

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 129

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 44 of the Official Code of Georgia Annotated, relating to property, so as to
2 change certain provisions relating to property; to prohibit a fee for a future conveyance of
3 real property except under limited circumstances; to provide for a definition; to provide for
4 certain requirements for obtaining money judgments on obligations secured by deeds to
5 secure debts or mortgages on real property; to provide for related matters; to provide for an
6 effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
10 adding a new 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 other than by judicial
14 or nonjudicial foreclosure.

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

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

- (1) An association formed for the purposes of exercising the powers of the association of any condominium created pursuant to Article 3 of Chapter 3 of this title, the 'Georgia Condominium Act';
- (2) A property owners' association formed for the purposes of exercising the powers of the property owners' association pursuant to Article 6 of Chapter 3 of this title, the 'Georgia Property Owners' Association Act';
- (3) A property owners' association formed for the purposes of exercising the powers of an association of property owners that has not been formed pursuant to or which has not adopted the provisions of Article 6 of Chapter 3 of this title, the 'Georgia Property Owners' Association Act,' provided that such association shall comply with subsection (d) of Code Section 44-3-232;
- (4) A person or entity under the general supervision of the Public Service Commission as provided for in subsection (a) of Code Section 46-2-20, provided that the fee is charged for expenses incurred in the administration of ongoing services or rights provided to the property interest conveyed; or
- (5) A community land trust or community development corporation that is tax-exempt under Section 501(c)(3) of the federal Internal Revenue Code, provided that the fee is charged for and applied to expenses incurred in the administration of ongoing community program services or rights provided to shared equity property interests within, as applicable, the land subject to the community land trust or the geographic area served by the community development corporation."

SECTION 2.

Said title is further amended by adding a new Code section to read as follows:

"44-14-161.1.

When the holder of a deed to secure debt, mortgage, or other lien contract against real estate obtains a judgment on the debt prior to foreclosure of the real estate and thereafter forecloses on the real estate, any person or entity obligated on the debt may file, within 30 days after the date of foreclosure, a complaint against the holder to establish the fair market value of the real estate. The court shall make a finding of the fair market value of the real estate as of the date of foreclosure. If the court determines that the real estate has been sold for less than fair market value, the holder may elect that either:

- (1) The court set aside the foreclosure sale and order resale of the real estate; or
- (2) The remaining balance on the judgment be reduced by the fair market value, with any sum in excess of full satisfaction of the amount remaining due on the judgment to be paid from the holder to such person or entity obligated on the debt."

61

SECTION 3.

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

64

SECTION 4.

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