

House Bill 974 (AS PASSED HOUSE AND SENATE)

By: Representatives Gullett of the 19th, Gunter of the 8th, Scoggins of the 14th, Jones of the 25th, Holcomb of the 81st, 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 provide for electronic
3 filing; to provide for the effect of a missing or incorrect tax parcel identification number on
4 a recorded instrument; to provide for construction; to amend Chapter 14 of Title 44, relating
5 to mortgages, conveyances to secure debt, and liens, so as to require certain information on
6 the first page of security deeds; to provide for an effective date; to provide for related
7 matters; to repeal conflicting 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) The clerk of the superior court shall offer electronic filing for the recording of all
41 instruments listed in paragraph (1) of subsection (a) of this Code section.

42 (d) The clerk of the superior court shall make available a public computer terminal which
 43 provides a filer with access to the Georgia Superior Court Clerks' Cooperative Authority's
 44 electronic filing portal.

45 (e) The presence of an incorrect tax parcel identification number, or the absence of a tax
 46 parcel identification number, on a recorded instrument shall not:

47 (1) Void or render voidable such instrument;

48 (2) Affect the validity, enforceability, or priority of such instrument; or

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

51 ~~(e)~~(f) Nothing in this Code section shall be construed to affect the validity, enforceability
 52 or force, or priority of any deed, mortgage, judgment, or lien of any kind between the
 53 parties thereto."

54 **SECTION 2.**

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

58 "44-14-63.

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

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

66 (1) The date of the document;

67 (2) The names of the signatories of the document;

- 68 (3) The grantee's mailing address;
69 (4) Map and parcel identification information, if applicable;
70 (5) The original loan amount or the amount of any outstanding principal and additional
71 advance pursuant to a loan modification;
72 (6) The initial maturity date or dates for such debt;
73 (7) The amount, if any, of the intangible recording tax imposed on such deed to secure
74 debt;
75 (8) The amount, if any, of the intangible recording tax imposed for an additional advance
76 pursuant to a security deed modification agreement or other additional advance secured
77 by a security deed; and
78 (9) If no intangible tax is imposed, a citation to the authority providing for an exemption
79 of such tax.
80 (c) Failure to comply with this ~~provision~~ Code section shall not be a defense to any
81 foreclosure or grounds to set aside any foreclosure of any deed to secure debt."

82 **SECTION 3.**

83 This Act shall become effective on July 1, 2023.

84 **SECTION 4.**

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