

The House Committee on Judiciary offers the following substitute to HB 427:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated,
2 relating to recording relative to recordation and registration of deeds and other instruments,
3 so as to provide for electronic recording of documents concerning or evidencing title to real
4 or personal property; to provide for notices to owners when an instrument is filed; to provide
5 for a 45 day waiting period prior to recordation; to provide for related matters; to provide for
6 an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated, relating to
10 recording relative to recordation and registration of deeds and other instruments, is amended
11 by revising subsection (d) of Code Section 44-2-2, relating to duty of clerk to record certain
12 transaction affecting real estate and personal property, priority of recorded instruments,
13 electronic filings, effect of incorrect tax parcel identification number, and effect of recording
14 on rights between parties to instruments, as follows:

15 ~~"(d) The clerk of the superior court shall offer electronic filing for the recording of all~~
16 ~~instruments listed in paragraph (1) of subsection (b) of this Code section. On and after~~

17 January 1, ~~2025~~ 2026, any instrument or document ~~listed in paragraph (1) of subsection (b)~~
18 ~~of this Code section~~ presented to a clerk of superior court for recording ~~by a self-filer in the~~
19 ~~deed, lien, or plat docket~~ shall be submitted using electronic filing: pursuant to Part 2 of
20 this article, the 'Uniform Real Property Electronic Recording Act.'"

21 **SECTION 2.**

22 Said article is further amended by adding a new Code section to read as follows:

23 "44-2-2.1.

24 (a) A deed, mortgage, or lien of property presented for recordation in the office of the clerk
25 of the superior court by a person other than the owner or deed holder of record shall be
26 subject to a 45 day waiting period and shall be marked that such filing is subject to the
27 provisions of this Code section. Within 15 business days of the date when such deed,
28 mortgage, or lien of property is presented for recordation in the office of the clerk of the
29 superior court by a person other than the owner or deed holder of record, as indicated on
30 the records of the tax assessor, the clerk of the superior court shall:

31 (1) Provide the owner or deed holder of record notice by mail or electronically that a
32 subsequent conveyance has been presented; and

33 (2) The owner or deed holder of record has 45 days from the date of the notice provided
34 for in paragraph (1) of this subsection to notify the clerk of the superior court, in writing
35 by notarized affidavit sent by mail or affirmed in person, that such recordation is
36 unauthorized. The failure to act under this subsection shall not preclude any other
37 remedy available under the law.

38 (b) The notice and waiting period provided for in subsection (a) of this Code section shall
39 be waived if:

40 (1) A person has presented a notarized affidavit as provided in Code Section 44-2-19
41 along with the instrument presented for recordation;

- 42 (2) A person has presented a notarized power of attorney along with the instrument
43 presented for recordation;
- 44 (3) A person is an insurance agent or a representative of an insurance agency licensed
45 to sell title insurance in this state;
- 46 (4) A person is an attorney licensed to practice law in this state or a representative of an
47 attorney licensed to practice law in this state;
- 48 (5) A person is licensed under Chapter 40 of Title 43;
- 49 (6) A person is an agent of a bank or credit union with federal deposit insurance or an
50 affiliate thereof;
- 51 (7) A person is an agent of a licensed or exempt mortgage lender pursuant to Article 13
52 of Chapter 1 of Title 7;
- 53 (8) A person is an agent of a servicer as such term is defined in 12 C.F.R. Section
54 1024.2;
- 55 (9) A person is a public official or employee of a federal, state, or local government or
56 a department, agency, board, commission, or authority thereof performing his or her
57 official duties;
- 58 (10) A person is a professional land surveyor licensed under Chapter 15 of Title 43 and
59 in good standing with the Georgia Professional Engineers and Land Surveyors Board; or
- 60 (11) A person is the owner or one of the owners of the deeded property.
- 61 (c) The clerk of the superior court shall be held harmless for good faith regarding any
62 discretionary act in connection with the recordation of any instrument provided for in this
63 Code section."

64 **SECTION 3.**

65 Said article is further amended by revising Code Section 44-2-38, relating to role of clerk of
66 court, as follows:

67 "44-2-38.

68 A clerk of superior court:

69 (1) Who implements any of the functions listed in this Code section shall do so in
70 compliance with standards established by the authority;

71 (2) May receive, index, store, archive, and transmit electronic documents;

72 (3) May provide for access to, and search and retrieval of, documents and information
73 by electronic means;

74 ~~(4) Who accepts electronic documents for recording shall continue to accept for filing~~
75 ~~paper documents as authorized by state law and shall record both electronic documents~~
76 ~~and paper documents in the same manner as provided for by law;~~

77 ~~(5)~~(4) For archival purposes, may convert into electronic form paper documents accepted
78 for recording;

79 ~~(6)~~(5) May convert into electronic form historical documents recorded on paper;

80 ~~(7)~~(6) May accept electronically any fee or other moneys that the clerk of superior court
81 is authorized to collect; and

82 ~~(8)~~(7) May agree with other officials of a state or a political subdivision thereof, or of the
83 United States, on procedures or processes to electronically facilitate satisfaction of prior
84 approvals and conditions precedent to recording and on the electronic payment of
85 statutorily required fees and other moneys."

86 **SECTION 4.**

87 This Act shall become effective on January 1, 2026.

88 **SECTION 5.**

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