

Senate Bill 136

By: Senator Hamrick of the 30th

**AS PASSED**

A BILL TO BE ENTITLED  
AN ACT

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

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

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

10 "(c) Notwithstanding and prior to the usual expiration of the period of the declarant's right  
11 to control the association pursuant to subsection (a) of this Code section, the right to  
12 control also may pass to the unit owners as provided in this subsection if the declarant fails  
13 to do any of the following: (1) incorporate the association pursuant to subsection (a) of  
14 Code Section 44-3-100; (2) cause the board of directors to be duly appointed and the  
15 officers to be elected pursuant to subsection (b) of Code section 44-3-100; (3) maintain and  
16 make available to owners, upon written request, a list of the names and business or home  
17 addresses of the association's current directors and officers; (4) call meetings of the  
18 members of the association in accordance with the provisions of the association's bylaws  
19 at least annually pursuant to Code Section 44-3-102; or (5) prepare an annual operating  
20 budget and establish the annual assessment and distribute the budget and notice of  
21 assessment to the owners in accordance with the condominium instruments no later than  
22 30 days after the beginning of the association's fiscal year. In the event that the declarant  
23 fails to meet one or more of the obligations of this subsection, then any owner, acting  
24 individually or jointly with other owners, may send the declarant written notice of the  
25 failure to comply with such requirements and provide the declarant a 30 day opportunity  
26 to cure the failure; and such notice shall be sent by certified mail or statutory overnight

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

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

45 **SECTION 2.**

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