

House Bill 322 (AS PASSED HOUSE AND SENATE)

By: Representatives Strickland of the 111th, Ramsey of the 72nd, Mabra of the 63rd, Frye of the 118th, Jones of the 62nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 44 of the Official Code of Georgia Annotated, relating to property, so as to
2 change and clarify provisions relating to the witnessing requisites of deeds, mortgages, and
3 bills of sale; to provide a procedure for claiming certain United States savings bonds; to
4 provide for the filing of deeds under power within a certain time after a foreclosure sale; to
5 provide for the assessment and collection of a late filing fee; to provide for the remittance of
6 sums collected from such late filing fees; 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 style="text-align:center">**SECTION 1.**

10 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
11 revising Code Section 44-5-30, relating to the requisites of deed to land, as follows:

12 "44-5-30.

13 Except for documents electronically filed as provided for in Chapter 12 of Title 10 and Part
14 1 of Article 1 of Chapter 2 of this title, a deed to lands shall be an original document, in
15 writing, signed by the maker, ~~and attested by at least two witnesses~~ an officer as provided
16 in Code Section 44-2-15, and attested by one other witness. It shall be delivered to the
17 purchaser or his or her representative and be made on a good or valuable consideration.
18 The consideration of a deed may always be inquired into when the principles of justice
19 require it."

20 style="text-align:center">**SECTION 2.**

21 Said title is further amended by inserting two new Code sections, to read as follows:

22 "44-12-237.

23 (a) Notwithstanding the provisions of subsection (a) of Code Section 44-12-216, United
24 States savings bonds which are unclaimed property and subject to the provisions of Code
25 Section 44-12-190, et seq., the 'Disposition of Unclaimed Property Act,' shall escheat to the
26 State of Georgia three years after becoming unclaimed property and subject to the

27 provisions of Code Section 44-12-190, et seq., and all property rights to such United States
 28 savings bonds or proceeds from such bonds shall vest solely in the State of Georgia.

29 (b) If, within 180 days after the passage of three years pursuant to subsection (a) of this
 30 Code section, no claim has been filed in accordance with the provisions of Code Section
 31 44-12-190, et seq., for such United States savings bonds, the commissioner shall
 32 commence a civil action in the Superior Court of Fulton County for a determination that
 33 such United States savings bonds shall escheat to the state. The commissioner may
 34 postpone the bringing of such action until sufficient United States savings bonds have
 35 accumulated in the commissioner's custody to justify the expense of such proceedings.

36 (c) If no person shall file a claim or appear at the hearing to substantiate a claim or if the
 37 court shall determine that a claimant is not entitled to the property claimed, then the court,
 38 if satisfied by evidence that the commissioner has substantially complied with the laws of
 39 this state, shall enter a judgment that the subject United States savings bonds have
 40 escheated to the state.

41 (d) The commissioner shall redeem such United States savings bonds, and the proceeds
 42 shall be deposited in the state general fund in accordance with the provisions of Code
 43 Section 44-12-218.

44 44-12-238.

45 Any person making a claim for the United States savings bonds escheated to the state under
 46 Code Section 44-12-237, or for the proceeds from such bonds, may file a claim in
 47 accordance with the provisions of Code Section 44-12-190, et seq., the 'Disposition of
 48 Unclaimed Property Act.' Upon providing sufficient proof of the validity of such person's
 49 claim, the commissioner may pay such claim in accordance with the provisions of Code
 50 Section 44-12-190, et seq."

51 **SECTION 3.**

52 Said title is further amended by revising Code Section 44-14-33, relating to attestation or
 53 acknowledgment of mortgage, as follows:

54 "44-14-33.

55 In order to admit a mortgage to record, it ~~must be attested by or acknowledged before an~~
 56 ~~officer as prescribed for the attestation or acknowledgment of deeds of bargain and sale;~~
 57 ~~and, in the case of real property, a mortgage must also be attested or acknowledged by one~~
 58 ~~additional witness shall be signed by the maker, attested by an officer as provided in Code~~
 59 ~~Section 44-2-15, and attested by one other witness. In the absence of fraud, if a mortgage~~
 60 is duly signed, witnessed, filed, recorded, and indexed on the appropriate county land

61 records, such recordation shall be deemed constructive notice to subsequent bona fide
62 purchasers."

63 **SECTION 4.**

64 Said title is further amended by revising Code Section 44-14-34, relating to attestation and
65 acknowledgment or probation of mortgages executed outside of this state, as follows:

66 "44-14-34.

67 When executed outside this state, mortgages ~~may be attested, acknowledged, or probated~~
68 ~~in the same manner as deeds of bargain and sale~~ shall be signed by the maker, attested by
69 an officer as provided in Code Section 44-2-15, and attested by one other witness."

70 **SECTION 5.**

71 Said title is further amended by revising Code Section 44-14-37, relating to the effect of the
72 failure to record a mortgage, as follows:

73 "44-14-37.

74 ~~The effect of a failure to record a mortgage shall be the same as the effect of a failure to~~
75 ~~record a deed of bargain and sale~~ Reserved."

76 **SECTION 6.**

77 Said title is further amended by revising Code Section 44-14-61, relating to attestation of
78 deeds to secure debt and bills of sale, generally, as follows:

79 "44-14-61.

80 In order to admit deeds to secure debt or bills of sale to secure debt to record, they shall be
81 ~~attested or proved in the manner prescribed by law for mortgages~~ signed by the maker,
82 attested by an officer as provided in Code Section 44-2-15, and attested by one other
83 witness."

84 **SECTION 7.**

85 Said title is further amended by revising Code Section 44-14-62, relating to attestation of
86 deeds to secure debt and bills of sale executed outside of this state, as follows:

87 "44-14-62.

88 When executed ~~out of~~ outside this state, deeds to secure debt and bills of sale ~~may be~~
89 ~~attested, acknowledged, or probated in the same manner as deeds of bargain and sale~~ to
90 secure debt shall be signed by the maker, attested by an officer as provided in Code Section
91 44-2-15, and attested by one other witness."

127 the corporate limits of a municipality, the governing authority of the county may withhold
128 a 5 percent administrative processing fee from the remittance to such municipality."

129 **SECTION 10.**

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