

Senate Bill 106

By: Senators Thompson of the 5th, James of the 35th, Jones of the 10th, Sims of the 12th,
Butler of the 55th and others

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 general provisions of foreclosure, so as to provide that an appraisal
3 must be performed for a deficiency judgment on real estate sold on foreclosure; to provide
4 for deficiency judgment amount determinations; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 1 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
9 relating to general provisions of foreclosure, is amended by revising Code Section
10 44-14-161, relating to deficiency judgments for real estate sold on foreclosure, to read as
11 follows:

12 "44-14-161.

13 (a) When any real estate is sold on foreclosure, without legal process, and under powers
14 contained in security deeds, mortgages, or other lien contracts and at the sale the real estate
15 does not bring the amount of the debt secured by the deed, mortgage, or contract, no action
16 may be taken to obtain a deficiency judgment unless the person instituting the foreclosure
17 proceedings produces evidence of an appraisal of the property conducted within 30 days
18 prior to the foreclosure proceedings. For purposes of this Code section, property appraisals
19 shall be performed by an independent licensed appraiser who is not an employee of the
20 person instituting the foreclosure proceedings. ~~shall, within~~ Within 30 days after the sale,
21 a report of the sale and appraisal documents shall be reported to the judge of the superior
22 court of the county in which the land is located ~~for to obtain~~ confirmation and approval ~~and~~
23 ~~shall obtain an order of confirmation and approval thereon.~~

24 (b) The court shall require evidence to show the ~~true market~~ appraised value of the
25 property sold under the powers ~~and shall not confirm the sale unless it is satisfied that the~~
26 ~~property so sold brought its true market value on such foreclosure sale.~~ A deficiency

27 judgment shall be the lesser of the debt amount minus the appraisal amount or the debt
28 amount minus the highest accepted bid at the foreclosure sale.

29 (c) The court shall direct that a notice of the hearing shall be given to the debtor at least
30 five days prior thereto; and at the hearing, the court shall also pass upon the legality of the
31 notice, advertisement, and regularity of the sale. The court may order a resale of the
32 property for good cause shown."

33 **SECTION 2.**

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