

House Bill 948

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 Chapter 14 of Title 44 and Chapter 4 of Title 48 of the Official Code of Georgia
2 Annotated, relating to mortgages, conveyances to secure debt, and liens and tax sales,
3 respectively, so as to provide for debtors in foreclosures to receive certain information and
4 forms in a notice of foreclosure; to provide for tax sale notices to comply with foreclosure
5 notice requirements; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to mortgages,
10 conveyances to secure debt, and liens, is amended by revising Code Section 44-14-162.2,
11 relating to mailing or delivery of notice to debtor and procedure, as follows:

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

15 (2) The notice required by paragraph (1) of this subsection ~~Such notice~~ shall be in
16 writing, shall include the name, address, and telephone number of the individual or entity

17 ~~who~~ that shall have full authority to negotiate, amend, and modify all terms of the
 18 mortgage with the debtor, notice of the debtor's right to any surplus funds after the
 19 foreclosure sale, notice of any deadlines a debtor needs to meet to claim excess funds,
 20 and any forms required to claim excess funds, and shall be sent by registered or certified
 21 mail or statutory overnight delivery, return receipt requested, to the property address or
 22 to such other address as the debtor may designate by written notice to the secured
 23 creditor. The notice of any deadlines a debtor needs to meet to claim excess funds
 24 required by this paragraph shall be in bold font.

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

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

32 SECTION 2.

33 Chapter 4 of Title 48 of the Official Code of Georgia Annotated, relating to tax sales, is
 34 amended in Code Section 48-4-1, relating to procedures for sales under tax levies and
 35 executions, by revising subsection (a) as follows:

36 "(a)(1) Except as otherwise provided in this title, when a levy is made upon real or
 37 personal property, the property shall be advertised and sold in the same manner as
 38 provided for executions and judicial sales. Except as otherwise provided in this title, the
 39 sale of real or personal property under a tax execution shall be made in the same manner
 40 as provided for judicial sales; provided, however, that, in addition to such other notice as
 41 may be required by law, in any sale under a tax execution made pursuant to this chapter,
 42 the defendant shall be given ten days' written notice of such sale by registered or certified

43 mail or statutory overnight delivery, return receipt requested. The notice required by this
44 Code section shall be sent:

45 (A) In cases of executions issued by a county officer for ad valorem taxes, to the
46 defendant's last known address as listed in the records of the tax commissioner of the
47 county that issued the tax execution;

48 (B) In cases of executions issued by a municipal officer for ad valorem taxes, to the
49 defendant's last known address as listed in the records of the municipal officer of the
50 municipality that issued the tax execution; or

51 (C) In cases of executions issued by a state officer, to the defendant's last known
52 address as listed in the records of the department headed by the issuing officer.

53 (2) A copy of the notice provided for in paragraph (1) of this subsection shall also be sent
54 by the same tax officer sending the notice to the defendant to the appropriate tax official
55 of the state, county, or municipality which ~~also has~~ issued an execution with respect to
56 such property.

57 (3) A sale for taxes due may be conducted by the tax commissioner or tax collector or
58 his or her duly authorized officer and may be held in the office of the tax commissioner
59 or tax collector or at such other location as may be identified in the notice ~~required by this~~
60 Code section provided for in paragraph (1) of this subsection. Such notice shall also be
61 posted in a conspicuous location in the appropriate courthouse.

62 (4) A copy of the notice provided for in paragraph (1) of this subsection shall meet the
63 requirements set forth in Code Section 44-14-162.2."

64 **SECTION 3.**

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