

SENATE SUBSTITUTE TO HB 208:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated,
2 known as the "Georgia Property Owners' Association Act," so as to change certain
3 definitions; to clarify voting procedures at association meetings; to change provisions
4 relating to liability for unpaid assessments; to clarify incorporated names of associations; to
5 clarify meeting quorum requirements; to clarify requirements for calling meetings; to change
6 procedures for judicial foreclosure; to clarify applicability of this article; to provide for
7 related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

9 Article 6 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, known as the
10 "Georgia Property Owners' Association Act," is amended by striking paragraphs (9) and (18)
11 of Code Section 44-3-221, relating to definitions, and inserting in lieu thereof the following:
12

13 "(9) 'Lot' means any plot or parcel of land, other than a common area, designated for
14 separate ownership and occupancy shown on a recorded subdivision plat for a
15 development and subject to a declaration. Where the context indicates or requires, the
16 term lot includes any structure on the lot. With respect to a property owners'
17 development which includes a condominium, and to the extent provided for in the
18 instrument, each condominium unit, as defined in paragraph (28) of Code Section
19 44-3-71, shall be deemed a separate lot."

20 "(18) 'Property owners' development' or 'development' means real property ~~containing~~
21 ~~both~~ which contains lots and which may contain common area located within Georgia."

SECTION 2.

22 Said article is further amended by striking Code Section 44-3-224, relating to voting at
23 association meetings, and inserting in lieu thereof the following:
24

1 "44-3-224.

2 (a) Since a lot owner may be more than one person, if only one of those persons is present
 3 at a meeting of the association, or is voting by proxy, ballot, or written consent, that person
 4 shall be entitled to cast the votes pertaining to that lot. However, if more than one of those
 5 persons is present, or executes a proxy, ballot, or written consent, the vote pertaining to that
 6 lot shall be cast only in accordance with their unanimous agreement unless the instrument
 7 expressly provides otherwise; and such consent shall be conclusively presumed if any one
 8 of them purports to cast the votes pertaining to that lot without protest being made
 9 immediately by any of the others to the person presiding over the meeting or vote.

10 (b) The votes pertaining to any lot may, and, in the case of any lot owner not a natural
 11 person or persons, shall, be cast pursuant to a proxy or proxies duly executed by or on
 12 behalf of the lot owner or, in cases where the lot owner is more than one person, by or on
 13 behalf of the joint owners of the lot. No such proxy shall be revocable except as provided
 14 in Code Section 14-2-722 or Code Section 14-3-724 or by written notice delivered to the
 15 association by the lot owner or by any joint owners of a lot. Any proxy shall be void if it
 16 is not dated or if it purports to be revocable without such notice."

17 SECTION 3.

18 Said article is further amended by striking subsection (b) of Code Section 44-3-225, relating
 19 to assessment of expenses, and inserting in lieu thereof the following:

20 "(b) No lot owner other than the association shall be exempted from any liability for any
 21 assessment under this Code section or under any instrument for any reason whatsoever,
 22 including, without limitation, abandonment, nonuser, or waiver of the use or enjoyment of
 23 his or her lot or any part of the common area except to the extent that any lot, upon request
 24 by the owner of the lot, expressly may be made exempt from assessments and thus denied
 25 voting rights of the lot under the instrument until a certificate of occupancy is issued by the
 26 governing authority for a dwelling on such lot."

27 SECTION 4.

28 Said article is further amended by striking subsection (a) of Code Section 44-3-227, relating
 29 to incorporation of the association, and inserting in lieu thereof the following:

30 "(a) Prior to submission to this article, the association shall be duly incorporated either as
 31 a business corporation under Chapter 2 of Title 14 or as a nonprofit membership
 32 corporation under Chapter 3 of Title 14, as amended. The corporate name of the association
 33 shall include the word or words 'homeowners,' 'property owners,' 'community,' 'club,' or
 34 'association' and shall otherwise comply with applicable laws regarding corporate names.
 35 The articles of incorporation of the association and the bylaws adopted by the association

1 shall contain provisions not inconsistent with applicable law including but not limited to
 2 this article or with the declaration as may be required by this article or by the declaration
 3 and as may be deemed appropriate or desirable for the proper management and
 4 administration of the association. The term 'member' shall include a shareholder in the
 5 event the association is a business corporation or issues stock. Membership shall continue
 6 during the period of ownership by such lot owner."

7 SECTION 5.

8 Said article is further amended by striking Code Section 44-3-228, relating to presence of
 9 quorums at meetings, and inserting in lieu thereof the following:

10 "44-3-228.

11 Unless the instrument ~~provides~~ or bylaws provide otherwise, a quorum shall be deemed
 12 present throughout any meeting of the members of the association if persons entitled to cast
 13 more than one-third of the votes are present at the beginning of the meeting. Unless the
 14 instrument ~~specifies~~ or bylaws specify a larger majority, ~~a quorum shall be deemed present~~
 15 ~~throughout any meeting of the board of directors if percentage, the presence of~~ persons
 16 entitled to cast one-half of the votes of the board of directors shall constitute a quorum for
 17 the transaction of business at any meeting of the board ~~in that body are present at such~~
 18 ~~meeting."~~

19 SECTION 6.

20 Said article is further amended by striking Code Section 44-3-230, relating to frequency of
 21 meetings, and inserting in lieu thereof the following:

22 "44-3-230.

23 Meetings of the members of the association shall be held in accordance with the provisions
 24 of the association's bylaws and in any event shall be called not less frequently than
 25 annually. Notice shall be given to each lot owner at least 21 days in advance of any annual
 26 or regularly scheduled meeting and at least seven days in advance of any other meeting and
 27 shall state the time, place, and, for any special meeting, purpose of such meeting. Such
 28 notice shall be delivered personally or sent by United States mail, postage prepaid,
 29 statutory overnight delivery, or issued electronically in accordance with Chapter 12 of Title
 30 10, the 'Georgia Electronic Records and Signatures Act,' to all lot owners of record at such
 31 address or addresses as designated by such lot owners or, if no other address has been so
 32 designated, at the address of their respective lots. At the annual meeting, comprehensive
 33 reports of the affairs, finances, and budget projections of the association shall be made to
 34 the lot owners."

