

House Bill 220

By: Representatives Leverett of the 123rd and Smith of the 18th

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 provide for means of enforcement of condominium and property owners' association
3 instruments, rules, and regulations; to provide for compliance with, and means of
4 enforcement of, covenants and instruments for certain planned subdivisions; to provide for
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
9 revising Code Section 44-3-76, relating to compliance with condominium instruments, rules,
10 and regulations and means of enforcement, as follows:

11 "44-3-76.

12 Every unit owner and all those entitled to occupy a unit shall comply with all lawful
13 provisions of the condominium instruments. In addition, any unit owner and all those
14 entitled to occupy a unit shall comply with any reasonable rules or regulations adopted by
15 the association pursuant to the condominium instruments which have been provided to the
16 unit owners and with the lawful provisions of bylaws of the association. Any lack of such

17 compliance shall be grounds for an action to recover sums due, for damages, for or
18 injunctive relief, or for any other remedy available at law or in equity, maintainable by the
19 association or, in any proper case, by one or more aggrieved unit owners, on their own
20 behalf or as a class action. The association may pursue injunctive relief without the need
21 or requirement to first pursue or utilize any other remedies, regardless of whether other
22 remedies may be available or might otherwise be adequate. If and to the extent provided
23 in the condominium instruments, the association shall be empowered to impose and assess
24 fines, and suspend temporarily voting rights and the right of use of certain of the common
25 elements in order to enforce such compliance; provided, however, that no such suspension
26 shall deny any unit owner or occupants access to the unit owned or occupied nor cause any
27 hazardous or unsanitary condition to exist. If the voting right of a unit owner has been
28 suspended, then to the extent provided in the condominium instruments, that unit owner's
29 vote shall not count for purposes of establishing a quorum or taking any action which
30 requires a vote of the owners under this article or the condominium instruments.
31 Notwithstanding any other provision of this Code section, to the extent provided in the
32 condominium instruments, water, gas, electricity, heat, and air conditioning services being
33 provided to a unit or unit owner by the association may be terminated for failure to pay
34 assessments and other amounts due pursuant to subsection (a) of Code Section 44-3-109,
35 subject to the suspension standards and notice requirements imposed on the institutional
36 providers providing such services to the condominium development, only after a final
37 judgment or final judgments in excess of a total of \$750.00 are obtained in favor of the
38 association from a court of competent jurisdiction. The utility services shall not be
39 required to be restored until the judgment or judgments and any reasonable utility provider
40 charges or other reasonable costs incurred in suspending and restoring such services are
41 paid in full. All common expenses for termination and restoration of any services pursuant
42 to this Code section shall be an assessment and a lien against the unit."

43

SECTION 2.

44 Said title is further amended by revising subsection (a) of Code Section 44-3-106, relating
45 to powers and responsibilities of association and tort actions, as follows:

46 "(a) Except to the extent prohibited by the condominium instruments and subject to any
47 restrictions and limitations specified therein, the association shall have the power to:

48 (1) Employ, retain, dismiss, and replace agents and employees to exercise and discharge
49 the powers and responsibilities of the association;

50 (2) Make or cause to be made additional improvements on and as a part of the common
51 elements; ~~and~~

52 (3) Grant or withhold approval of any action by one or more unit owners or other persons
53 entitled to occupancy of any unit if such action would change the exterior appearance of
54 any unit or of any other portion of the condominium or elect or provide for the
55 appointment of an architectural control committee to grant or withhold such approval;
56 and

57 (4) Enforce all lawful provisions of the condominium instruments in accordance with
58 and pursuant to all powers granted by this article, by Chapter 2 or 3 of Title 14 as may
59 be applicable, and as provided for in the instruments, including, but not limited to, by an
60 action to recover sums due; for damages; for injunctive relief, without regard to whether
61 other remedies may exist or be adequate; or for any other remedy available at law or in
62 equity to the association."

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SECTION 3.

64 Said title is further amended by revising Code Section 44-3-223, relating to compliance with
65 provisions of instrument and with rules and regulations and penalties for noncompliance
66 relating to property owners' associations, as follows:

67 "44-3-223.

