

The Senate Committee on Economic Development and Tourism offered the following substitute to SB 107:

MOOT

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 provide for protections of homeowners
3 in community associations; to revise provisions concerning the foreclosure of liens by
4 condominium associations and property owner's associations; to provide definitions; to
5 provide for limitations on the ability of community associations to foreclose liens; to provide
6 for a right of redemption following a foreclosure sale on a home by a community association;
7 to provide for the waiver of assessments owed by homeowners to community associations
8 in the event of death or disability; to provide for action and relief; to create the office of the
9 Community Association Ombudsman; to provide for powers and duties of the ombudsman;
10 to provide procedures concerning the submission of complaints to the ombudsman by
11 homeowner and community associations; to provide procedures concerning the resolution
12 of such complaints; to provide for the submission of certain recommendations made by the
13 ombudsman with respect to such complaints to community associations; to provide
14 procedures concerning the approval or rejection of such recommendations by community
15 associations; to provide for the monitoring of elections for boards of directors for community
16 associations; to provide for annual registration of community associations and related fees;
17 to provide for applicability; to provide for related matters; to repeal conflicting laws; and for
18 other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 **SECTION 1.**

21 Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to regulation of
22 specialized land transactions, is amended in Code Section 44-3-109, relating to lien for
23 assessments, personal obligation of unit owner, notice and foreclosure, lapse, right to
24 statement of assessments, and effect of failure to furnish statement, by revising subsection (c)
25 as follows:

26 "(c) Not less than 30 days after notice is sent by certified mail or statutory overnight
27 delivery, return receipt requested, to the unit owner both at the address of the unit and at
28 any other address or addresses which the unit owner may have designated to the association
29 in writing, the lien may be foreclosed by the association by an action, judgment, and
30 foreclosure in the same manner as other liens for the improvement of real property, subject
31 to the limitations set forth in Code Section 44-3-270 and to superior liens or encumbrances,
32 but any such court order for judicial foreclosure shall not affect the rights of holders of
33 superior liens or encumbrances to exercise any rights or powers afforded to them under
34 their security instruments. The notice provided for in this subsection shall specify the
35 amount of the assessments then due and payable together with authorized late charges and
36 the rate of interest accruing thereon. ~~No foreclosure action against a lien arising out of this~~
37 ~~subsection shall be permitted unless the amount of the lien is at least \$2,000.00.~~ Unless
38 prohibited by the condominium instruments, the association shall have the power to bid on
39 the unit at any foreclosure sale and to acquire, hold, lease, encumber, and convey the same.
40 The lien for assessments shall lapse and be of no further effect, as to assessments or
41 installments thereof, together with late charges and interest applicable thereto, four years
42 after the assessment or installment first became due and payable."

43

SECTION 2.

44 Said chapter is further amended in Code Section 44-3-232, relating to assessments against
45 lot owners as constituting liens in favor of association, additional charges against lot owners,
46 procedure for foreclosing lien, and obligation to provide statement of amounts due, by
47 revising subsection (c) as follows:

48 "(c) Not less than 30 days after notice is sent by certified mail or statutory overnight
49 delivery, return receipt requested, to the lot owner both at the address of the lot and at any
50 other address or addresses which the lot owner may have designated to the association in
51 writing, the lien may be foreclosed by the association by an action, judgment, and court
52 order for foreclosure in the same manner as other liens for the improvement of real
53 property, subject to the limitations set forth in Code Section 44-3-270 and to superior liens
54 or encumbrances, but any such court order for judicial foreclosure shall not affect the rights
55 of holders of superior liens or encumbrances to exercise any rights or powers afforded to
56 them under their security instruments. The notice provided for in this subsection shall
57 specify the amount of the assessments then due and payable together with authorized late
58 charges and the rate of interest accruing thereon. ~~No foreclosure action against a lien~~
59 ~~arising out of this subsection shall be permitted unless the amount of the lien is at~~
60 ~~least \$2,000.00.~~ Unless prohibited by the instrument, the association shall have the power
61 to bid on the lot at any foreclosure sale and to acquire, hold, lease, encumber, and convey
62 the same. The lien for assessments shall lapse and be of no further effect, as to assessments
63 or installments thereof, together with late charges and interest applicable thereto, four years
64 after the assessment or installment first became due and payable."

65

SECTION 3.

66 Said chapter is further amended by adding a new article to read as follows:

67 "ARTICLE 8

68 Part 1

69 44-3-260.

