

Senate Bill 442

By: Senators Ligon, Jr. of the 3rd, Kennedy of the 18th, Tillery of the 19th and Cowsert of the 46th

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 amendments to property owners' association instruments and covenants that restrict
3 rental of residential lots and plots; to provide for related matters; to repeal conflicting laws;
4 and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended in Code
8 Section 44-3-226, relating to amendment of instrument and presumption of validity in court
9 action, by revising subsection (a) as follows:

10 "(a)(1) Except to the extent expressly permitted or required by other provisions of this
11 article, the instrument shall be amended only by the agreement of lot owners of lots to
12 which two-thirds of the votes in the association pertain or such larger majority as the
13 instrument may specify; provided, however, that, during any such time as there shall exist
14 an unexpired option to add any additional property to the property owners' association or
15 during any such time as the declarant has the right to control the association under the
16 instrument, the agreement shall be that of the declarant and the lot owners of lots to
17 which two-thirds of the votes in the association pertain, exclusive of any vote or votes
18 appurtenant to any lot or lots then owned by the declarant, or a larger majority as the
19 instrument may specify.

20 (2) Notwithstanding any other provisions of this subsection:

21 (A) ~~during~~ During such time as the declarant shall own at least one lot primarily for the
22 purpose of sale of such lot, no amendment shall be made to the instrument without the
23 written agreement of the declarant if such amendment would impose a greater
24 restriction on the use or development by the declarant of the lot or lots owned by the
25 declarant; and

26 (B) No amendment shall be made to an instrument so as to prohibit or restrict the
27 owner of any residential lot from renting or leasing such lot to one or more tenants,
28 unless agreed to by lot owners of lots to which three-quarters of the votes in the
29 association pertain or such larger majority as the instrument may specify, provided that
30 no such amendment shall apply to any lot that is not occupied by its owner until such
31 time as it becomes occupied by its owner. A provision in an instrument, or any
32 subsidiary document adopted pursuant to an instrument, that violates this paragraph
33 shall be void and unenforceable."

34 **SECTION 2.**

35 Said title is further amended in Code Section 44-5-60, relating to covenants running with
36 land, effect of zoning laws, covenants and scenic easements for use of public, renewal of
37 certain covenants, and costs, by adding a new paragraph to subsection (d) to read as follows:

38 "(6) No covenant in a planned subdivision shall be amended so as to prohibit or restrict
39 the owner of any residential plot from renting or leasing such plot to one or more tenants,
40 unless such amendment is approved by three-quarters of the plot owners who are party
41 to the covenant or such larger majority as the covenant may specify, provided that no
42 such amendment shall apply to any plot that is not occupied by its owner until such time
43 as it becomes occupied by its owner. Any amendment that violates this paragraph shall
44 be void and unenforceable."

45 **SECTION 3.**

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