

O.C.G.A. § 44-14-64

GEORGIA CODE  
Copyright 2010 by The State of Georgia  
All rights reserved.

\*\*\* Current through the 2010 Regular Session \*\*\*

TITLE 44. PROPERTY  
CHAPTER 14. MORTGAGES, CONVEYANCES TO SECURE DEBT, AND LIENS  
ARTICLE 3. CONVEYANCES TO SECURE DEBT AND BILLS OF SALE  
PART 1. IN GENERAL

O.C.G.A. § 44-14-64 (2010)

**§ 44-14-64. Transfers of deeds to secure debt; execution; partial transfers; transfers by certain financial institutions; requirements for recording; payoff balance**

(a) **All transfers** of deeds to secure debt **shall be in writing**; shall be signed by the grantee or, **if the deed has been previously transferred, by the last transferee**; and **shall be witnessed** as required for deeds.

(b) **Transfers of deeds to secure debt may be endorsed upon the original deed or by a separate instrument identifying the transfer** and shall be sufficient to transfer the property therein described and the indebtedness therein secured, whether the indebtedness is **evidenced by a note** or other instrument or is an indebtedness which arises out of the terms or operation of the deed, together with the powers granted without specific mention thereof.

(c) Transfer of a deed to secure debt and the indebtedness therein secured may be made in whole or in part; provided, however, that, where the transfer is made in part, that portion of the deed and the indebtedness therein secured to be transferred shall be stated upon a separate instrument and not upon the original deed.

(d) A transfer of a deed to secure debt and the indebtedness therein secured in whole or in part in accordance with subsections (a) through (c) of this Code section by a financial institution having deposits insured by an agency of the federal government or a transfer by a lender who regularly purchases or services residential real estate loans aggregating a minimum of \$1 million secured by a first deed to secure debt encumbering real estate improved or to be improved by the construction thereon of one to four family dwelling units, where the transferor retains the right to service or supervise the servicing of the deed or interest therein, need not be recorded if:

(1) The original deed to secure debt has been recorded;

(2) An agreement in writing exists on or before the date of the transfer between the transferor and the transferee and sets forth the terms of the transfer and the interests of the parties thereto; and

(3) Possession of the deed, the instrument of indebtedness, and the instrument of transfer is taken by such new transferee for himself or in his representative capacity or by a representative of such transferee which may include the transferor or any other transferee, provided that the agreement in paragraph (2) of this subsection provides for such party to take possession.

(e) As described in subsection (d) of this Code section, the transfer by a financial institution or lender of a deed to secure debt and the indebtedness therein secured in whole or in part without recording in accordance with this Code section shall be effective to provide the new transferee with priority over all subsequent claims against the deed and the indebtedness therein secured to the extent of the interest so transferred, and the priority shall not be lessened by the fact that the transfer is not recorded; provided, however, that a transfer, satisfaction, cancellation, release, quitclaim deed, or modification executed and recorded by the holder of record of the deed to secure debt shall be effective to transfer, satisfy, cancel, release, quitclaim, or modify, as the case may be, all interest of the holder of record of the deed to secure debt and all interest of all transferees claiming by, through, or under the holder of record of the deed to secure debt.

(f) Where the holder of the right to service or supervise the servicing of the transferred deed to secure debt and the indebtedness therein secured is a financial institution or lender as described in subsection (d) of this Code section, it shall have the same rights, responsibilities, and obligations to act in all matters concerning the servicing, administration, and cancellation of the deed and indebtedness as to third parties as if no such transfer had taken place.

(g) A transfer of a deed to secure debt shall not be recorded unless it includes the mailing address of the last transferee thereof. Failure to comply with this provision shall not be a defense to any foreclosure or grounds to set aside any foreclosure of any deed to secure debt.

(h) A grantor or his transferee shall be entitled to receive without charge a payoff balance from the holder of a deed to secure debt on real property by requesting in writing said balance and providing a self-addressed stamped envelope.

**HISTORY:** Code 1933, § 67-1305.1, enacted by Ga. L. 1967, p. 737, § 1; Ga. L. 1980, p. 976, § 1; Ga. L. 1989, p. 859, § 2.