70 As used in this article, the term:

71 (1) 'Community association' means an organization or corporation of homeowners or
72 residential property owners of a particular residential community created for the purpose
73 of managing or regulating such residential community, including, without limitation,
74 enforcing covenants set forth in a declaration of such residential community. Such term
75 shall include a condominium association and a property owners' association.

76 (2) 'Condominium association' means an organization or corporation formed pursuant
77 to Article 3 of this chapter, the 'Georgia Condominium Act,' for the purpose of exercising
78 the powers of an association of any condominium under such Act.

79 (3) 'Declaration' means a recordable instrument creating restrictive covenants upon real
80 property within a particular residential community which are administered by a
81 community association in which membership is mandatory for all unit owners in such
82 residential community.

83 (4) 'Governing documents' means the instruments that govern the administration or
84 operation of the community association of a particular residential community, including,
85 without limitation, the declaration of such residential community and the bylaws and
86 articles of incorporation of such community association.

87 (5) 'Property owners' association' means a corporation formed pursuant to Article 6 of
88 this chapter, the 'Georgia Property Owners' Association Act,' for the purpose of
89 exercising the powers of an association of property owners under such Act.

90 (6) 'Residential community' means a residential subdivision, planned community, or
91 condominium.

92 (7) 'Unit' means a portion of a residential community intended for any type of
93 independent ownership and use that is subject to a declaration and managed or regulated
94 by a community association.

95 (8) 'Unit owner' means the owner of a unit.

96 Part 2

97 44-3-270.

98 (a) Notwithstanding any provision of law to the contrary, no foreclosure action against a
99 lien on a unit in favor of a community association shall be permitted if the amount of the
100 lien:

101 (1) Is less than the total amount of assessments levied by the community association
102 against the unit in the preceding 12 months; or

103 (2) Consists solely of fines imposed by the community association for the failure to
104 comply with the provisions of the declaration or with the rules or regulations adopted by
105 the community association, including, without limitation, fines imposed or levied
106 pursuant to Code Section 44-3-76 or 44-3-223, and any late charges, interest, or costs
107 associated with such fines.

108 (b) No community association that brings a foreclosure action against a lien on a unit in
109 favor of the community association, nor any subsidiary, parent, affiliate, or any current or
110 former member of the board of such community association, shall be permitted to purchase
111 the unit at the foreclosure sale.

112 44-3-271.

113 (a) A unit owner may redeem a unit from any purchaser at a sale foreclosing a lien on such
114 unit in favor of a community association, including, without limitation, a lien arising out
115 of Code Section 44-3-109 or Code Section 44-3-232, by paying the amounts required for

116 redemption, as set forth in this Code section, not later than 180 days after the date of such
117 sale.

118 (b) A person who purchases a unit at a sale foreclosing a lien on such unit in favor of a
119 community association shall not transfer ownership of such unit to a person other than the
120 unit owner during the redemption period provided in subsection (a) of this Code section.

121 (c) To redeem a unit that was purchased at the foreclosure sale, the unit owner shall:

122 (1) Pay to the community association:

123 (A) All amounts owed by the unit owner to the community association at the time of
124 the foreclosure sale, less the sale price received by the community association at the
125 foreclosure sale, and plus interest on such net amount from the date of foreclosure to
126 the date of redemption at the rate stated in the declaration for delinquent assessments
127 or, if no such rate is stated, at an annual interest rate of 10 percent;

128 (B) The costs incurred by the community association in foreclosing the lien, including
129 reasonable attorney's fees; and

130 (C) Any unpaid assessments levied against the unit by the community association after
131 the date of the foreclosure sale; and

132 (2) Pay to the person who purchased the unit at the foreclosure sale:

133 (A) The purchase price paid by such person at the foreclosure sale;

134 (B) The cost incurred by such person in recording the foreclosure deed and conveying,
135 after redemption, the unit to the unit owner, including reasonable attorney's fees;

136 (C) Any assessments levied against the unit by the community association after the
137 date of the foreclosure sale that were paid by such person; and

138 (D) Any amounts paid by such person as ad valorem taxes, penalties, and interest on
139 the unit after the date of the foreclosure sale.

140 (d) If a unit owner redeems a unit in accordance with the provisions of this Code section,
141 the purchaser of the unit at the foreclosure sale shall immediately execute and deliver to
142 the unit owner a deed transferring the unit to the unit owner. If a purchaser fails to comply

143 with the provisions of this subsection, a unit owner may bring an action against such
144 purchaser for an order compelling the conveyance of such unit to such unit owner. If a unit
145 owner is the prevailing party in an action brought pursuant to this subsection, such unit
146 owner shall be entitled to recover the costs incurred in bringing such action, including
147 reasonable attorney's fees.

