

House Bill 1051

By: Representatives Burnough of the 77<sup>th</sup>, Schofield of the 63<sup>rd</sup>, Jackson of the 68<sup>th</sup>, Evans of the 57<sup>th</sup>, and Scott of the 76<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 2 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia  
2 Annotated, relating to foreclosure on mortgages, so as to provide for a senior and disabled  
3 persons foreclosure protection fund and project; to provide for a data base; to provide for the  
4 purpose of the project; to provide for fees; to provide for distribution of funds; to provide for  
5 annual reporting; to provide for an extension of a filing date; to provide for related matters;  
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 2 of Article 7 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,  
10 relating to foreclosure on mortgages, is amended by adding new Code sections to read as  
11 follows:

12 "44-14-192.

13 (a) Within three business days of publishing or service as provided for in Code Section  
14 44-14-180, the mortgage servicer shall file certain information with the Georgia Housing  
15 and Finance Authority. The filing shall be in an electronic format, as designated by the  
16 Georgia Housing and Finance Authority, and shall contain the name and address of the

17 borrower, the due date of the last scheduled payment made by the borrower, and the date  
18 the notice was published or served on the borrower. The Georgia Housing and Finance  
19 Authority shall establish an internal data base to track the information required by this  
20 subsection. The Department of Community Affairs shall design and develop the State  
21 Home Foreclosure Prevention Project data base in consultation with the Georgia Housing  
22 and Finance Authority. Only the Georgia Housing and Finance Authority and the  
23 Department of Community Affairs shall have access to the data base.

24 (b) As permitted by applicable state and federal law, optional information may be  
25 requested from the mortgage servicer to facilitate further review by the State Home  
26 Foreclosure Prevention Project described in Code Section 44-14-193. This optional  
27 information shall be used by the State Home Foreclosure Prevention Project to prioritize  
28 efforts to reach borrowers most likely to avoid foreclosure and to prevent delay for defaults  
29 where foreclosure is unavoidable.

30 44-14-193.

31 (a) There is established the State Home Foreclosure Prevention Trust Fund to be managed  
32 and maintained by the Department of Community Affairs. The funds shall be held separate  
33 from any other funds received by the Department of Community Affairs in trust for the  
34 operation of the State Home Foreclosure Prevention Project.

35 (b) The purpose of the State Home Foreclosure Prevention Project is to seek solutions to  
36 avoid foreclosures for home loans among borrowers who are elder persons or disabled  
37 persons as defined in Code Section 10-1-850. The project may include input from housing  
38 counselors and community organizations approved by the United States Department of  
39 Housing and Urban Development and other state agencies, mortgage lenders, mortgage  
40 servicers, and partners. The Georgia Housing and Finance Authority shall administer the  
41 project.

42 (c) Upon the filing of the information required by Code Section 44-14-192, the mortgage  
43 servicer shall pay a fee of \$200.00 to the State Home Foreclosure Prevention Trust Fund.  
44 The fee shall not be charged more than once for a home loan covered by this Code section  
45 and Code Sections 44-14-192 and 44-14-194. The Georgia Housing and Finance Authority  
46 shall collect the fee. Upon receipt of the fee, the Georgia Housing and Finance Authority  
47 shall deposit the funds into the State Home Foreclosure Prevention Trust Fund. The  
48 Georgia Housing and Finance Authority shall manage the State Home Foreclosure  
49 Prevention Trust Fund.

50 (d) The Georgia Housing and Finance Authority shall use funds from the State Home  
51 Foreclosure Prevention Trust Fund to compensate performance based service contracts or  
52 other contracts and grants necessary to implement the purposes of this Code section and  
53 Code Sections 44-14-192 and 44-14-194 in the following manner:

54 (1) An amount, not to exceed the greater of \$2.2 million or 30 percent of the total funds  
55 collected per year, to cover the administrative costs of the operation of the project by the  
56 Georgia Housing and Finance Authority, including managing on behalf of the  
57 Department of Community Affairs the data base provided for in Code Section 44-14-192,  
58 expenses associated with informing homeowners of state resources available for  
59 foreclosure prevention, expenses associated with connecting homeowners to available  
60 resources, and assistance to homeowners and counselors in communicating with  
61 mortgage servicers;

62 (2) An amount, not to exceed the greater of \$3.4 million or 40 percent of the total funds  
63 collected per year, to make grants to or reimburse nonprofit housing counseling agencies  
64 for providing foreclosure prevention counseling services to homeowners involved in the  
65 State Home Foreclosure Prevention Project;

66 (3) An amount, not to exceed 30 percent of the total funds collected per year, to make  
67 grants to or reimburse nonprofit legal service providers for services rendered on behalf  
68 of homeowners in danger of defaulting on a home loan to avoid foreclosure, limited to

69 legal representation such as negotiation of loan modifications or other loan workout  
70 solutions, defending homeowners in foreclosure or representing homeowners in  
71 bankruptcy proceedings, and research and counsel to homeowners regarding the status  
72 of their home loans; and

73 (4) Any funds remaining in the State Home Foreclosure Prevention Trust Fund upon the  
74 expiration of each subsequent fiscal year shall be directed to the state general fund.

75 (e) The Georgia Housing and Finance Authority shall have the discretion to enter into an  
76 agreement to administer funds under paragraphs (2) and (3) of subsection (d) of this Code  
77 section in a manner that complements or supplements other state and federal programs  
78 directed to prevent foreclosures for homeowners participating in the State Home  
79 Foreclosure Prevention Project.

80 (f) The Georgia Housing and Finance Authority shall report to the General Assembly  
81 describing the operation of the project established by this Code section not later than July 1  
82 of each year. Information in the report shall be presented in aggregate form and may  
83 include the number of homeowners helped, the effectiveness of the funds in preventing  
84 home foreclosure, recommendations for further efforts needed to reduce foreclosures, and  
85 any other aggregated information that the Georgia Housing and Finance Authority  
86 determines is pertinent or that the General Assembly requests.

87 44-14-194.

88 The Georgia Housing and Finance Authority shall review information provided in the data  
89 base provided for in Code Section 44-14-192 to determine which home loans are  
90 appropriate for efforts to avoid foreclosure. If the Georgia Housing and Finance Authority  
91 reasonably believes, based on a full review of the loan information, the mortgage servicer's  
92 loss mitigation efforts, the borrower's capacity and interest in staying in the home, and  
93 other appropriate factors, that further efforts by the State Home Foreclosure Prevention  
94 Project offer a reasonable prospect to avoid foreclosure on primary residences, the

95 executive director of the Georgia Housing and Finance Authority shall have the authority  
96 to extend one time under this Code section and Code Sections 44-14-192 and 44-14-193  
97 the allowable filing date for any foreclosure proceeding on a primary residence by up to  
98 30 days beyond the earliest filing date established by the pre-foreclosure notice. If the  
99 executive director of the Georgia Housing and Finance Authority makes the determination  
100 that a loan is subject to this Code section, the Georgia Housing and Finance Authority shall  
101 notify the borrower, mortgage servicer, and Department of Community Affairs."

102 **SECTION 2.**

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