

House Bill 383

By: Representative Mills of the 25<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, the  
2 "Georgia Condominium Act," so as to define certain terms; to provide that a declarant shall  
3 pay certain expenses; to provide for exceptions; to provide for an exception for a certain  
4 obligation to provide a certificate of occupancy; to provide for the effect on land use and  
5 zoning ordinances or laws of an expandable condominium; to provide for the creation of a  
6 subcondominium; to provide for a subassociation; to provide for insurance; to provide for  
7 the effect of certain liens; to provide for eminent domain; to provide for the description of  
8 certain units; to provide for assessments; to provide for related matters; to repeal conflicting  
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 3 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, the "Georgia  
13 Condominium Act," is amended in Code Section 44-3-71, relating to definitions, by adding  
14 new paragraphs to read as follows:

15 "(19.1) 'Master association' means an association of a master condominium.

16 (19.2) 'Master condominium' means a condominium in which the condominium  
17 instruments permit one or more of the units to constitute a subcondominium."

18 **SECTION 2.**

19 Said article is further amended in said Code section by adding following paragraph (26) new  
20 paragraphs to read as follows:

21 "(26.1) 'Subassociation' means an association of a subcondominium.

22 (26.2) 'Subcondominium' means the property consisting of a unit of an existing  
23 condominium lawfully submitted under this article by the recordation of separate  
24 condominium instruments pursuant to this article."



1 accordance with the allocation of the liability for common expenses set forth in the  
 2 declaration as provided in subsection (c) of this Code section."

### 3 SECTION 5.

4 Said article is further amended by revising paragraph (5) of subsection (e) of Code Section  
 5 44-3-111, relating to sales of residential condominium units for residential occupancy,  
 6 information required to be furnished by seller, buyer's right to void contract, limitations  
 7 period, attorney's fees, and penalty for willful violation, as follows:

8 "(5) If, but only if, any applicable statute, ordinance, rule, or regulation requires, permits,  
 9 or provides for the issuance of a certificate of occupancy by any officer, department, or  
 10 agency of any governmental entity, the contract shall contain an express obligation on the  
 11 part of the seller to furnish to the buyer at or prior to closing a true, correct, and complete  
 12 copy of a duly issued certificate of occupancy covering the unit which is the subject  
 13 matter of the covered contract unless the contract shall contain within the text the  
 14 following statement in boldface type or capital letters no smaller than the largest type in  
 15 the text:

16 "THIS CONTRACT APPLIES TO A CONDOMINIUM UNIT FOR WHICH THE  
 17 SELLER IS NOT OBLIGATED TO OBTAIN A CERTIFICATE OF OCCUPANCY  
 18 BEFORE CONVEYANCE OF THE UNIT TO THE BUYER.;" and"

### 19 SECTION 6.

20 Said article is further amended in Code Section 44-3-114, relating to the effect of such article  
 21 upon land use, zoning, building, and subdivision laws and the effect of a certain Code  
 22 section, by adding a new subsection to read as follows:

23 "(c) No subdivision law, ordinance, or regulation shall apply to the additional property of  
 24 an expandable condominium for so long as the additional property may be added to the  
 25 expandable condominium in accordance with the provisions of this article and the  
 26 declaration. If the additional property is not deemed separate from the submitted property  
 27 under any zoning, land use, subdivision, building, or life safety law, code, regulation, or  
 28 ordinance at the time of the establishment of the condominium, the additional property  
 29 shall not be deemed separate from the submitted property under any zoning, land use,  
 30 subdivision, building, or life safety law, code, regulation, or ordinance so long as the  
 31 additional property may be added by the declarant to the expandable condominium in  
 32 accordance with the provisions of this article and the declaration."

**SECTION 7.**

Said article is further amended by adding a new Code section to read as follows:

"44-3-117.

(a) Except as otherwise set forth in this Code section, the creation of a subcondominium shall not limit the application of this article in its entirety to such subcondominium.

(b) To the extent permitted in the condominium instruments, a condominium unit may be submitted by the owner thereof to a subcondominium and such owner shall thereafter be deemed the declarant, as such term is defined in paragraph (13) of Code Section 44-3-71, of such subcondominium.

(c) Upon the creation of a subcondominium:

(1) No tax or governmental assessment shall be levied against the unit as a whole but instead shall only be levied on the subunits;

(2) The subassociation shall represent and be responsible for acting on behalf of the subunit owners in discharging the rights and obligations of the unit owner as a member of the master association, including, without limitation, voting the interests of the unit in the master association and paying assessments owing on the unit to the master association;

(3) The insurance required in paragraph (1) of Code Section 44-3-107 may be obtained by either the subassociation or the master association for the condominium in which the subcondominium is a unit;

(4) No lien for labor or services performed or materials furnished in the improvement of the unit shall be filed against the subcondominium as a whole but shall only be filed against the subunits and such lien may be discharged by the owner of any subunit in the same manner provided in subsection (d) of Code Section 44-3-95;

(5) No eminent domain action shall be brought against the unit as a whole but only against the subunit owners thereof; and

(6) No description of a subunit shall be deemed to be vague, uncertain or otherwise insufficient if the description complies with Code Section 44-3-73.

