

House Bill 974

By: Representatives Gullett of the 19<sup>th</sup>, Gunter of the 8<sup>th</sup>, Scoggins of the 14<sup>th</sup>, Jones of the 25<sup>th</sup>, Holcomb of the 81<sup>st</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to  
2 recordation and registration of deeds and other instruments, so as to require electronic filing;  
3 to provide for the effect of a missing or incorrect tax parcel identification number on a  
4 recorded instrument; to amend Chapter 14 of Title 44, relating to mortgages, conveyances  
5 to secure debt, and liens, so as to require certain information on the first page of security  
6 deeds; to provide for an effective date; to provide for related matters; to repeal conflicting  
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to recordation and  
11 registration of deeds and other instruments, is amended by revising Code Section 44-2-2,  
12 relating to duty of clerk to record certain transactions affecting real estate and personal  
13 property, priority of recorded instruments, and effect of recording on rights between parties  
14 to instruments, as follows:

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15 "44-2-2.

16 (a)(1) The clerk of the superior court shall file, index on a computer program designed  
17 for such purpose, and permanently record, in the manner provided constructively in Code  
18 Sections 15-6-61 and 15-6-66, the following instruments conveying, transferring,  
19 encumbering, or affecting real estate and personal property:

20 (A) Deeds;

21 (B) Mortgages;

22 (C) Liens as provided for by law; ~~and~~

23 (D) Maps or plats relating to real estate in the county; and

24 (E) State tax executions and state tax execution renewals as provided for in Article 2  
25 of Chapter 3 of Title 48.

26 (2) As used in this subsection, the term 'liens' shall have the same meaning as ~~provided~~  
27 described in Code Sections 15-19-14, 44-14-320, and 44-14-602 and shall include all  
28 liens provided by state or federal statute.

29 (3) When indexing liens, the clerk shall index the names of parties in the manner  
30 provided by such rules and regulations adopted by the Georgia Superior Court Clerks'  
31 Cooperative Authority pursuant to the provisions of Code Section 15-6-61 as authorized  
32 by Code Section 15-6-97.

33 (4) When indexing maps or plats relating to real estate in the county, the clerk of the  
34 superior court shall index the names or titles provided in the caption of the plat.

35 (b) Deeds, mortgages, and liens of all kinds which are required by law to be recorded in  
36 the office of the clerk of the superior court and which are against the interests of third  
37 parties who have acquired a transfer or lien binding the same property and who are acting  
38 in good faith and without notice shall take effect only from the time they are filed for  
39 record in the clerk's office.

40 (c) Any instrument required to be recorded pursuant to this chapter shall be electronically  
41 filed with the clerk of the superior court.

42 (d) The presence of an incorrect tax parcel identification number, or the absence of a tax  
 43 parcel identification number, on a recorded instrument shall not:

44 (1) Void or render voidable such instrument;

45 (2) Affect the validity or enforceability of such instrument; or

46 (3) Affect any notice, constructive or otherwise, provided by the recordation of such  
 47 instrument.

48 ~~(c)~~(e) Nothing in this Code section shall be construed to affect the validity or force of any  
 49 deed, mortgage, judgment, or lien of any kind between the parties thereto."

50 **SECTION 2.**

51 Chapter 14 of Title 44, relating to mortgages, conveyances to secure debt, and liens, is  
 52 amended by revising Code Section 44-14-63, relating to recording of deeds to secure debt  
 53 and bills of sale to secure debt and effect of failure to record, as follows:

54 "44-14-63.

55 (a) Every deed to secure debt shall be recorded in the county where the land conveyed is  
 56 located. Every bill of sale to secure debt shall be recorded in the county where the maker,  
 57 if a resident of this state, resided at the time of its execution and, if a nonresident, in the  
 58 county where the personalty conveyed is located. Deeds to secure debt or bills of sale to  
 59 secure debt not recorded shall remain valid against the persons executing them.

60 (b) A deed to secure debt shall not be recorded unless it includes the ~~mailing address of~~  
 61 ~~the grantee thereof.~~ following information on the first page:

62 (1) The names of the signatories of the document;

63 (2) The grantee's mailing address;

64 (3) Map and parcel identification information, if applicable;

65 (4) The initial maturity date or dates for such debt;

66 (5) The amount, if any, of the intangible recording tax imposed on such deed to secure  
 67 debt;

68 (6) The amount, if any, of the intangible recording tax imposed for an additional advance  
69 pursuant to a security deed modification agreement or other additional advance secured  
70 by a security deed; and

71 (7) If no intangible tax is imposed, a citation to the authority providing for an exemption  
72 of such tax.

73 (c) Failure to comply with this ~~provision~~ Code section shall not be a defense to any  
74 foreclosure or grounds to set aside any foreclosure of any deed to secure debt."

75 **SECTION 3.**

76 This Act shall become effective on January 1, 2023.

77 **SECTION 4.**

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