68 Every lot owner and all those entitled to occupy a lot shall comply with all lawful
69 provisions of the property owners' association instrument. In addition, any lot owner and
70 all those entitled to occupy a lot shall comply with any reasonable rules or regulations
71 adopted by the association pursuant to the instrument which have been provided to the lot
72 owners and with the lawful provisions of the bylaws of the association. Any lack of such
73 compliance shall be grounds for an action to recover sums due, for damages, for or
74 injunctive relief, or for any other remedy available at law or in equity, maintainable by the
75 association or, in any proper case, by one or more aggrieved lot owners on their own behalf
76 or as a class action. The association may pursue injunctive relief without the need or
77 requirement to first pursue or utilize any other remedies, regardless of whether other
78 remedies may be available or might otherwise be adequate. If and to the extent provided
79 in the instrument, the association shall be empowered to impose and assess fines and
80 suspend temporarily voting rights and the right of use of certain of the common areas and
81 services paid for as a common expense in order to enforce such compliance; provided,
82 however, that no such suspension shall deny any lot owner or occupants access to the lot
83 owned or occupied."

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SECTION 4.

85 Said title is further amended by revising subsection (a) of Code Section 44-3-231, relating
86 to powers and duties of association and legal actions against agent or employee of
87 association, as follows:

88 "(a) Except to the extent prohibited by the instrument and subject to any restrictions and
89 limitations specified therein, the association shall have the power to:

90 (1) Employ, retain, dismiss, and replace agents and employees to exercise and discharge
91 the powers and responsibilities of the association;

92 (2) Make or cause to be made additional improvements on and as a part of the common
93 area; ~~and~~

94 (3) Grant or withhold approval of any action by one or more lot owners or other persons
95 entitled to occupancy of any lot if such action would change the exterior appearance of
96 any lot, or any structure thereon, or of any other portion of the development or elect or
97 provide for the appointment of an architectural control committee to grant or withhold
98 such approval; and

99 (4) Enforce all lawful provisions of the property owners' association instrument in
100 accordance with and pursuant to all powers granted by this article, by Chapter 2 or 3 of
101 Title 14 as may be applicable, and as provided for in the instrument, including, but not
102 limited to, by an action to recover sums due; for damages; for injunctive relief, without
103 regard to whether other remedies may exist or be adequate; or for any other remedy
104 available at law or in equity to the association."

105 **SECTION 5.**

106 Said title is further amended by adding a new paragraph to subsection (d) of Code Section
107 44-5-60, relating to effect of zoning laws, covenants and scenic easements for use of public,
108 renewal of certain covenants, and costs, as follows:

109 "(6) In every planned subdivision containing no fewer than 15 individual plots, every
110 person owning plots affected by such covenant owner and all those entitled to occupy
111 such property shall comply with all lawful provisions of said covenants and the
112 instrument containing such covenants. Any lack of such compliance shall be grounds for
113 an action to recover sums due; for damages; for injunctive relief; or for any other remedy
114 available at law or in equity, maintainable by a homeowners' association or other
115 common interest community association which has been created pursuant to those
116 covenants. Such association, if any, may pursue injunctive relief without the need or
117 requirement to first pursue or utilize any other remedies, regardless of whether other

118 remedies may be available or might otherwise be adequate. To the extent provided in the
119 instrument, such association shall be empowered to impose and assess fines and
120 temporarily suspend voting rights and the right of use of certain common areas and
121 services paid for as a common expense in order to enforce such compliance; provided,
122 however, that no such suspension shall deny any property owner or occupants access to
123 the property owned or occupied. Nothing in this paragraph shall be construed to render
124 any covenants in a subdivision containing fewer than 15 individuals plots unenforceable,
125 nor shall anything in this subsection be construed to limit or expand rights of property
126 owners or common interest community associations which may otherwise exist under
127 Georgia law or the instruments governing such community associations, except as
128 expressly stated in this paragraph."

129 **SECTION 6.**

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