

House Bill 160 (AS PASSED HOUSE AND SENATE)

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 Title 44 of the Official Code of Georgia Annotated, relating to property, so as to
2 change provisions relating to property; to provide that choses in action for legal malpractice
3 are not assignable; to revise provisions relating to vacant and foreclosed real property
4 registries; to prohibit a fee for a future conveyance except under limited circumstances; to
5 provide for a definition; to provide for related matters; to provide for effective dates and
6 applicability; 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 revising Code Section 44-12-24, relating to assignment of rights of choses in action, as
11 follows:

12 "44-12-24.

13 Except for those situations governed by Code Sections 11-2-210 and 11-9-406, a right of
14 action is assignable if it involves, directly or indirectly, a right of property. A right of
15 action for personal torts, for legal malpractice, or for injuries arising from fraud to the
16 assignor may not be assigned."

17 **SECTION 2.**

18 Said title is further amended by revising paragraph (3) of subsection (a) and subparagraph
19 (e)(1)(B) of Code Section 44-14-14, relating to vacant and foreclosed real property registries,
20 as follows:

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

25 to a creditor or a deed in lieu of foreclosure in full or partial satisfaction of a debt or
 26 obligation owed to a creditor."

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

29 **SECTION 3.**

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

31 "44-14-15.

32 (a) As used in this Code section, the term 'conveyance of real property' means a
 33 conveyance or other transfer of an interest or estate in real property.

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

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

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

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

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

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

60 (5) A community land trust or community development corporation that is tax-exempt
61 under Section 501(c)(3) or 501(c)(4) of the federal Internal Revenue Code, provided that
62 such fee is charged for and applied to expenses incurred in the administration of ongoing
63 community program services or rights provided to shared equity property interests within,
64 as applicable, the land subject to the community land trust or the geographic area served
65 by the community development corporation; or
66 (6) A party to a purchase contract, option, real property listing agreement, or other
67 agreement which obligates one party to the agreement to pay the other, as full or partial
68 consideration for the agreement or for a waiver of rights under the agreement, an amount
69 determined by the agreement if such amount constitutes a fee or commission paid to a
70 licensed real estate broker for brokerage services rendered in connection with the transfer
71 of the property for which such fee or commission is paid."

72 **SECTION 4.**

73 This Section and Sections 1 and 5 of this Act shall become effective upon its approval by the
74 Governor or upon its becoming law without such approval. Sections 2 and 3 of this Act shall
75 become effective on July 1, 2013, and Section 3 of this Act shall apply to covenants recorded
76 on or after such date.

77 **SECTION 5.**

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