

Senate Bill 479

By: Senators Thompson of the 5th and Shafer of the 48th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to  
2 regulation of specialized land transactions, so as to require the purchaser of a condominium  
3 development or other property development at a foreclosure sale to take title subject to a lien  
4 in favor of the condominium or property owners' association; to provide for related matters;  
5 to provide for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to regulation of  
9 specialized land transactions, is amended by revising subsection (a) of Code Section  
10 44-3-109, relating to a lien for assessments for condominium owners, as follows:

11 "(a)(1) All sums lawfully assessed by the association against any unit owner or  
12 condominium unit, whether for the share of the common expenses pertaining to that  
13 condominium unit, for fines, or otherwise, and all reasonable charges made to any unit  
14 owner or condominium unit for materials furnished or services rendered by the  
15 association at the owner's request to or on behalf of the unit owner or condominium unit,  
16 shall, from the time the same become due and payable, be the personal obligation of the  
17 unit owner and constitute a lien in favor of the association on the condominium unit prior  
18 and superior to all other liens whatsoever except:

19 (1)(A) Liens for ad valorem taxes on the condominium unit;  
20 (2)(B) The lien of any first priority mortgage covering the unit and the lien of any  
21 mortgage recorded prior to the recording of the declaration;  
22 (3)(C) The lessor's lien provided for in Code Section 44-3-86; and  
23 (4)(D) The lien of any secondary purchase money mortgage covering the unit,  
24 provided that neither the grantee nor any successor grantee on the mortgage is the seller  
25 of the unit.

26 The recording of the declaration pursuant to this article shall constitute record notice of  
27 the existence of the lien, and no further recordation of any claim of lien for assessments  
28 shall be required.

29       (2) Anything in the condominium instruments to the contrary notwithstanding, in the  
30 case of a foreclosure sale by the holder of any mortgage described in subparagraphs (B)  
31 and (D) of paragraph (1) of this subsection, the purchaser at the foreclosure sale shall take  
32 title subject to a lien in favor of and personal obligation to the association in an amount  
33 equal to a portion of the association's unpaid lien existing prior to the foreclosure but not  
34 more than the equivalent of the unpaid common expense assessments charged to the unit  
35 first coming due during the six months prior to such foreclosure sale."

## SECTION 2.

37 Said chapter is further amended by revising subsection (a) of Code Section 44-3-232, relating  
38 to the lien for assessments against lot holders, as follows:

39       "(a)(1) All sums lawfully assessed by the association against any lot owner or property  
40       owners' association lot, whether for the share of the common expenses pertaining to that  
41       lot, fines, or otherwise, and all reasonable charges made to any lot owner or lot for  
42       materials furnished or services rendered by the association at the owner's request to or on  
43       behalf of the lot owner or lot, shall, from the time the sums became due and payable, be  
44       the personal obligation of the lot owner and constitute a lien in favor of the association  
45       on the lot prior and superior to all other liens whatsoever except:

46            (+) (A) Liens for ad valorem taxes on the lot;

47       (2)(B) The lien of any first priority mortgage covering the lot and the lien of any  
48       mortgage recorded prior to the recording of the declaration; or

49       ~~(3)~~(C) The lien of any secondary purchase money mortgage covering the lot, provided  
50       that neither the grantee nor any successor grantee on the mortgage is the seller of the  
51       lot.

52 The recording of the declaration pursuant to this article shall constitute record notice of  
53 the existence of the lien, and no further recordation of any claim of lien for assessments  
54 shall be required.

55 (2) Anything in the property owners' association instruments to the contrary  
56 notwithstanding, in the case of a foreclosure sale by the holder of any mortgage described  
57 in subparagraphs (B) and (C) of paragraph (1) of this subsection, the purchaser at the  
58 foreclosure sale shall take title subject to a lien in favor of and personal obligation to the  
59 association in an amount equal to a portion of the association's unpaid lien existing prior  
60 to the foreclosure but not more than the equivalent of one-half of the unpaid common

expense assessments charged to the lot during the 12 months prior to such foreclosure sale."

### SECTION 3.

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

## SECTION 4.

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