

House Bill 579

By: Representative Scott of the 153rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia
2 Annotated, relating to liens by landlords, so as to provide for certain definitions; to provide
3 for the assessment of certain storage charges on certain manufactured or mobile homes by
4 real property owners; to provide for the establishment of a lien on manufactured or mobile
5 homes for certain storage costs; to provide for certain notices; to provide for remedies; to
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 2 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
10 relating to liens by landlords, is amended by adding a new Code Section 44-14-349 to read
11 as follows:

12 "44-14-349.

13 (a) As used in this Code section, the term:

14 (1) 'Lienholder' shall mean the holder of a perfected security interest and its assignees
15 or servicers of the underlying debt obligation. The term shall apply only to the lienholder
16 or an assignee or servicer of the lienholder for unpaid purchase price or first lien who has
17 recorded such lien on the title of the manufactured or mobile home.

18 (2) 'Manufactured home' has the same meaning as provided in paragraph (4) of Code
19 Section 8-2-131.

20 (3) 'Manufactured home community' means a parcel or tract of land on which three or
21 more manufactured or mobile homes are located on a continual, nonrecreational basis and
22 offered to the public.

23 (4) 'Mobile home' has the same meaning as provided in paragraph (6) of Code Section
24 8-2-131.

25 (b) As provided by this Code section, any lien or charge against a manufactured or mobile
26 home for rent or for storage upon the real property on which the manufactured or mobile

1 home is or has been located is subordinate to the rights of the lienholder for unpaid
2 purchase price or first lien, which is recorded on the title of the manufactured or mobile
3 home, and the assignee of such lienholder if not recorded on the title.

4 (c) In the event a manufactured or mobile home has been vacant for more than 30 days and
5 after notice to the lienholder as provided in this Code section, storage charges, as provided
6 in this Code section, may be collected by the owner of the manufactured home community
7 from the lienholder and the assignee of any such lienholder by an action at law as
8 authorized by this Code section.

9 (d) The owner of the manufactured home community shall be entitled to collect storage
10 charges accruing from 30 days after the lienholder receives written notice of a completed
11 eviction of the owner or occupant of a manufactured or mobile home by the owner of the
12 manufactured home community or notice that a manufactured or mobile home has been
13 abandoned or voluntarily surrendered by the homeowner or occupant and that the
14 manufactured or mobile home is presently vacant and unoccupied.

15 (e) The notice shall state that an action for eviction has been completed against the
16 homeowner or occupant, that the home is presently vacant and unoccupied, the amount of
17 the daily storage charges calculated pursuant to this Code section, and the date upon which
18 the homeowner or occupant was required to make regular payments to the owner of the
19 manufactured home community.

20 (f) The lienholder must notify the owner of the manufactured home community within 30
21 days of receipt of the notice pursuant to subsections (d) and (e) of this Code section
22 whether it intends to make payment of the storage charges and, if the lienholder agrees to
23 make payment, to pay the storage charges that are due pursuant to this Code section.
24 Thereafter, the lienholder shall pay storage charges according to the schedule of payments
25 that the homeowner or occupant was responsible for paying through the date that the
26 manufactured or mobile home is removed from the owner of the manufactured home
27 community's property. If the lienholder fails to notify the owner of the manufactured home
28 community that it does not intend to pay the storage charges, the storage charges shall
29 accrue and be due and owing to the property owner.

30 (g) In the event that the lienholder files either an action for replevin of the home or
31 forecloses on the lien for unpaid purchase price or first lien, the lienholder is responsible
32 for unpaid rent and storage charges that have accrued beginning 30 days after the eviction
33 of the owner or occupant of the manufactured or mobile home.

34 (h) In the event that the homeowner or occupant declares bankruptcy, the accruing of any
35 rent or storage charge due by the lienholder to the owner of the manufactured home
36 community shall be stayed by the bankruptcy until 30 days after the final court action
37 discharging the bankruptcy or releasing the collateral, whichever occurs first.

1 (i) The maximum storage charge available to the owner of a manufactured home
2 community is a daily rate equal to one-thirtieth of the then current lot rental amount paid
3 by the homeowner or occupant as defined in the current or most recent lease agreement
4 between the homeowner or occupant and the owner of the manufactured home community.
5 The maximum daily rent or storage charges may be increased over time in accordance with
6 the current rate charged by the owner of the manufactured home community with respect
7 to other homes in the community. In the event that no lease agreement can be provided,
8 the maximum storage charge available to the owner of the manufactured home community
9 shall be \$3.00 per day.

10 (j) Notice required as set forth in subsections (d) and (e) of this Code section shall be
11 mailed by certified mail, return receipt requested, to the registered agent of the lienholder
12 or, if the lienholder is not a corporation, to the lienholder's last known address. Notice by
13 certified mail shall be effective on the date of receipt or, if refused, on the date of refusal.

14 (k) It shall be unlawful for the owner of the manufactured home community to refuse to
15 allow the lienholder to repossess and move the manufactured or mobile home for failure
16 to pay any charges which were not noticed in accordance with the requirements of this
17 Code section. In the event the owner of the manufactured home community refuses to
18 allow the lienholder to repossess and move the manufactured or mobile home, the owner
19 of the manufactured home community shall be liable to the lienholder for each day that the
20 owner of the manufactured home community unlawfully maintains possession of the home,
21 at a daily rate equal to one-thirtieth of the monthly payment due according to the contract
22 and security agreement entered into between the homeowner and the lienholder.

23 (l) If either a lienholder or an owner of a manufactured home community brings an action
24 at law against the other in a court of competent jurisdiction, the prevailing party, in addition
25 to other relief granted by the court, shall be entitled to an award of the expenses of
26 litigation.

27 (m) If, after receipt of a notice pursuant to subsections (d) and (e) of this Code section, a
28 lienholder sells or assigns a manufactured or mobile home, the lender shall provide the
29 purchaser of the home with a copy of the notice received from the owner of the
30 manufactured home community and the purchaser shall take the home subject to the notice
31 and this Code section. The owner of the manufactured home community may enforce his
32 or her rights for storage fees against the purchaser without issuing additional notices."

33 SECTION 2.

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