

House Bill 115

By: Representatives Mitchell of the 88th, Jones of the 62nd, Hugley of the 136th, Williams of the 168th, Jordan of the 77th, 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 foreclosure in general, so as to provide, under certain circumstances,
3 for an opportunity, prior to foreclosure, for a debtor to cure a foreclosure and bring the debt
4 current by making all past due payments along with any late fees and charges; to provide for
5 a short title; to provide for a method of payment; to provide for a limitation; to provide for
6 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
7 and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 1 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
11 relating to foreclosure in general, is amended by adding a new Code section to read as
12 follows:

13 "44-14-162.5.

14 (a) This Code section shall be known and may be cited as the 'Foreclosure Cure Act.'

15 (b) As used in this Code section, the term 'security instrument' means a mortgage, security
16 deed, or lien contract.

17 (c) This Code section shall apply to the exercise of a power of sale of property:

18 (1) All or part of which is presently used as a dwelling place by the debtor; and

19 (2) In which the debtor occupying such property is an original borrower who entered into
20 the security instrument.

21 (d) If the debtor and the property meet the conditions of subsection (c) of this Code
22 section, then such debtor shall have the right to have enforcement of the power of sale
23 discontinued at any time up to five calendar days before sale of the property, provided that
24 such debtor:

25 (1) Using one of the forms of payment set forth in subsection (e) of this Code section,
26 pays to the creditor or to the creditor's attorney all sums which then would be due under

27 the security instrument if no acceleration had occurred no later than five calendar days
28 before sale of the property;
29 (2) Cures any default of any other terms of the security instrument; and
30 (3) Pays all fees and expenses specified as collectable under the security instrument prior
31 to acceleration.
32 (e) The creditor may require that the debtor pay such reinstatement sums and expenses in
33 one or more of the following forms, as selected by the creditor:
34 (1) Cash;
35 (2) Money order;
36 (3) Electronic funds transfer; or
37 (4) Certified check, bank check, treasurer's check, or cashier's check, provided that:
38 (A) Such check is drawn upon an institution whose deposits are insured by a federal
39 agency, instrumentality, or entity; and
40 (B) Such check is made payable to the creditor or to the creditor's attorney as specified
41 by the creditor or the creditor's attorney.
42 (f) Upon reinstatement under the provisions of this Code section, the creditor's interest in
43 the property and rights under the security instrument, and the debtor's obligation to pay the
44 sums secured by the security instrument, shall remain fully effective as if no acceleration
45 had occurred.
46 (g) The requirements of this Code section shall not be waivable by contract or otherwise.
47 (h) This Code section shall not apply to any obligation after the maturity date of such
48 obligation."

49 **SECTION 2.**

50 This Act shall become effective on July 1, 2015, and shall apply to security instruments
51 executed on or after July 1, 2015.

52 **SECTION 3.**

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