148 (e) The redemption rights conferred by this Code section are personal privileges and not
149 property or property rights. The privileges shall be exercised in the manner prescribed in
150 this Code section and such privileges may not be waived in a deed, declaration, judgment,
151 or any agreement.

152 (f) This Code section shall only apply to liens in favor of a community association that are
153 foreclosed on or after July 1, 2025.

154 44-3-272.

155 (a) As used in this Code section, the term:

156 (1) 'Disability' means a medically determinable physical or mental impairment caused
157 by injury or illness that renders a person unable to engage in any substantial gainful
158 employment.

159 (2) 'Disabled' means a person who is unable to engage in any substantial gainful
160 employment as a result of a medically determinable physical or mental impairment
161 caused by injury or illness.

162 (3) 'Personal representative' shall have the same meaning as provided in Code
163 Section 53-1-2.

164 (b)(1) Each community association created pursuant to a declaration executed on or after
165 July 1, 2025, shall waive all assessments or installments thereof that become due and
166 payable by any unit owner if such unit owner:

167 (A) Dies with an insolvent estate, provided that the personal representative of such unit
168 owner's estate certifies in writing to the community association that such unit owner's
169 estate is insolvent; or

170 (B) Becomes disabled, which causes a financial hardship on such unit owner, provided
171 that such unit owner certifies in writing to the community association that, because of
172 such disability, he or she is experiencing a financial hardship.

173 (2) A waiver of such assessments or installments thereof under paragraph (1) of this
174 subsection shall begin on the date such unit owner dies or becomes disabled and shall
175 continue for a period of not less than 12 months; provided, however, that, if such waiver
176 is granted because of a disability of a unit owner, such waiver shall terminate if the
177 financial hardship on such unit owner resulting from such disability ceases to exist prior
178 to the expiration of such 12 month period.

179 (c) If a unit owner previously paid any assessments or installments thereof that are
180 required to be waived by a community association pursuant to subsection (a) of this Code
181 section, such unit owner or such unit owner's estate shall be entitled to a refund of such
182 assessments or installments thereof, provided that the written certification that the estate
183 of such unit owner is insolvent required under paragraph (1) of subsection (a) of this Code
184 section or the written certification of financial hardship required under paragraph (2) of
185 subsection (a) of this Code section, whichever is applicable, was provided to the
186 community association within 12 months of the date such unit owner died or became
187 disabled.

188 (d)(1) If a community association fails to waive or refund any assessments or
189 installments thereof that are required to be waived or refunded under the provisions of
190 this Code section, the unit owner or the personal representative of the unit owner's estate
191 may bring an action against such community association for a declaration that such
192 assessments or installments thereof are required to be waived and for recovery of any

193 amount of such assessments or installments thereof that are required to be refunded.
194 Such relief shall not be granted unless the court determines in such action that:
195 (A) The unit owner either:
196 (i) Became disabled, which caused a financial hardship on such unit owner; or
197 (ii) Died with an insolvent estate; and
198 (B) The written certification that the estate of such unit owner is insolvent required
199 under paragraph (1) of subsection (a) of this Code section or the written certification
200 of financial hardship required under paragraph (2) of subsection (a) of this Code
201 section, whichever is applicable, was provided to the community association within 12
202 months of the date such unit owner died or became disabled.
203 (2) A unit owner or the personal representative of a unit owner's estate who prevails in
204 an action brought pursuant to this subsection shall be entitled to recover the costs incurred
205 in bringing such action, including reasonable attorney's fees.

206 Part 3

207 44-3-280.

208 (a) There is created within the Department of Community Affairs the Office of the
209 Community Association Ombudsman.

210 (b) The commissioner of community affairs shall appoint the ombudsman, who shall be
211 an attorney admitted to practice before the Georgia Supreme Court. The ombudsman shall
212 serve at the pleasure of the commissioner of community affairs.

213 (c) Neither the ombudsman nor any full-time employee of the ombudsman's office shall:

214 (1) Actively engage in any other business or profession that directly or indirectly relates
215 to or conflicts with his or her work in the ombudsman's office;

216 (2) Serve as the representative, or an executive, officer, or employee, of any political
217 party, executive committee, or other governing body of a political party;

218 (3) Receive remuneration for activities on behalf of any candidate for public office;

219 (4) Engage in soliciting votes or other activities on behalf of a candidate for public
220 office; or

221 (5) Become a candidate for election to public office unless he or she first resigns from
222 his or her office or employment.

