

House Bill 1035

By: Representatives Scott of the 76th, Davis of the 87th, Schofield of the 63rd, Greene of the 154th, Taylor of the 92nd, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 36, 44, 46, and 48 of the Official Code of Georgia Annotated, relating to
2 local government, property, public utilities and public transportation, and revenue and
3 taxation, respectively, so as to prohibit local governments from adding unpaid service
4 charges to the ad valorem tax roll for purposes of tax execution or tax sale of an owner
5 occupied dwelling; to prohibit foreclosure sales based on liens from condominium and
6 property owners' associations for unpaid assessments; to provide for assessments from
7 condominium associations and property owners' associations to be considered unsecured
8 debts; to prohibit forced sales of owner occupied dwellings for nontax service charges; to
9 prohibit utilities from foreclosing on owner occupied dwellings for unpaid service fees; to
10 prohibit tax sales based on nontax service charges; to provide for civil remedies and
11 penalties; to make conforming changes; to provide for a short title; to provide for an effective
12 date and applicability; to provide for related matters; to repeal conflicting laws; and for other
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15
16 This Act shall be known and may be cited as the "Georgia Homeownership Protection Act
17 of 2026."

SECTION 2.

18
19 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
20 in Chapter 80, relating to general provisions relative to provisions applicable to counties,
21 municipal corporations, and other governmental entities, by adding a new Code section to
22 read as follows:

23 "36-80-32.

24 Counties, municipalities, local authorities, or local boards shall not certify, transfer, or add
25 any unpaid water, sewer, storm-water, solid waste, or other service charges of a residential
26 account to the ad valorem tax roll for purposes of tax execution or tax sale of an owner
27 occupied dwelling."

SECTION 3.

28
29 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended in Code
30 Section 44-3-80, relating to allocation of and liability for common expenses and how
31 assessments made, by revising subsection (g) as follows:

32 "(g) A condominium instrument recorded on or after July 1, 2015, shall not authorize the
33 board of directors to impose:

34 (1) Except as provided in subsections (a) and (b) of this Code section and subsections (a)
35 and ~~(b)~~(c) of Code Section 44-3-109, a special assessment fee per unit in excess of
36 one-sixth of the annual common expense assessment for the unit levied pursuant to
37 subsection (c) of this Code section per fiscal year without the approval of a majority of
38 the unit owners; or

39 (2) A monthly maintenance fee increase in excess of the percentage equal to the annual
 40 rate of inflation as measured by the Consumer Price Index for All Urban Consumers for
 41 the immediately preceding 12 month period may be disapproved by unit owners holding
 42 a majority of the association vote."

43 **SECTION 4.**

44 Said title is further amended by revising Code Section 44-3-109, relating to lien for
 45 assessments, personal obligation of unit owner, notice and foreclosure, lapse, right to
 46 statement of assessments, and effect of failure to furnish statement, as follows:

47 "44-3-109.

48 (a) All sums lawfully assessed by the association against any unit owner or condominium
 49 unit, whether for the share of the common expenses pertaining to that condominium unit,
 50 for fines, or otherwise, and all reasonable charges made to any unit owner or condominium
 51 unit for materials furnished or services rendered by the association at the owner's request
 52 to or on behalf of the unit owner or condominium unit, shall, from the time the same
 53 become due and payable, be the personal obligation of the unit owner and constitute a lien
 54 in favor of the association on the condominium unit, which shall be unenforceable by
 55 foreclosure or power of sale against an owner occupied dwelling prior and superior to all
 56 other liens whatsoever except:

57 (1) ~~Liens for ad valorem taxes on the condominium unit;~~

58 (2) ~~The lien of any first priority mortgage covering the unit and the lien of any mortgage~~
 59 ~~recorded prior to the recording of the declaration;~~

60 (3) ~~The lessor's lien provided for in Code Section 44-3-86; and~~

61 (4) ~~The lien of any secondary purchase money mortgage covering the unit, provided that~~
 62 ~~neither the grantee nor any successor grantee on the mortgage is the seller of the unit.~~

63 (b) The recording of the declaration pursuant to this article shall constitute record notice
64 of the existence of the lien, and no further recordation of any claim of lien for assessments
65 shall be required.

