

House Bill 729

By: Representatives Bazemore of the 63<sup>rd</sup>, Bruce of the 61<sup>st</sup>, Jackson of the 64<sup>th</sup>, Beverly of the 143<sup>rd</sup>, and Hugley of the 136<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 15-6-77 of the Official Code of Georgia Annotated, relating to fees  
2 and construction of other fee provisions regarding superior courts, so as to provide for the  
3 filing of land installment contracts in the superior court; to amend Chapter 5 of Title 44 of  
4 the Official Code of Georgia Annotated, relating to acquisition and loss of property, so as to  
5 provide for requirements for the execution of land installment contracts for the conveyance  
6 of real property; to provide for notice requirements to the purchaser; to provide for a period  
7 of cancellation and rescission; to provide that enforcement of defaults under land installment  
8 contracts for the conveyance of real property shall be the same as for foreclosures on  
9 mortgages; to provide for civil remedies, relief, and the award of damages; to provide for  
10 construction; to revise a definition; to provide for related matters; to provide for applicability;  
11 to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 SECTION 1.

14 Code Section 15-6-77 of the Official Code of Georgia Annotated, relating to fees and  
15 construction of other fee provisions regarding superior courts, is amended by revising  
16 division (f)(1)(A)(i) as follows:

17 "(f) Sums for filing documents, instruments, etc., pertaining to real estate or personal  
18 property, such sums to include recording and returning where applicable, shall be as  
19 follows:

20	(1)(A)(i) Filing all instruments pertaining to real estate including deeds,	
21	deeds of trust, affidavits, releases, notices and certificates, <del>and</del> cancellation	
22	of deeds, <u>and land installment contracts</u> , first page . . . . .	\$ 9.50
23	Each page, after the first . . . . .	2.00"

24 **SECTION 2.**

25 Chapter 5 of Title 44 of the Official Code of Georgia Annotated, relating to acquisition and  
26 loss of property, is amended by adding a new article to read as follows:

27 "ARTICLE 2A

28 44-5-50.

29 As used in this article, the term 'land installment contract' means an agreement under which  
30 the seller agrees to sell an interest in property to the purchaser and the purchaser agrees to  
31 pay the purchase price in five or more subsequent payments exclusive of any down  
32 payment and the seller retains title to the property as security for the purchaser's obligation  
33 under the agreement; provided, however, that such term shall not include option contracts  
34 for the purchase of real property or purchase and sale agreements entered into with the  
35 good faith expectation of a separate transaction in which a third party or the seller agrees  
36 to finance the purchase price in a single installment; and provided, further, that such term  
37 shall include agreements that are leases with an option to buy.

38 44-5-51.

39 (a)(1) A seller shall not execute a land installment contract with a purchaser if the seller  
40 does not own the property in fee simple and free from any liens or other encumbrances.

41 (2) A seller, or the seller's heirs or assigns, shall maintain fee simple title, free from any  
42 liens or other encumbrances, to the property covered by a land installment contract for  
43 the duration of the land installment contract; provided, however, that this paragraph shall  
44 not apply to a lien or encumbrance placed on the property by, or as a result of the conduct  
45 of, the purchaser.

46 (b)(1) Within 60 days prior to the execution of a land installment contract the seller shall  
47 have the property that is subject to the land installment contract appraised by an appraiser  
48 licensed pursuant to Chapter 39A of Title 43. The seller shall provide a copy of the  
49 report from the appraiser to the purchaser. The appraiser's report shall include, but not  
50 be limited to, any observable defects in the condition of the property and violations of  
51 local occupancy codes.

52 (2) If an appraiser's report indicates any defects in the condition of the property, the  
53 seller shall repair such defects prior to executing a land installment contract with the  
54 purchaser.

55 44-5-52.

56 (a) At the time of the execution of a land installment contract there shall be on a separate  
 57 sheet of paper with no other written or pictorial material, in at least 14 point boldface type,  
 58 double spaced, the following notice which shall comprise a cover sheet for the land  
 59 installment contract: 'THIS IS A LAND INSTALLMENT CONTRACT FOR THE SALE  
 60 OF REAL PROPERTY. FOR THE DURATION OF THIS CONTRACT THE SELLER  
 61 REMAINS THE OWNER OF THE PROPERTY. YOUR FAILURE TO COMPLY WITH  
 62 THE TERMS OF THIS AGREEMENT MAY RESULT IN THE SELLER'S RIGHT TO  
 63 TAKE POSSESSION OF THE PROPERTY THROUGH FORECLOSURE BEFORE  
 64 YOUR FINAL PAYMENT AND THE CONVEYANCE OF THE DEED.'

