

House Bill 1292

By: Representatives Okoye of the 102nd, Burns of the 159th, Efstration of the 104th, Beverly of the 143rd, Reeves of the 99th, 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 that the clerks
3 of the superior courts obtain photographic identification cards of individuals who present
4 deeds or other instruments for recording; to require such clerks retain certain information
5 relating to deeds or other instruments presented for recording; to provide for exceptions; to
6 provide for the promulgation of rules and regulations; to amend Titles 23 and 51 of the
7 Official Code of Georgia Annotated, relating to equity and torts, respectively, so as to
8 provide remedies for fraudulently recorded deeds or other instruments; to provide for the
9 recovery of costs and attorney's fees in certain quiet title actions; to provide for a civil cause
10 of action for the recording of fraudulent or forged deeds or other instruments; to provide for
11 related matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
SECTION 1-1.

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15 Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to recordation and
16 registration of deeds and other instruments, is amended by adding a new Code section to read
17 as follows:

18 "44-2-31.

19 (a)(1) Except as provided in subsection (c) of this Code section, when a deed or other
20 instrument purporting to convey title to real property or an interest therein is presented
21 to a clerk of the superior court for recording, whether in person or through an electronic
22 recording service, the clerk shall require the individual presenting the deed or other
23 instrument to produce a government issued photographic identification card before
24 recording the deed or other instrument.

25 (2) For purposes of this subsection, a government issued photographic identification card
26 shall include, but shall not be limited to, a passport, a military identification card, a
27 driver's license, or an identification card authorized under Code Sections 40-5-100
28 through 40-5-104.

29 (b) Upon being presented with a government issued photographic identification card by
30 an individual pursuant to subsection (a) of this Code section, the clerk of the superior court
31 shall make a photocopy of the identification card and document on the photocopy
32 information relating to the deed or other instrument that was presented by such individual
33 for recording, which shall include the deed book and page number assigned to such deed
34 or other instrument. Such photocopy and information shall not be recorded in the real
35 estate records, shall not be subject to Article 4 of Chapter 18 of Title 50, and shall be
36 treated as confidential and released only:

37 (1) To peace officers in the course of investigating potential crimes;

38 (2) In response to a subpoena, discovery request, or court order;

- 39 (3) To an individual who holds a recorded interest in the real property that was
40 purportedly conveyed by the recorded deed or other instrument; or
41 (4) To an individual who is named as a grantor or a grantee on the recorded deed or other
42 instrument that purports to convey an interest in real property.
43 (c) The requirements of subsection (a) of this Code section shall not apply to an individual
44 who is licensed to practice law in this state, who is licensed under Chapter 40 of Title 43,
45 or who is an agent of a financial institution or credit union that is licensed or regulated
46 under Chapter 1 or Chapter 2 of Title 7, provided that such individual submits evidence,
47 to the clerk's satisfaction, that he or she is licensed to practice law in this state, is licensed
48 under Chapter 40 of Title 43, or is an agent of a financial institution or credit union that is
49 licensed or regulated under Chapter 1 or Chapter 2 of Title 7.
50 (d) The Georgia Superior Court Clerks' Cooperative Authority may adopt rules and
51 regulations necessary to implement this Code section."

52 **SECTION 1-2.**

53 Said chapter is further amended by revising Code Section 44-2-39, relating to adoption of
54 rules and regulations and standardization, as follows:

55 "44-2-39.

56 (a) The authority shall adopt rules and regulations and any standardized forms necessary
57 to implement this part.

58 (b) The rules and regulations adopted by the authority pursuant to this Code section shall
59 include any rules and regulations necessary to ensure that a clerk of the superior court who
60 accepts electronic documents for recording complies with the requirements of Code Section
61 44-2-31 when accepting such electronic documents for recording.

62 (c) To promote uniform standards and practices and compatibility of technology used
63 within offices of clerks of superior court in this state and recording offices in other states
64 that have enacted or may enact provisions substantially similar to those contained within

65 this part, the authority shall consider when adopting, amending, and repealing its rules and
66 regulations and any standardized forms:

- 67 (1) Standards and practices of other jurisdictions;
68 (2) The most recent standards promulgated by national standard-setting bodies, such as
69 the Property Records Industry Association;
70 (3) The views of interested persons and governmental officials and entities;
71 (4) The needs of counties of varying size, population, and resources; and
72 (5) Standards that ensure that electronic documents are accurate, authentic, adequately
73 preserved, and resistant to tampering."

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PART II

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SECTION 2-1.

76 Title 23 of the Official Code of Georgia Annotated, relating to equity, is amended by revising
77 Code Section 23-3-41, relating to when relief is granted and costs, as follows:

78 "23-3-41.

79 (a) In all proceedings quia timet or proceedings to remove clouds upon titles to real estate,
80 if a proper case is made, the relief sought shall be granted to any complainant irrespective
81 of whether the invalidity of the instrument sought to be canceled appears upon the face of
82 the instrument or whether the invalidity appears or arises solely from facts outside of the
83 instrument.

84 (b) In such cases the costs shall be taxed against the litigants in the discretion of the court;
85 provided, however, that, in any case where it is found that the defendant fraudulently
86 created the instrument that is sought to be cancelled, the complainant shall be entitled to
87 recover all costs, including reasonable attorney's fees, incurred in bringing the action to
88 cancel such instrument."

SECTION 2-2.

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90 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by adding
91 a new Code section to read as follows:

92 "51-9-12.

93 (a) In addition to any other remedy that may be available at law or in equity, the owner of
94 any real property may bring an action against an individual who has knowingly filed,
95 entered, or recorded, or caused to be filed, entered or recorded, in any public record a false
96 or forged deed or other instrument purporting to convey the owner's interest to such real
97 property to such individual or a third party or purporting to encumber the owner's interest
98 in such real property to:

99 (1) Recover the owner's actual damages caused by the filing, entering, or recording of
100 such false or forged deed or other instrument or \$5,000.00, whichever is greater; and

101 (2) Recover the owner's costs incurred in bringing such action, including reasonable
102 attorney's fees.

103 (b) Nothing in this Code section shall be construed as creating a cause of action against
104 any public official or employee, including, without limitation, a clerk of the superior court
105 or any employee or agent of a clerk of the superior court, for actions taken in the
106 performance of his or her duties."

PART III**SECTION 3-1.**

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109 (a) Except as provided for in subsection (b) of this section, this Act shall become effective
110 upon its approval by the Governor or upon its becoming law without such approval.

111 (b) Part I of this Act shall become effective on January 1, 2025.

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SECTION 3-2.

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