

The House Committee on Judiciary offers the following substitute to HB 267:

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 and clarify provisions relating to the witnessing requisites of deeds, mortgages, and
3 bills of sale; to provide for related matters; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 style="text-align:center">**SECTION 1.**

6 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
7 revising Code Section 44-5-30, relating to the requisites of deed to land, as follows:

8 "44-5-30.

9 Except for documents electronically filed as provided for in Chapter 12 of Title 10 and Part
10 1 of Article 1 of Chapter 2 of this title, a deed to lands shall be an original document, in
11 writing, signed by the maker, ~~and attested by at least two witnesses~~ an officer as provided
12 in Code Section 44-2-15, and attested by one other witness. It shall be delivered to the
13 purchaser or his or her representative and be made on a good or valuable consideration.
14 The consideration of a deed may always be inquired into when the principles of justice
15 require it."

16 style="text-align:center">**SECTION 2.**

17 Said title is further amended by revising Code Section 44-14-33, relating to attestation or
18 acknowledgment of mortgage, as follows:

19 "44-14-33.

20 In order to admit a mortgage to record, it ~~must be attested by or acknowledged before an~~
21 ~~officer as prescribed for the attestation or acknowledgment of deeds of bargain and sale;~~
22 ~~and, in the case of real property, a mortgage must also be attested or acknowledged by one~~
23 ~~additional witness~~ shall be signed by the maker, attested by an officer as provided in Code
24 Section 44-2-15, and attested by one other witness. In the absence of fraud, if a mortgage
25 is duly signed, witnessed, filed, recorded, and indexed on the appropriate county land

26 records, such recordation shall be deemed constructive notice to subsequent bona fide
27 purchasers."

28 **SECTION 3.**

29 Said title is further amended by revising Code Section 44-14-34, relating to attestation and
30 acknowledgment or probation of mortgages executed outside of this state, as follows:

31 "44-14-34.

32 When executed outside this state, mortgages ~~may be attested, acknowledged, or probated~~
33 ~~in the same manner as deeds of bargain and sale~~ shall be signed by the maker, attested by
34 an officer as provided in Code Section 44-2-15, and attested by one other witness."

35 **SECTION 4.**

36 Said title is further amended by revising Code Section 44-14-37, relating to the effect of the
37 failure to record a mortgage, as follows:

38 "44-14-37.

39 ~~The effect of a failure to record a mortgage shall be the same as the effect of a failure to~~
40 ~~record a deed of bargain and sale~~ Reserved."

41 **SECTION 5.**

42 Said title is further amended by revising Code Section 44-14-61, relating to attestation of
43 deeds to secure debt and bills of sale, generally, as follows:

44 "44-14-61.

45 In order to admit deeds to secure debt or bills of sale to secure debt to record, they shall be
46 ~~attested or proved in the manner prescribed by law for mortgages~~ signed by the maker,
47 attested by an officer as provided in Code Section 44-2-15, and attested by one other
48 witness."

49 **SECTION 6.**

50 Said title is further amended by revising Code Section 44-14-62, relating to attestation of
51 deeds to secure debt and bills of sale executed outside of this state, as follows:

52 "44-14-62.

53 When executed ~~out of~~ outside this state, deeds to secure debt and bills of sale ~~may be~~
54 ~~attested, acknowledged, or probated in the same manner as deeds of bargain and sale~~ to
55 secure debt shall be signed by the maker, attested by an officer as provided in Code Section
56 44-2-15, and attested by one other witness."

57

SECTION 7.

58 Said title is further amended by revising subsection (a) of Code Section 44-14-63, relating
59 to recording of deeds to secure debt and bills of sale to secure debt, as follows:

60 "(a) Every deed to secure debt shall be recorded in the county where the land conveyed is
61 located. Every bill of sale to secure debt shall be recorded in the county where the maker,
62 if a resident of this state, resided at the time of its execution and, if a nonresident, in the
63 county where the personalty conveyed is located. Deeds to secure debt or bills of sale to
64 secure debt not recorded shall remain valid against the persons executing them. ~~The effect~~
65 ~~of the failure to record deeds and bills of sale shall be the same as the effect of the failure~~
66 ~~to record a deed of bargain and sale."~~

67

SECTION 8.

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