

House Bill 160

By: Representatives Jacobs of the 80th, Welch of the 110th, Oliver of the 82nd, Lindsey of the 54th, Weldon of the 3rd, 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 to mortgages, conveyances to secure debt, and liens in general, so as to revise
3 provisions relating to vacant and foreclosed real property registries; to prohibit a fee for a
4 future conveyance except under limited circumstances; to provide for a definition; to provide
5 for related matters; to provide for an effective date; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 1 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to
10 mortgages, conveyances to secure debt, and liens in general, is amended by revising
11 paragraph (3) of subsection (a) and subparagraph (e)(1)(B) of Code Section 44-14-14,
12 relating to vacant and foreclosed real property registries, as follows:

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

19 "(B) The deed is filed with the clerk of superior court within 60 days of the ~~transfer~~
20 foreclosure sale or transfer of the deed in lieu of foreclosure; and"

21 **SECTION 2.**

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

23 "44-14-15.

24 (a) As used in this Code section, the term 'conveyance of real property' shall include a
25 conveyance or other transfer of an interest or estate in real property other than by judicial
26 or nonjudicial foreclosure.

27 (b) A restriction or covenant running with the land applicable to the conveyance of real
28 property that requires a transferee or transferor of real property, or the transferee's or
29 transferor's heirs, successors, or assigns, to pay a declarant, other person imposing the
30 restriction or covenant on the property, or a third party designated by such declarant or
31 other person, or a successor, assignee, or designee of such declarant or other person, a fee
32 in connection with a future transfer of the property shall be prohibited. A restriction or
33 covenant running with the land that violates this Code section or a lien purporting to
34 encumber the land to secure a right under a restriction or covenant running with the land
35 that violates this Code section shall be void and unenforceable.

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

38 (1) An association formed for the purposes of exercising the powers of the association
39 of any condominium created pursuant to Article 3 of Chapter 3 of this title, the 'Georgia
40 Condominium Act';

41 (2) A property owners' association formed for the purposes of exercising the powers of
42 the property owners' association pursuant to Article 6 of Chapter 3 of this title, the
43 'Georgia Property Owners' Association Act';

44 (3) A property owners' association formed for the purposes of exercising the powers of
45 an association of property owners that has not been formed pursuant to or which has not
46 adopted the provisions of Article 6 of Chapter 3 of this title, the 'Georgia Property
47 Owners' Association Act,' provided that such association shall comply with subsection
48 (d) of Code Section 44-3-232;

49 (4) A person or entity under the general supervision of the Public Service Commission
50 as provided for in subsection (a) of Code Section 46-2-20, provided that such fee is
51 charged for expenses incurred in the administration of ongoing services or rights provided
52 to the property interest conveyed; or

53 (5) A community land trust or community development corporation that is tax-exempt
54 under Section 501(c)(3) of the federal Internal Revenue Code, provided that such fee is
55 charged for and applied to expenses incurred in the administration of ongoing community
56 program services or rights provided to shared equity property interests within, as
57 applicable, the land subject to the community land trust or the geographic area served by
58 the community development corporation."

59

SECTION 3.

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

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SECTION 4.

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