223 (d) The ombudsman shall maintain his or her principal office at a place convenient to the
224 commissioner of community affairs, which will enable the ombudsman to expeditiously
225 carry out the duties and functions of his or her office. The ombudsman may establish
226 branch offices elsewhere in the state upon the concurrence of the commissioner of
227 community affairs.

228 44-3-281.

229 The ombudsman shall have the powers necessary to carry out the duties of his or her office,
230 including, without limitation:

231 (1) Employing professional and clerical staff as necessary for the efficient operation of
232 the office;

233 (2) Preparing and issuing reports and recommendations to the Governor, the
234 commissioner of community affairs, the President of the Senate, and the Speaker of the
235 House of Representatives on any matter or subject within the jurisdiction of this article;

236 (3) Acting as a liaison between unit owners, or other affected parties, and community
237 associations, including the boards of directors, board members, officers, and managers
238 of such community associations;

239 (4) Monitoring and reviewing procedures and disputes concerning elections or meetings
240 of community associations;

241 (5) Providing resources to assist board members and officers of community associations
242 in carrying out their powers and duties in a manner consistent with this article, other
243 applicable law, and their governing documents;

- 244 (6) Acting as a neutral resource regarding the rights and responsibilities of unit owners
245 and community associations, including the boards of directors, board members, officers,
246 and managers of such community associations;
- 247 (7) Encouraging and facilitating voluntary meetings between unit owners and community
248 associations, including the boards of directors, board members, officers, and managers
249 of such community associations, when the meetings may assist in resolving a dispute
250 within a residential community;
- 251 (8) Assisting with the resolution of disputes between unit owners and their community
252 associations, or between two or more unit owners within a residential community, if
253 applicable, including mediating such disputes, issuing opinions with respect to such
254 disputes, and the making of recommendations on actions that can be taken by unit owners
255 and community associations to resolve such disputes;
- 256 (9) Receiving and compiling complaints and responses in relation to violations of
257 applicable law and the governing documents of community associations; and
- 258 (10) Promulgating and adopting such rules and regulations as may be necessary to carry
259 out the provisions of this article.

260 44-3-282.

261 The ombudsman shall:

- 262 (1) Develop policies and procedures to assist unit owners and community associations,
263 including the boards of directors, board members, officers, and managers of such
264 community associations, understand their rights and responsibilities as set forth in this
265 article, under other applicable law, and in their governing documents;
- 266 (2) Coordinate and assist in the preparation and adoption of educational and reference
267 material, and shall endeavor to coordinate with private or volunteer providers of these
268 services, so that the availability of these resources is made known to the largest possible
269 audience;

270 (3) Assist unit owners in understanding their rights and responsibilities under applicable
271 law and their governing documents, including, without limitation, publishing materials
272 related to those rights and responsibilities;

273 (4) Assist board members and officers of community associations in carrying out their
274 duties; and

275 (5) Compile and maintain a registration of each community association operating within
276 the state which includes, at a minimum, the following information:

277 (A) The name, address, and phone number of the community association;

278 (B) The name of each person who is authorized to manage the community association;

279 (C) The names, mailing addresses, and telephone numbers of the board members of the
280 community association;

281 (D) The number of units in the community association;

282 (E) The total annual assessment required to be paid by unit owners to the community
283 association; and

284 (F) The number of foreclosures that were completed by the community association on
285 units within its residential community.

286 44-3-283.

287 (a) The ombudsman shall adopt policies and procedures for submission and receipt of
288 complaints from unit owners and community associations regarding disputes concerning
289 the rights and responsibilities of unit owners and community associations or alleged
290 violations of the provisions of this article, other applicable law, or their governing
291 documents.

