

House Bill 419 (COMMITTEE SUBSTITUTE)

By: Representatives Mitchell of the 88th, Jacobs of the 80th, and Willard of the 49th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia
2 Annotated, relating to foreclosure in general, so as to provide, under certain circumstances,
3 for an opportunity, prior to foreclosure, for a debtor to cure a foreclosure and bring the debt
4 current by making all past due payments along with any late fees and charges; to provide for
5 a method of payment; to provide for a limitation; to provide for related matters; to provide
6 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
10 relating to foreclosure in general, is amended by adding a new Code section to read as
11 follows:

12 "44-14-162.5.

13 (a) As used in this Code section, the term 'security instrument' means a mortgage, security
14 deed, or lien contract.

15 (b) This Code section shall apply to the exercise of a power of sale of property:

16 (1) All or part of which is presently used as a dwelling place by the debtor; and

17 (2) In which the debtor occupying such property is an original borrower who entered into
18 the security instrument.

19 (c) If the debtor and the property meet the conditions of subsection (b) of this Code
20 section, then such debtor shall have the right to have enforcement of the power of sale
21 discontinued at any time up to five calendar days before sale of the property, provided that
22 such debtor:

23 (1) Pays in good funds to the creditor or to the creditor's attorney all sums which then
24 would be due under the security instrument if no acceleration had occurred no later than
25 five calendar days before sale of the property;

26 (2) Cures any default of any other terms of the security instrument; and

- 27 (3) Pays all fees and expenses specified as collectable under the security instrument prior
28 to acceleration.
- 29 (d) The creditor may require that the debtor pay such reinstatement sums and expenses in
30 one or more of the following forms, as selected by the creditor:
- 31 (1) Cash;
32 (2) Money order;
33 (3) Electronic funds transfer; or
34 (4) Certified check, bank check, treasurer's check, or cashier's check, provided that:
35 (A) Any such check is drawn upon an institution whose deposits are insured by a
36 federal agency, instrumentality, or entity; and
37 (B) Any such check is made payable to the creditor or to the creditor's attorney.
- 38 (e) Upon reinstatement of the debtor under the provisions of this Code section, the
39 creditor's interest in the property and rights under the security instrument, and the debtor's
40 obligation to pay the sums secured by the security instrument, shall remain fully effective
41 as if no acceleration had occurred.
- 42 (f) The requirements of this Code section shall not be waivable by contract or otherwise.
43 (g) This Code section shall not apply to any obligation after the maturity date of such
44 obligation."

45 **SECTION 2.**

46 This Act shall become effective on July 1, 2012, and shall apply to security instruments
47 executed on or after July 1, 2012.

48 **SECTION 3.**

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