65 (b) A land installment contract shall include:

- 66 (1) The full names and the current mailing addresses of all the parties to the contract;  
 67 (2) The date when the contract was signed by each party;  
 68 (3) A legal description of the property that is the subject of the land installment contract;  
 69 (4) The contract price of the property conveyed;  
 70 (5) Any charges or fees for services that are includable in the contract separate from the  
 71 contract price;  
 72 (6) The payment terms of the contract and the amount of any down payment paid by the  
 73 purchaser;  
 74 (7) The principal balance owed;  
 75 (8) The amount and due date of each installment payment;  
 76 (9) The interest rate on the unpaid balance;  
 77 (10) A statement of any encumbrances against the property;  
 78 (11) A statement requiring the seller to deliver a general warranty deed or other deed on  
 79 completion of the terms of the contract;  
 80 (12) A provision that the seller provide evidence of title;  
 81 (13) A provision stating that the seller shall not hold any mortgage on the property;  
 82 (14) A provision that the seller shall cause a copy of the contract to be recorded in the  
 83 superior court of the county in which the property is located within 20 days after the  
 84 execution of the contract; and  
 85 (15) A provision that the seller shall maintain homeowner's insurance for the property  
 86 and the extent of the coverage of the insurance and to whom the insurance is payable.

87 (c)(1) During the term of a land installment contract, the seller shall:

- 88 (A) Pay all taxes, assessments, and other charges against the property from the date of  
 89 the contract;  
 90 (B) Maintain homeowner's insurance on the property and pay the homeowner's  
 91 insurance premiums; and

- 92 (C) Perform all repairs and maintenance on the property necessary to keep the property  
93 in conformance with the housing codes of the city or county.
- 94 (2) A land installment contract shall, within the contract, include the following statement  
95 in at least 14 point boldface type, double spaced: 'THE SELLER IS RESPONSIBLE FOR  
96 THE PAYMENT OF TAXES, ASSESSMENTS, AND OTHER CHARGES AGAINST  
97 THE PROPERTY FROM THE DATE OF THE CONTRACT, THE PAYMENT OF  
98 HOMEOWNER'S INSURANCE PREMIUMS, AND ALL REPAIRS AND  
99 MAINTENANCE ON THE PROPERTY.'
- 100 (d) Within 20 days after the execution of a land installment contract, the seller shall cause  
101 a copy of such contract to be recorded in the superior court of the county in which the  
102 property is located.
- 103 (e) No interest on a land installment contract shall be more than 2 percent above the  
104 treasury bill rate for loans of the same maturity on the date of the contract.
- 105 (f)(1) A purchaser may cancel and rescind a land installment contract for any reason by  
106 sending by certified mail or statutory overnight delivery a signed, written notice of  
107 cancellation to the seller not later than the fourteenth day after the date of the execution  
108 of the contract. If the purchaser cancels the land installment contract as provided for  
109 under this subsection, the seller shall, not later than the tenth day after receiving such  
110 written notice of cancellation, return to the purchaser the executed contract and any  
111 property exchanged or payments made by the purchaser under such contract.
- 112 (2) A land installment contract shall include in immediate proximity to the space  
113 reserved in a land installment contract for the purchaser's signature the following  
114 statement in at least 14 point boldface type, double spaced: 'YOU, THE PURCHASER,  
115 MAY CANCEL THIS CONTRACT AT ANY TIME UNTIL THE 14TH DAY AFTER  
116 YOU HAVE SIGNED THIS CONTRACT. THE DEADLINE FOR CANCELING THIS  
117 CONTRACT IS (DATE).'
- 118 (g) For purposes of a purchaser in default under a land installment contract and a seller  
119 seeking a remedy, such land installment contract shall be deemed a mortgage and shall be  
120 subject to the same rules of foreclosure on mortgages as are provided for under Part 2 of  
121 Article 7 of Chapter 14 of this title.
- 122 (h) Upon the failure of any seller under a land installment contract to comply with the  
123 provisions of this article, the purchaser may enforce such provisions as defenses,  
124 counterclaims, or an affirmative claim in the superior court of the county in which the  
125 property is located. Upon a determination of the court that the seller has failed to comply  
126 with the provisions of this article, the court shall grant relief to the purchaser in the form  
127 of the return to the purchaser of moneys paid by the purchaser, actual damages, and  
128 injunctive or other equitable relief. The court may award reasonable attorney's fees, court

129 costs, and expenses to a prevailing purchaser. For intentional or willful violations of this  
130 article, the court shall award statutory damages of \$5,000.00.

131 44-5-53.

132 Except as specifically provided for in this article, nothing in this article shall be construed  
133 to otherwise limit the contractual rights and remedies of the parties and laws pertaining to  
134 the conveyance of property and dispossessory actions."

135 **SECTION 3.**

136 This Act shall apply to land installment contracts for the conveyance of real property entered  
137 into on or after July 1, 2019.

138 **SECTION 4.**

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