

## Senate Resolution 481

By: Senators Stone of the 23rd, Jones II of the 22nd, McKoon of the 29th, Burke of the 11th, Anderson of the 24th and others

## A RESOLUTION

1 Creating the Senate Study Committee on Senate Bill 86; and for other purposes.

2 WHEREAS, Senate Bill 86 addresses the foreclosure confirmation statute,  
3 O.C.G.A. § 44-14-161, which requires judicial confirmation of nonjudicial foreclosure sales;  
4 and

5 WHEREAS, the majority opinion in *PNC Bank, Nat'l Ass'n v. Smith*, 298 Ga. 818  
6 (Ga. 2016), held that guarantors can waive the protections of the confirmation statute; and

7 WHEREAS, Justice Nahmias, in his concurring opinion in *PNC Bank*, pointed out that if  
8 guarantors can waive the protections of the statute, then it can be interpreted that borrowers  
9 can as well; and

10 WHEREAS, Justice Nahmias further advised the General Assembly to amend the  
11 confirmation requirement of O.C.G.A § 44-14-161 to either prohibit or regulate contractual  
12 waivers to protect borrowers, or even only residential borrowers, from unscrupulous lenders  
13 during nonjudicial foreclosures; and

14 WHEREAS, there is a need for a Senate study committee to evaluate:

15 (1) Whether the aim of the General Assembly is met in the current codification of  
16 O.C.G.A § 44-14-161;

17 (2) Whether O.C.G.A § 44-14-161 should be amended to prohibit or regulate lenders  
18 from including contractual waivers in the lending documents that allow borrowers to  
19 waive judicial confirmation of nonjudicial foreclosure sales; and

20 (3) How Senate Bill 86 can reach the aims of the Georgia General Assembly in  
21 protecting borrowers from unscrupulous lenders during nonjudicial foreclosures.

22 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE:

23 (1) **Creation of Senate study committee.** There is created the Senate Study Committee  
24 on Senate Bill 86.

25 (2) **Members and officers.** The committee shall be composed of 15 members as  
26 follows:

27 (A) The President of the Senate shall appoint three members of the Senate;

28 (B) The President Pro Tempore of the Senate shall appoint two members of the Senate;

29 (C) The Senate majority leader shall appoint two members of the Senate;

30 (D) The Senate minority leader shall appoint two members of the Senate;

31 (E) The chairperson of the Senate Judiciary Committee shall appoint two members  
32 who shall not be members of the Senate but shall be practicing attorneys;

33 (F) The chairperson of the Senate Judiciary Committee, who shall serve as  
34 co-chairperson;

35 (G) The President Pro Tempore of the Senate, who shall serve as co-chairperson;

36 (H) The President of the Senate; and

37 (I) The Senate majority leader.

38 (3) **Powers and duties.** The committee shall undertake a study of the conditions, needs,  
39 issues, and problems mentioned above or related thereto and recommend any action or  
40 legislation which the committee deems necessary or appropriate.

41 (4) **Meetings.** The co-chairpersons shall call all meetings of the committee. The  
42 committee may conduct such meetings at such places and at such times as it may deem  
43 necessary or convenient to enable it to exercise fully and effectively its powers, perform  
44 its duties, and accomplish the objectives and purposes of this resolution.

45 (5) **Allowances, expenses, and funding.**

46 (A) The legislative members of the committee shall receive the allowances provided  
47 for in Code Section 28-1-8 of the Official Code of Georgia Annotated.

48 (B) Members of the committee who are state officials, other than legislative members,  
49 or state employees shall receive no compensation for their services on the committee,  
50 but they may be reimbursed for expenses incurred by them in the performance of their  
51 duties as members of the committee in the same manner as they are reimbursed for  
52 expenses in their capacities as state officials or employees.

53 (C) Members of the committee who are not legislators, state officials, or state  
54 employees shall receive a daily expense allowance in an amount the same as that  
55 specified in subsection (b) of Code Section 45-7-21 of the Official Code of Georgia  
56 Annotated, as well as the mileage or transportation allowance authorized for state  
57 employees.

58 (D) The allowances and expenses authorized by this resolution shall not be received  
59 by any member of the committee for more than five days unless additional days are  
60 authorized. Funds necessary to carry out the provisions of this resolution shall come  
61 from funds appropriated to the Senate; except that funds for the reimbursement of the  
62 expenses of state officials, other than legislative members, and state employees shall  
63 come from funds appropriated to or otherwise available to their respective agencies.

64 **(6) Report.**

65 (A) In the event the committee adopts any specific findings or recommendations that  
66 include suggestions for proposed legislation, the co-chairpersons shall file a report of  
67 the same prior to the date of abolishment specified in this resolution, subject to  
68 subparagraph (C) of this paragraph.

69 (B) In the event the committee adopts a report that does not include suggestions for  
70 proposed legislation, the co-chairpersons shall file the report, subject to  
71 subparagraph (C) of this paragraph.

72 (C) No report shall be filed unless the same has been approved prior to the date of  
73 abolishment specified in this resolution by majority vote of a quorum of the committee.  
74 A report so approved shall be signed by the co-chairpersons of the committee and filed  
75 with the Secretary of the Senate.

76 (D) In the absence of an approved report, the co-chairpersons may file with the  
77 Secretary of the Senate copies of the minutes of the meetings of the committee in lieu  
78 thereof.

79 **(7) Abolishment.** The committee shall stand abolished on December 1, 2017.