

House Bill 686

By: Representatives Strickland of the 111<sup>th</sup>, Duncan of the 26<sup>th</sup>, Welch of the 110<sup>th</sup>, Fleming of the 121<sup>st</sup>, and Belton of the 112<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 9-3-29 of the Official Code of Georgia Annotated, relating to  
2 limitations of actions relative to breach of restrictive covenants, so as to provide for accrual  
3 periods of rights of action; to amend Article 3 of Chapter 3 of Title 44 of the Official Code  
4 of Georgia Annotated, the "Georgia Condominium Act," so as to provide for the expansion  
5 of a condominium after the declarant's right to expand has expired; to provide for procedures;  
6 to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 9-3-29 of the Official Code of Georgia Annotated, relating to limitations of  
10 actions relative to breach of restrictive covenants, is amended by revising subsection (c) as  
11 follows:

12 "(c) For the purpose of this Code section, the right of action shall accrue immediately upon  
13 the erection of a permanent fixture which results in a violation of the covenant restricting  
14 lands to certain uses or the violation of a set-back line provision. When an action alleges  
15 a continuous violation of a covenant resulting from an act or omission, the right of action  
16 shall accrue each time such act or omission occurs. This Code section shall not be  
17 construed so as to extend any applicable statute of limitations affecting actions in equity."

18 **SECTION 2.**

19 Article 3 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, the "Georgia  
20 Condominium Act," is amended by revising Code Section 44-3-89, relating to expansion of  
21 condominiums and amendments to declarations, as follows:

22 "44-3-89.

23 (a) No condominium shall be expanded except in accordance with the provisions of the  
24 declaration and this article.

25 (b) Any expansion shall be deemed to have occurred at the time of the recordation of plats  
26 or plans pursuant to subsection (c) of Code Section 44-3-83 and an amendment to the  
27 declaration effecting the expansion duly executed by the declarant, all other owners or  
28 lessees of the additional property being added to the condominium, and all mortgages of  
29 the additional property being added to the condominium. The amendment shall contain a  
30 legal description by metes and bounds of the additional property being added to the  
31 condominium and shall reallocate undivided interests in the common elements, votes in the  
32 association, and liabilities for future common expenses all in accordance with the  
33 provisions of the declaration.

34 (c) Notwithstanding any other provision of this article, a condominium may be expanded  
35 by the association at any time after the declarant's right to expand the condominium has  
36 expired, provided that the unit owners of units to which two-thirds of the votes in the  
37 association appertain, or such higher amount as may be required by the declaration,  
38 exclusive of any vote or votes appurtenant to any unit or units then owned by the declarant,  
39 consent to an amendment to the governing documents expanding the condominium under  
40 the same terms and conditions as set forth in an explicit reservation of an option or options  
41 to expand the condominium contained in the condominium instruments as required by  
42 subsection (b) of Code Section 44-3-77; provided, however, that such explicit reservation  
43 existed within the first seven years of the recording of the governing documents. The  
44 amendment shall contain a legal description by metes and bounds of the additional property  
45 being added to the condominium and shall reallocate undivided interests in the common  
46 elements, votes in the association, and liabilities for future common expenses all in  
47 accordance with the provisions of the declaration. The amendment shall be executed by  
48 all owners or lessees of the additional property being added to the condominium and all  
49 mortgagees of the additional property being added to the condominium. Additionally, the  
50 agreement of the required majority of unit owners to the amendment shall be evidenced by  
51 their execution of the amendment. In the alternative, the sworn statement of the president,  
52 any vice president, or the secretary of the association attached to or incorporated in an  
53 amendment executed by the association, which sworn statement states unequivocally that  
54 agreement of the required majority was otherwise lawfully obtained and that any notices  
55 required under this article were properly given, shall be sufficient to evidence the required  
56 agreement."

57 **SECTION 3.**

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