(d) The description of a unit in a master condominium in the manner provided in Code Section 44-3-73 shall be deemed sufficient for describing submitted property or additional property to a subcondominium required by paragraph (3) of subsection (a), paragraph (4) of subsection (b), and paragraph (1) of subsection (e) of Code Section 44-3-77 and by Code Section 44-3-89, and no metes and bounds description of such unit shall be required.

(e) All sums lawfully assessed by a master association against the subassociation, whether for the share of the common expenses pertaining to the subcondominium, for fines, or otherwise, and all reasonable charges made to the subassociation, either on behalf of itself or the subunit owners, for materials furnished or services rendered by the master

1 association at the subassociation's request, either on behalf of itself or the subunit owners,  
2 shall, from the time same become due and payable, be the obligation of the subassociation  
3 and constitute a lien in favor of the master association upon all of the subunits prior and  
4 superior to all other liens, including any liens of the subassociation whatsoever except:

5 (1) Liens for ad valorem taxes on the subunit;

6 (2) The lien of any first priority mortgage covering the subunit and the lien of any  
7 mortgage recorded prior to the recording of the declaration;

8 (3) The lessor's lien provided for in Code Section 44-3-86; and

9 (4) The lien of any secondary purchase money mortgage covering the subunit, provided  
10 that neither the grantee nor any successor grantee on the mortgage is the seller of the  
11 subunit.

12 The recording of the declaration for the subcondominium pursuant to this article shall  
13 constitute record notice of the existence of the lien, and no further recordation of any claim  
14 of lien for assessments shall be required.

15 (f) In the event any lien becomes effective against a subunit as provided in subsection (e)  
16 of this Code section, any subunit owner may remove that lien from his or her subunit by the  
17 payment of the amount attributable to his or her subunit. The amount shall be computed  
18 by reference to the liability for common expenses pertaining to that condominium unit  
19 pursuant to subsection (c) of Code Section 44-3-80. Subsequent to the payment, discharge,  
20 or other satisfaction of such amount, the subunit owner of that subunit shall be entitled to  
21 have that lien released as to his subunit in accordance with applicable provisions of law, and  
22 notwithstanding anything to the contrary in Code Sections 44-3-80 and 44-3-109, the master  
23 association shall not assess or have a valid lien against that subunit for any portion of the  
24 common expenses incurred by the master association in connection with that lien.

25 (g) Not less than 30 days after notice is sent by certified mail or statutory overnight  
26 delivery, return receipt requested, to the subunit owner both at the address of the subunit  
27 and at any other address or addresses which the subunit owner may have designated to the  
28 master association in writing, the lien of the master association may be foreclosed by the  
29 master association by an action, judgment, and foreclosure in the same manner as other  
30 liens for the improvement of real property, subject to superior liens or encumbrances, but  
31 any such court order for judicial foreclosure shall not affect the rights of holders of superior  
32 liens or encumbrances to exercise any rights or powers afforded to them under their security  
33 instruments. The notice provided for in this subsection shall specify the amount of the  
34 assessments then due and payable together with authorized late charges and the rate of  
35 interest accruing thereon. Unless prohibited by the master condominium instruments, the  
36 master association shall have the power to bid on the subunit at any foreclosure sale and to  
37 acquire, hold, lease, encumber, and convey the same. The lien for assessments shall lapse

1 and be of no further effect, as to assessments or installments thereof, together with late  
2 charges and interest applicable thereto, four years after the assessment or installment first  
3 became due and payable.

4 (h) Any subunit owner, mortgagee of a subunit, person having executed a contract for the  
5 purchase of a subunit, or lender considering the loan of funds to be secured by a subunit  
6 shall be entitled upon request to a statement from the master association or its management  
7 agent setting forth the amount of assessments past due and unpaid together with late charges  
8 and interest applicable thereto against that subunit. Such request shall be in writing, shall  
9 be delivered to the registered office of the master association, and shall state an address to  
10 which the statement is to be directed. Failure on the part of the master association to mail  
11 or otherwise furnish such statement regarding amounts due and payable with respect to the  
12 subunit involved to such address as may be specified in the written request therefor within  
13 five business days from the receipt of such request shall cause the lien for assessments  
14 created by subsection (e) of this Code section to be extinguished and of no further force or  
15 effect as to the title or interest acquired by the purchaser or lender, if any, as the case may  
16 be, and their respective successors and assigns, in the transaction contemplated in  
17 connection with such request. The information specified in such statement shall be binding  
18 upon the master association and upon every subunit owner. Payment of a fee not exceeding  
19 \$10.00 may be required as a prerequisite to the issuance of such a statement if the master  
20 condominium instruments so provided.

21 (i) In addition to the documents required to be furnished to the prospective buyer under  
22 subsection (b) of Code section 44-3-111, if the covered contract applies to a condominium  
23 unit which is part of a subcondominium, the following shall be provided to the prospective  
24 buyer:

25 (1) A copy of the declaration for the master condominium, and a copy of each  
26 amendment thereto; and

27 (2) A copy of the articles of incorporation and bylaws of the master association, and of  
28 each amendment to either."

## 29 SECTION 8.

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