

Senate Bill 99

By: Senator Thompson of the 5th

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 prohibit covenants for a planned subdivision and a property owners' association which
3 infringe upon a lot owner's right to install solar collector panels, photovoltaic arrays, solar
4 lights, and skylights; to provide for applicability; to correct cross-references; to provide for
5 an effective date; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended in Code
10 Section 44-3-231, relating to powers and duties of a property owners' association, by revising
11 subsection (a) and by adding a new subsection to read as follows:

12 "(a) Except to the extent prohibited by the instrument and subject to any restrictions and
13 limitations specified therein, the association shall have the power to:

14 (1) Employ, retain, dismiss, and replace agents and employees to exercise and discharge
15 the powers and responsibilities of the association;

16 (2) Make or cause to be made additional improvements on and as a part of the common
17 area; and

18 (3) Except as provided in subsection (i) of this Code section, grant ~~Grant~~ or withhold
19 approval of any action by one or more lot owners or other persons entitled to occupancy
20 of any lot if such action would change the exterior appearance of any lot, or any structure
21 thereon, or of any other portion of the development or elect or provide for the
22 appointment of an architectural control committee to grant or withhold such approval."

23 "(i) The association shall not, through the adoption or amendment of an instrument or
24 through decision-making processes, prohibit a lot owner from installing solar collector
25 panels, photovoltaic arrays, solar lights, and skylights on or adjacent to his or her residence
26 or other structures on his or her lot, provided that such devices shall not be erected within

27 or upon an easement. This subsection shall not be construed to affect any instrument
 28 recorded or amended prior to the effective date of this subsection or any decision made by
 29 an appointed or elected architectural control committee before such date."

30

SECTION 2.

31 Said title is further amended by revising subsection (d) of Code Section 44-5-60, relating to
 32 covenants running with the land, as follows:

33 "(d)(1) Notwithstanding the limitation provided in subsection (b) of this Code section,
 34 covenants restricting lands to certain uses affecting planned subdivisions containing no
 35 fewer than 15 individual plots shall automatically be renewed beyond the period provided
 36 for in subsection (b) of this Code section unless terminated as provided in this subsection.
 37 Each such renewal shall be for an additional 20 year period, and there shall be no limit
 38 on the number of times such covenants shall be renewed.

39 (2) To terminate a covenant as provided in paragraph (1) of this subsection, at least 51
 40 percent of the persons owning plots affected by such covenant shall execute a document
 41 containing a legal description of the entire area affected by the covenant, a list of the
 42 names of all record owners of plots affected by the covenant, and a description of the
 43 covenant to be terminated, which may be incorporated by reference to another recorded
 44 document. By signing such document, each such person shall verify that he or she is a
 45 record owner of property affected by the covenant. Such document shall be recorded in
 46 the office of the clerk of the superior court of the county where the land is located no
 47 sooner than but within two years prior to the expiration of the initial 20 year period or any
 48 subsequent 20 year period. The clerk of the superior court shall index the document
 49 under the name of each record owner appearing in the document.

50 (3) No covenant that prohibits the use or ownership of property within the subdivision
 51 ~~may~~ shall discriminate based on race, creed, color, age, sex, or national origin.

52 (4) No covenant adopted after the effective date of this paragraph shall prohibit the
 53 installation of solar collector panels, photovoltaic arrays, solar lights, and skylights on or
 54 adjacent to residences or other structures, provided that such devices shall not be erected
 55 within or upon an easement.

56 ~~(4)(5)~~ (5) Notwithstanding any other provision of this Code section or of any covenants with
 57 respect to the land, no change in the covenants which imposes a greater restriction on the
 58 use or development of the land ~~will~~ shall be enforced unless agreed to in writing by the
 59 owner of the affected property at the time such change is made."

60 **SECTION 3.**

61 Said title is further amended by revising Code Section 44-3-116, relating to the
62 inapplicability of limitations in certain restrictive covenants as applied to condominium
63 instruments, as follows:

64 "44-3-116.

65 The limitations provided in subsection (b) and in paragraphs (1), (2), and ~~(4)~~ (5) of
66 subsection (d) of Code Section 44-5-60 shall not apply to any covenants contained in any
67 condominium instrument created pursuant to this article."

68 **SECTION 4.**

69 Said title is further amended by revising Code Section 44-3-234, relating to the applicability
70 of the "Georgia Property Owners' Association Act" to covenants running with the land, as
71 follows:

72 "44-3-234.

73 The limitations provided in subsection (b) and paragraphs (1), (2), and ~~(4)~~ (5) of subsection
74 (d) of Code Section 44-5-60 shall not apply to any covenants contained in any instrument
75 created pursuant to or submitted pursuant to this article."

76 **SECTION 5.**

77 This Act shall become effective upon its approval by the Governor or upon its becoming law
78 without such approval.

79 **SECTION 6.**

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