66 ~~(b)(c)(1)~~ To the extent that the condominium instruments provide, the personal
67 obligation of the unit owner and the lien for assessments shall also include:

68 ~~(1)(A)~~ A late or delinquency charge not in excess of the greater of \$10.00 or 10 percent
69 of the amount of each assessment or installment thereof not paid when due;

70 ~~(2)(B)~~ At a rate not in excess of 10 percent per annum, interest on each assessment or
71 installment thereof and any delinquency or late charge pertaining thereto from the date
72 the same was first due and payable; and

73 ~~(3)(C)~~ The costs of collection, including court costs, ~~the expenses of sale~~, any expenses
74 required for the protection and preservation of the unit, and reasonable attorney's fees
75 actually incurred; ~~and~~

76 ~~(4) The fair rental value of the condominium unit from the time of the institution of an~~
77 ~~action until the sale of the condominium at foreclosure or until the judgment rendered in~~
78 ~~the action is otherwise satisfied.~~

79 (2) Such assessments shall only be collectable as an unsecured debt. No lien created
80 pursuant to this Code section may be foreclosed or enforced by power of sale against an
81 owner occupied dwelling.

82 ~~(c)(d) Not less than 30 days after notice is sent by certified mail or statutory overnight~~
83 ~~delivery, return receipt requested, to the unit owner both at the address of the unit and at~~
84 ~~any other address or addresses which the unit owner may have designated to the association~~
85 ~~in writing, the lien may be foreclosed by the association by an action, judgment, and~~
86 ~~foreclosure in the same manner as other liens for the improvement of real property, subject~~
87 ~~to superior liens or encumbrances, but any such court order for judicial foreclosure shall~~
88 ~~not affect the rights of holders of superior liens or encumbrances to exercise any rights or~~
89 ~~powers afforded to them under their security instruments. The notice provided for in this~~

90 ~~subsection shall specify the amount of the assessments then due and payable together with~~
91 ~~authorized late charges and the rate of interest accruing thereon. No foreclosure action~~
92 ~~against a lien arising out of this subsection shall be permitted unless the amount of the lien~~
93 ~~is at least \$2,000.00. Unless prohibited by the condominium instruments, the association~~
94 ~~shall have the power to bid on the unit at any foreclosure sale and to acquire, hold, lease,~~
95 ~~encumber, and convey the same. The lien for assessments shall lapse and be of no further~~
96 ~~effect, as to assessments or installments thereof, together with late charges and interest~~
97 ~~applicable thereto, four years after the assessment or installment first became due and~~
98 ~~payable. Any provision authorizing foreclosure of a lien created pursuant to this Code~~
99 ~~section shall be void.~~

100 (d)(e) Any unit owner, mortgagee of a unit, person having executed a contract for the
101 purchase of a condominium unit, or lender considering the loan of funds to be secured by
102 a condominium unit shall be entitled upon request to a statement from the association or
103 its management agent setting forth the amount of assessments past due and unpaid together
104 with late charges and interest applicable thereto against that condominium unit. Such
105 request shall be in writing, shall be delivered to the registered office of the association, and
106 shall state an address to which the statement is to be directed. Failure on the part of the
107 association to mail or otherwise furnish such statement regarding amounts due and payable
108 at the expiration of such five-day period with respect to the condominium unit involved to
109 such address as may be specified in the written request therefor within five business days
110 from the receipt of such request shall cause the lien for assessments created by this Code
111 section to be extinguished and of no further force or effect as to the title or interest acquired
112 by the purchaser or lender, if any, as the case may be, and their respective successors and
113 assigns, in the transaction contemplated in connection with such request. The information
114 specified in such statement shall be binding upon the association and upon every unit
115 owner. Payment of a fee not exceeding \$10.00 may be required as a prerequisite to the
116 issuance of such a statement if the condominium instruments so provided.

117 ~~(e)(f)~~ Nothing in this Code section shall be construed to prohibit actions maintainable
 118 pursuant to Code Section 44-3-76 to recover sums for which subsection (a) of this Code
 119 section creates a lien."

120

SECTION 5.

121 Said title is further amended in Code Section 44-3-117, relating to application to
 122 subcondominiums, creation of subcondominium, subassociation, insurance, effect of certain
 123 liens, eminent domain, description of certain units, and assessments, by revising subsection
 124 (g) as follows:

125 ~~"(g) Not less than 30 days after notice is sent by certified mail or statutory overnight~~
 126 ~~delivery, return receipt requested, to the subunit owner both at the address of the subunit~~
 127 ~~and at any other address or addresses which the subunit owner may have designated to the~~
 128 ~~master association in writing, the lien of the master association may be foreclosed by the~~
 129 ~~master association by an action, judgment, and foreclosure in the same manner as other~~
 130 ~~liens for the improvement of real property, subject to superior liens or encumbrances, but~~
 131 ~~any such court order for judicial foreclosure shall not affect the rights of holders of superior~~
 132 ~~liens or encumbrances to exercise any rights or powers afforded to them under their~~
 133 ~~security instruments. The notice provided for in this subsection shall specify the amount~~
 134 ~~of the assessments then due and payable together with authorized late charges and the rate~~
 135 ~~of interest accruing thereon. No foreclosure action against a lien arising out of this~~
 136 ~~subsection shall be permitted unless the amount of the lien is at least \$2,000.00. Unless~~
 137 ~~prohibited by the master condominium instruments, the master association shall have the~~
 138 ~~power to bid on the subunit at any foreclosure sale and to acquire, hold, lease, encumber,~~
 139 ~~and convey the same. The lien for assessments shall lapse and be of no further effect, as~~
 140 ~~to assessments or installments thereof, together with late charges and interest applicable~~
 141 ~~thereto, four years after the assessment or installment first became due and payable. Any~~

