

House Bill 776

By: Representative Mitchell of the 88th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
2 relating to mortgages, conveyances to secure debt, and liens, in general, so as to provide
3 protections for military service members in the event of foreclosures or other proceedings
4 to enforce secured obligations; to define a term; to provide for applicability; to provide for
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to
9 mortgages, conveyances to secure debt, and liens, in general, is amended by adding a new
10 Code section to read as follows:

11 "44-14-16.

12 (a) As used in this Code section, the term 'service member' means a member on active
13 duty, as that term is defined at 10 U.S.C. Section 101, and includes National Guard
14 members, on ordered federal duty for a period of 30 days or longer.

15 (b) In any proceeding commenced against a service member to enforce obligations secured
16 by a mortgage, deed to secure debt, trust deed, or other security upon real property owned
17 prior to the commencement of a period of active duty, a court of competent jurisdiction
18 may on its own motion stay the proceedings or otherwise dispose of the case as is equitable
19 to preserve the interests of all parties, unless the service member waives his or her rights
20 pursuant to 50 U.S.C. Section 3918. The court shall stay the proceedings upon the
21 application of a service member or agent of the service member, unless, in the opinion of
22 the court, the ability of the service member to comply with the terms of the obligations is
23 not materially affected.

24 (c) A sale or foreclosure for nonpayment of any sum due under any obligation of a service
25 member, or for breach of the terms of such obligation, is not valid if made during the
26 period of active duty or one year thereafter, unless ordered by a court of competent

27 jurisdiction or if the service member waives his or her rights pursuant to 50 U.S.C. Section
28 3918.
29 (d) This Code section applies only to obligations secured by a mortgage, deed to secure
30 debt, trust deed, or other security in the nature of a mortgage upon real property owned by
31 a service member on active duty at the commencement of the period of the active duty and
32 still owed by him or her, which obligation originated prior to the commencement of such
33 service member's period of active duty."

34 **SECTION 2.**

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