

House Bill 422 (AS PASSED HOUSE AND SENATE)

By: Representative Willard of the 49<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 44 of the Official Code of Georgia Annotated, relating to property, so as to  
2 provide a minimum amount for liens in the "Georgia Condominium Act" and the "Georgia  
3 Property Owners' Association Act"; to provide for the recovery of attorney's fees in actions  
4 involving covenants running with the land; to provide for related matters; to repeal  
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by  
9 revising subsection (c) of Code Section 44-3-109, relating to liens for assessments and  
10 foreclosures under the "Georgia Condominium Act," as follows:

11 "(c) Not less than 30 days after notice is sent by certified mail or statutory overnight  
12 delivery, return receipt requested, to the unit owner both at the address of the unit and at  
13 any other address or addresses which the unit owner may have designated to the association  
14 in writing, the lien may be foreclosed by the association by an action, judgment, and  
15 foreclosure in the same manner as other liens for the improvement of real property, subject  
16 to superior liens or encumbrances, but any such court order for judicial foreclosure shall  
17 not affect the rights of holders of superior liens or encumbrances to exercise any rights or  
18 powers afforded to them under their security instruments. The notice provided for in this  
19 subsection shall specify the amount of the assessments then due and payable together with  
20 authorized late charges and the rate of interest accruing thereon. No foreclosure action  
21 against a lien arising out of this subsection shall be permitted unless the amount of the lien  
22 is at least \$2,000.00. Unless prohibited by the condominium instruments, the association  
23 shall have the power to bid on the unit at any foreclosure sale and to acquire, hold, lease,  
24 encumber, and convey the same. The lien for assessments shall lapse and be of no further  
25 effect, as to assessments or installments thereof, together with late charges and interest

1 applicable thereto, four years after the assessment or installment first became due and  
2 payable."

### 3 SECTION 2.

4 Said title is further amended by revising subsection (c) of Code Section 44-3-232, relating  
5 to liens for assessments and foreclosures under the "Georgia Property Owners' Association  
6 Act," as follows:

7 "(c) Not less than 30 days after notice is sent by certified mail or statutory overnight  
8 delivery, return receipt requested, to the lot owner both at the address of the lot and at any  
9 other address or addresses which the lot owner may have designated to the association in  
10 writing, the lien may be foreclosed by the association by an action, judgment, and court  
11 order for foreclosure in the same manner as other liens for the improvement of real  
12 property, subject to superior liens or encumbrances, but any such court order for judicial  
13 foreclosure shall not affect the rights of holders of superior liens or encumbrances to  
14 exercise any rights or powers afforded to them under their security instruments. The notice  
15 provided for in this subsection shall specify the amount of the assessments then due and  
16 payable together with authorized late charges and the rate of interest accruing thereon. No  
17 foreclosure action against a lien arising out of this subsection shall be permitted unless the  
18 amount of the lien is at least \$2,000.00. Unless prohibited by the instrument, the  
19 association shall have the power to bid on the lot at any foreclosure sale and to acquire,  
20 hold, lease, encumber, and convey the same. The lien for assessments shall lapse and be  
21 of no further effect, as to assessments or installments thereof, together with late charges  
22 and interest applicable thereto, four years after the assessment or installment first became  
23 due and payable."

### 24 SECTION 2A.

25 Said title is further amended by revising Article 3 of Chapter 5, relating to covenants and  
26 warranties, by adding a new subsection to Code Section 44-5-60, relating to covenants  
27 running with the land, effect of zoning laws, covenants and scenic easements for use of the  
28 public, and renewal of certain covenants, to read as follows:

29 "(e) To the extent provided in the covenants, the obligation for the payment of assessments  
30 and fees arising from covenants shall include the costs of collection, including reasonable  
31 attorney's fees actually incurred."

### 32 SECTION 3.

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