

Senate Bill 573

By: Senators Carter of the 13th and Cagle of the 49th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to
2 regulation of specialized land transactions, so as to provide that the seller may withdraw
3 escrow funds in excess of 1 percent of the purchase price of a condominium in order to fund
4 construction and development of the condominium property; to provide for related matters;
5 to provide for an effective date; to repeal conflicting laws; and for other purposes.

6 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

7 **SECTION 1.**

8 Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to regulation of
9 specialized land transactions, is amended by striking Code Section 44-3-112, relating to
10 escrow of deposits made or other payments made prior to closing on a condominium unit,
11 in its entirety and inserting in its place the following:

12 "44-3-112.

13 (a) Any deposit or other payment made prior to closing with respect to the first bona fide
14 sale of each residential condominium unit for residential occupancy by the buyer, any
15 member of the buyer's family, or any employee of the buyer shall be held in escrow until
16 it is delivered at closing, delivered to the seller in accordance with subsection (b) of this
17 Code section, or delivered to the person or persons entitled thereto upon breach of the
18 contract for the sale. Such escrow funds shall be deposited in a separate account
19 designated for this purpose; provided, however, that, in the event any such deposit is held
20 by a real estate broker licensed under the laws of this state, such funds may be placed in
21 such broker's escrow account instead of a separately designated account.

22 (b) If the contract for sale of the condominium unit so provides and the purchase price of
23 the condominium unit is not less than \$150,000.00, the seller may withdraw escrow funds
24 in excess of 1 percent of the purchase price from the escrow account required by
25 subsection (a) of this Code section when the construction of improvements has
26 commenced. The seller shall only use the funds in the actual construction and development

1 of the condominium property in which the unit to be sold is located. However, no part of
2 these funds may be used for salaries, commissions, expenses of real estate licensees, or
3 advertising purposes. A contract which permits use of the advance payments for these
4 purposes shall include the following caveat in boldfaced type or capital letters no smaller
5 than the largest type on the first page of the contract: ANY PAYMENT IN EXCESS OF
6 1 PERCENT OF THE PURCHASE PRICE MADE TO THE SELLER PRIOR TO
7 CLOSING PURSUANT TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION
8 PURPOSES BY THE SELLER."

9 **SECTION 2.**

10 This Act shall become effective on July 1, 2006.

11 **SECTION 3.**

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