

House Bill 110 (AS PASSED HOUSE AND SENATE)

By: Representatives Jacobs of the 80th, Willard of the 49th, Lindsey of the 54th, Powell of the 171st, Welch of the 110th, and others

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 vacant and foreclosed real property registries; to provide for definitions; to provide for
4 required elements of a form for such registrations; to provide for exemptions from
5 registration; to provide for maximum fees and penalties for registration and failure to
6 register; to provide for appellate rights; to provide for related matters; to repeal conflicting
7 laws; and for other 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) For purposes of 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 vacant or
17 foreclosed real property owner.

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

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

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

- 27 (5) 'Vacant real property' means real property that:
 28 (A) Is intended for habitation, has not been lawfully inhabited for at least 60 days, and
 29 has no evidence of utility usage within the past 60 days; or
 30 (B) Is partially constructed or incomplete, without a valid building permit.
 31 Such term shall not include a building or structure containing multiple units with
 32 common ownership that has at least one unit occupied with evidence of utility usage.
- 33 (b) Effective July 1, 2012:
- 34 (1) A county or municipal corporation may establish by ordinance or resolution for the
 35 requirement of registration of vacant or foreclosed real property as provided in this Code
 36 section;
- 37 (2) Notwithstanding county or municipal ordinances or resolutions that require
 38 registration for repeated ordinance violations that remain uncorrected for at least 90 days,
 39 no county or municipal corporation shall require registration of vacant property or real
 40 property that is unoccupied, uninhabited, abandoned, foreclosed, or advertised for
 41 foreclosure on any basis other than as set forth in this Code section or as may be
 42 otherwise authorized by general law; and
- 43 (3) No county or municipal corporation shall require for purposes of a vacant or
 44 foreclosed real property registry established pursuant to this Code section any
 45 information or documentation other than as set forth in this Code section.
- 46 Any requirements of a vacant or foreclosed real property registry established by a county
 47 or municipal ordinance or resolution in effect as of July 1, 2012, that are in conflict with
 48 the requirements of this Code section shall be hereby preempted.
- 49 (c) Each registrant shall be required to file with a specifically identified office or officer
 50 a registration form, in paper or electronic format, as required by the county or municipal
 51 corporation, requiring submission of only the following information:
- 52 (1) The real property owner's name, street address, mailing address, phone number,
 53 facsimile number, and e-mail address;
- 54 (2) The agent's name, street address, mailing address, phone number, facsimile number,
 55 and e-mail address;
- 56 (3) The real property's street address and tax parcel number;
- 57 (4) The transfer date of the instrument conveying the real property to the owner; and
- 58 (5) At such time as it becomes available, recording information, including deed book and
 59 page numbers, of the instrument conveying the real property to the owner.
- 60 (d) The department may promulgate a standard vacant or foreclosed real property registry
 61 form that requires only the information set forth in subsection (c) of this Code section, in
 62 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.