$1,000.00 and the court may award  
29 reasonable attorney's fees. Actual damages may be recovered, but in no event shall  
30 recovery exceed \$2,500.00; provided, however, the court may also award reasonable  
31 attorney's fees."

32 **SECTION 2.**

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