

House Bill 160 (COMMITTEE SUBSTITUTE)

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 and applicability; to repeal conflicting
6 laws; and for other 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' means a
25 conveyance or other transfer of an interest or estate in real property.

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

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

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

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

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

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

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

58 **SECTION 3.**

59 This Act shall become effective upon its approval by the Governor or upon its becoming law
 60 without such approval, and Section 2 of this Act shall apply to covenants recorded on or after
 61 such date.

62

SECTION 4.

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