

House Bill 948 (COMMITTEE SUBSTITUTE)

By: Representatives Camp of the 135th, Crowe of the 118th, Mathiak of the 82nd, Powell of the 33rd, and Leverett of the 123rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
2 relating to foreclosure, so as to provide for debtors in foreclosures to receive certain
3 information and forms in a notice of foreclosure; to provide for notice of certain information
4 when surplus funds are available; to provide for related matters; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to
9 foreclosure, is amended by revising Code Section 44-14-162.2, relating to mailing or
10 delivery of notice to debtor and procedure, as follows:

11 "(a)(1) Notice of the initiation of proceedings to exercise a power of sale in a mortgage,
12 security deed, or other lien contract shall be given to the debtor by the secured creditor
13 no later than 30 days before the date of the proposed foreclosure.

14 (2) The notice required by paragraph (1) of this subsection ~~Such notice~~ shall be in
15 writing, shall include the name, address, and telephone number of the individual or entity
16 ~~who~~ that shall have full authority to negotiate, amend, and modify all terms of the

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17 mortgage with the debtor, notice of the mortgagor's right to initiate a claim for any
 18 surplus funds after the foreclosure sale pursuant to Code Section 44-14-190, and
 19 instructions on how to make an initial claim for surplus funds which may be due to them,
 20 and shall be sent by registered or certified mail or statutory overnight delivery, ~~return~~
 21 ~~receipt requested~~ with tracking requested, to the property address or to such other address
 22 as the debtor may designate by written notice to the secured creditor. The notice shall
 23 also contain the following language in bold font:

24 'Surplus funds may be considered abandoned property and may escheat to the State if you
 25 do not claim funds due to you within the timeline prescribed by O.C.G.A. 44-12-193,
 26 which is currently five years but is subject to change should O.C.G.A. 44-12-193 be
 27 revised in the future.'

28 (3) The notice required by ~~this Code section paragraph (1) of this subsection~~ shall be
 29 deemed given on the official postmark day or day on which it is received for delivery by
 30 a commercial delivery firm. Nothing in this subsection shall be construed to require a
 31 secured creditor to negotiate, amend, or modify the terms of a mortgage instrument.

32 (b) The notice required by paragraph (1) of subsection (a) of this Code section shall be
 33 given by mailing or delivering to the debtor a copy of the notice of sale to be submitted to
 34 the publisher."

35 SECTION 2.

36 Said article is further amended by revising Code Section 44-14-190, relating to disposition
 37 of proceeds, to read as follows:

38 "44-14-190.

39 The money arising from the sale of mortgaged property sold under the regulations
 40 prescribed in this part shall be paid to the person foreclosing the mortgage unless claimed
 41 by some other lien which by law has priority of payment over the mortgage; and, when
 42 there is any surplus after paying off the mortgage and other liens by priority as described

43 by law, including statutory liens where applicable, the surplus shall be paid to the
44 mortgagor or his or her agent."

45 **SECTION 3.**

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