

Senate Bill 136

By: Senator Hamrick of the 30th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 44-3-101 of the Official Code of Georgia Annotated, relating to control of the condominium association by the declarant, so as to provide for transfer of control of a condominium association in certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 44-3-101 of the Official Code of Georgia Annotated, relating to control of the condominium association by the declarant, is amended by inserting a new subsection (c) and redesignating former subsection (c) as follows:

"(c) Notwithstanding and prior to the usual expiration of the period of the declarant's right to control the association pursuant to subsection (a) of this Code section, the right to control also may pass to the unit owners as provided in this subsection if the declarant fails to do any of the following: (1) incorporate the association pursuant to subsection (a) of Code Section 44-3-100; (2) cause the board of directors to be duly appointed and the officers to be elected pursuant to subsection (b) of Code section 44-3-100; (3) maintain and make available to owners, upon written request, a list of the names and business or home addresses of the association's current directors and officers; (4) call meetings of the members of the association in accordance with the provisions of the association's bylaws at least annually pursuant to Code Section 44-3-102; or (5) prepare an annual operating budget and establish the annual assessment and distribute the budget and notice of assessment to the owners in accordance with the condominium instruments no later than 30 days after the beginning of the association's fiscal year. In the event that the declarant fails to meet one or more of the obligations of this subsection, then any owner, acting individually or jointly with other owners, may send the declarant written notice of the failure to comply with such requirements and provide the declarant a 30 day opportunity to cure the failure; and such notice shall be sent by certified mail or statutory overnight

delivery to the declarant's principal office. If the declarant fails to cure any or all deficiencies identified in the notice within 30 days of such notice, then any owner, acting individually or jointly with other owners, may file a petition in the superior court of the county in which any portion of the condominium is located in order to obtain an order to grant the owners control of the association. The superior court shall have authority to hold a hearing and issue a summary ruling on said petition at any time designated by the court not earlier than 20 days after the service thereof, unless the parties consent in writing to an earlier trial. If the owners prevail in such action, then the superior court shall award to the owners all reasonable attorney's fees and costs incurred by the owners for the prosecution of such action.

(d) In addition to any right of termination set forth therein, any management contract, any lease of recreational area or facilities, or any other contract or lease executed by or on behalf of the association during the period of the declarant's right to control the association pursuant to subsection (a) of this Code section shall be subject to cancellation and termination at any time during the 12 months following the expiration of such control period by the affirmative vote of the unit owners of units to which a majority of the votes in the association pertain, unless the unit owners by a like majority shall have theretofore, following the expiration of such control period, expressly ratified and approved the same."

SECTION 2.

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