

House Bill 903

By: Representatives Jones of the 62nd, Quick of the 117th, Fludd of the 64th, Braddock of the 19th, Douglas of the 78th, and others

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Part 2 of Article 3 of Chapter 14 of Title 44 of the Official Code of Georgia
2 Annotated, relating to reversion of conveyances to secure debt and bills of sale, and Part 1
3 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to
4 foreclosure generally, so as to require notice of the withdrawal of foreclosure proceedings;
5 to provide for the right of a debtor to remain on foreclosed property until the deed under
6 power has been recorded; to provide that a holder of a deed to secure debt after a foreclosure
7 sale is responsible for fees and fines incurred upon the property; to require notice of the
8 completion or cancellation of a foreclosure sale; to provide for penalties for failure to
9 comply; to provide for related matters; to repeal conflicting laws; and for other purposes.

10 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

11 **SECTION 1.**

12 Part 2 of Article 3 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
13 relating to reversion of conveyances to secure debt and bills of sale, is amended in Code
14 Section 44-14-85, relating to the withdrawal of foreclosure proceedings after acceleration of
15 maturity of indebtedness, by revising subsection (a) as follows:

16 "(a) The acceleration of the maturity of an indebtedness which is evidenced by a note or
17 otherwise and secured by a deed to secure debt conveying real property and the
18 commencement of foreclosure proceedings by the advertisement of a sale under the power
19 contained in the deed or by an action shall not commence the running of the statute of
20 limitations against the exercise of any right, power, or privilege authorized in the deed or
21 the evidence of the indebtedness secured thereby or the right to bring an action to enforce
22 any provision of the deed or to collect the indebtedness secured thereby if the foreclosure
23 proceedings are withdrawn prior to their completion by sale or otherwise. Such withdrawal
24 shall operate to rescind the acceleration of the maturity of the indebtedness and to reinstate
25 the indebtedness upon the terms and conditions existing prior to the acceleration. Notice
26 of such withdrawal shall be given to the debtor and shall be sent by registered or certified

mail or statutory overnight delivery, return receipt requested, to the last known address of the debtor or an address the debtor may designate by written notice to the secured creditor.
Such withdrawal shall not prejudice the right of the holder of the indebtedness and deed securing same to exercise any and all rights to accelerate the maturity of the indebtedness and to exercise any right or power contained in the deed or the evidence of the indebtedness secured thereby or conferred by law should a subsequent default occur."

SECTION 2.

34 Part 1 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
35 relating to foreclosure generally, is amended by revising Code Section 44-14-160, relating
36 to recording of foreclosure and deed under power, as follows:

"44-14-160.

Within 90 days of a foreclosure sale, all deeds under power shall be recorded by the holder of a deed to secure debt or a mortgage with the clerk of the superior court of the county or counties in which the foreclosed property is located, and the debtor occupying such property prior to the foreclosure sale shall have the right to remain on the property until the deed under power has been recorded. The clerk shall write in the margin of the page where the deed to secure debt or mortgage foreclosed upon is recorded the word 'foreclosed' and the deed book and page number on which is recorded the deed under power conveying the real property; provided, however, that, in counties where the clerk keeps the records affecting real estate on microfilm, the notation provided for in this Code section shall be made in the same manner in the index or other place where the clerk records transfers and cancellations of deeds to secure debt. The holder of a deed to secure debt or a mortgage shall be responsible for all fees or fines incurred upon the property upon giving notice of the completion of a foreclosure sale as required under Code Section 44-14-162.5."

SECTION 3.

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

"44-14-162.5.

54 Notice of the completion or cancellation of the sale of real estate under powers contained
55 in mortgages, deeds, or other lien contracts shall be given to the debtor by the secured
56 creditor no later than 14 days after the scheduled sale date. Such notice shall be in writing
57 and shall be sent by registered or certified mail or statutory overnight delivery, return
58 receipt requested, to the last known address of the debtor or an address the debtor may
59 designate by written notice to the secured creditor. The notice required by this Code
60 section shall be deemed given on the official postmark day or day on which it is received
61 for delivery by a commercial delivery firm. Any secured creditor who violates this Code

62 section shall be liable to the debtor or any governing authority of a municipality for fees
63 or fines incurred upon the property after the scheduled sale date. Such debtor or governing
64 authority may bring an action in any court of competent jurisdiction where the property
65 lies. Punitive damages may be awarded for a willful violation of this Code section. The
66 court may also award reasonable attorney's fees."

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SECTION 4.

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