292 (b) The ombudsman shall publish a form for such complaints which, at a minimum, shall
293 include the following information:

294 (1) The unit owner's name;

295 (2) The name and contact information of the community association;

- 296 (3) The name of the community association management company, if any, and its contact
297 information, including telephone number and mailing addresses;
- 298 (4) Whether a unit owner:
- 299 (A) Was informed of the requirement of membership in a community association as
300 a condition of ownership, including when that information was provided and by whom;
- 301 (B) Received a copy of the governing documents of the community association and if
302 the copy was obtained before or after receiving title to the unit;
- 303 (C) Was denied access to the governing documents and, if so, what remedies the unit
304 owner took to obtain the governing documents; and
- 305 (D) Understands his or her rights and obligations under the governing documents;
- 306 (5) The nature of the unit owner's or community association's complaint; and
- 307 (6) An explanation of:
- 308 (A) Any communications between the unit owner and the community association
309 regarding the complaint;
- 310 (B) Any remedies the unit owner or community association sought in relation to the
311 complaint; and
- 312 (C) Any actions the unit owner or community association took concerning the
313 complaint.
- 314 (c) Upon receiving a unit owner's or community association's complaint, the ombudsman
315 shall:
- 316 (1) Provide the complaint to the community association or the unit owner complained
317 against in a manner that verifies receipt of such complaint by the community association
318 or unit owner, so the unit owner or community association may determine if the unit
319 owner or community association desires to make a response to the complaint;
- 320 (2) Conduct an investigation into the allegations of the complaint;
- 321 (3) Offer to mediate the complaint among the affected parties, and conduct such
322 mediation if the affected parties agree to participate; and

323 (4) If practicable, issue to the affected parties his or her opinions or recommendations
324 with respect to the complaint. Such opinions or recommendations may include, without
325 limitation, a proposed course of action, including, but not limited to, waiver of any fines
326 imposed by a community association on a unit owner.

327 (d)(1) The ombudsman shall, at least annually, provide a report of all complaints
328 received and any opinions or recommendations issued by the ombudsman with respect
329 to such complaints as provided in this Code section to the Governor, the commissioner
330 of community affairs, the General Assembly, and to the public on the ombudsman's
331 public website.

332 (2) The report provided for in this Code section shall include categorized, filterable, and
333 searchable information compiled from the complaints, responses, and any opinions or
334 recommendations issued by the ombudsman with respect thereto. The ombudsman shall
335 redact from such report any personal or private information of the affected parties, such
336 as names, addresses, and telephone numbers of individuals, contained in the complaints,
337 responses, or in any opinions or recommendations issued by the ombudsman with respect
338 thereto.

339 44-3-284.

340 (a) If, in connection with a complaint received pursuant to Code Section 44-3-283, the
341 ombudsman recommends that any fines imposed by a community association against a unit
342 owner be waived, such recommendation shall be submitted by the board of directors of the
343 community association to the entire membership of the community association for approval
344 or rejection. Unless a majority of such members rejects such recommendation within 120
345 days from the date such recommendation is issued by the ombudsman, such
346 recommendation shall automatically be approved and such fines imposed by the
347 community association against the unit owner, together with all late fees, interest, and other
348 charges associated with such fines, shall be waived. During such 120 day period, the

349 community association shall not take any effort to collect such fines and shall not impose
350 any further late fees, interest, or charges with respect to such fines.

351 (b) This Code section shall only apply to community associations created pursuant to a
352 declaration executed on or after July 1, 2025.

353 44-3-285.

354 (a) Fifteen percent of the total membership in a community association, or six unit owners,
355 whichever is greater, may petition the ombudsman to appoint an election monitor to attend
356 a meeting of the community association to be held for the purpose of electing members of
357 the community association's board of directors and to conduct at such meeting the election
358 of such members of the board of directors.

359 (b) Upon receiving a petition for the appointment of an election monitor from a sufficient
360 number of unit owners pursuant to subsection (a) of this Code section, the ombudsman
361 shall appoint an employee of his or her office, a person who specializes in community
362 association election monitoring, or an attorney licensed to practice in this state as the
363 election monitor who shall attend the community association meeting and conduct the
364 election of the members of the board of directors.

365 (c) The ombudsman shall, by rule or regulation, establish procedures for the appointment
366 of election monitors under this Code section and the scope and extent of the monitor's role
367 in the election process.

368 44-3-286.

369 (a) Each community association shall register annually with the ombudsman on a form
370 prescribed by the ombudsman, which shall include the information required to be
371 maintained pursuant to paragraph (5) of Code Section 44-3-282.

372 (b) Each community association shall pay an annual registration fee to the ombudsman in
373 the amount of \$25.00 per unit within the residential community of such community

374 association. All such annual registration fees received by the ombudsman pursuant to this
375 subsection shall be paid into the state treasury; provided, however, that it is the intent of
376 the General Assembly that such fees shall be annually appropriated to the Department of
377 Community Affairs for the purpose of paying the expenses of the Office of the Community
378 Association Ombudsman and other costs associated with carrying out the provisions this
379 part."

380

SECTION 4.

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