142 provision authorizing foreclosure of a lien created pursuant to this Code section shall be
143 void."

144 **SECTION 6.**

145 Said title is further amended by revising Code Section 44-3-206, relating to foreclosure by
146 owners' association, procedure, and effect of sale, as follows:

147 "44-3-206.

148 (a) An owners' association may foreclose its lien upon a time-share estate in accordance
149 with ~~subsection (c) of Code Section 44-3-109~~ or with Code Section 44-3-207 or may
150 foreclose its lien under a power of sale that such owners' association shall have under this
151 Code section in order to sell a time-share estate for the purpose of paying any or all unpaid
152 assessments and other charges owed by the owner of such time-share estate.

153 (b)(1) In order for an owners' association to foreclose its lien upon a time-share estate
154 under a power of sale, a notice of sale shall be:

155 (A) Accomplished in writing sent by registered or certified mail or statutory overnight
156 delivery, return receipt requested, to the property address of the owner most recently
157 provided to the owners' association no later than 30 days prior to the date of the
158 proposed sale and shall be deemed given on the official postmark day or the day on
159 which it is received for delivery by a commercial delivery firm;

160 (B) Provided in writing to any lien holder, sent by registered or certified mail or
161 statutory overnight delivery, return receipt requested; and

162 (C) Provided by advertising the time, place, and terms of said sale in a newspaper in
163 which sheriff's advertisements are published in the county where the development is
164 located, once a week during the four calendar weeks immediately preceding the
165 calendar week of the date of such sale.

166 (2) Any sale pursuant to this subsection shall occur on a legal sale day within the legal
167 hours of sale at the legal place of sale in the county where the development is located.

168 (c) A sale undertaken as authorized by this Code section shall divest the owner of all right,
 169 title, interest, and equity that such owner has in or to the time-share estate and shall vest
 170 fee simple title to the time-share estate in the purchaser or purchasers at said sale. The
 171 proceeds of said sale ~~shall be applied first in accordance with the lien priorities set forth in~~
 172 ~~paragraphs (1) through (4) of subsection (a) of Code Section 44-3-109, after which any~~
 173 ~~remaining proceeds~~ shall be applied to the payment in full of such unpaid assessments and
 174 other charges and next to the payment of all expenses actually incurred by the owners'
 175 association in connection with said proceedings, including attorneys' fees, and any
 176 remaining proceeds shall be paid to the owner. The owners' association may bid at said
 177 sale and purchase the time-share estate.

178 (d) For the purpose of carrying out and effectuating the power of sale authorized by this
 179 Code section, the owners' association shall be constituted the true and lawful
 180 attorney-in-fact of such owner to sell such time-share estate, as provided in this Code
 181 section, and convey the same to the purchaser or purchasers at said sale in as full and ample
 182 a manner as such owner could do in person. The power and agency hereby granted are
 183 coupled with an interest and are irrevocable by death or otherwise."

184

SECTION 7.

185 Said title is further amended in Code Section 44-3-207, relating to time-share estates, trustee
 186 foreclosures, and requirements, by revising subparagraph (a)(1)(A) and paragraph (4) of
 187 subsection (e) as follows:

188 "(a)(1)(A) In order to sell a time-share estate for the purpose of paying any or all
 189 unpaid assessments and other charges owed by the owner of such time-share estate, an
 190 owners' association, or its managing agent on behalf of the owner's association, may
 191 foreclose its lien for all assessments and other charges assessed by the owners'
 192 association upon a time-share estate pursuant to the time-share instrument or
 193 ~~subsections (a) and (b) of Code Section 44-3-109, in accordance with:~~

194 (i) ~~The judicial foreclosure procedure of subsection (c) of Code Section 44-3-109 or~~
 195 ~~44-3-232, as applicable;~~
 196 (ii) The trustee foreclosure procedure under this Code section; or
 197 ~~(iii)~~(ii) The nonjudicial foreclosure procedure under Code Section 44-3-206."
 198 "(4) The proceeds of the trustee foreclosure sale ~~shall be applied first in accordance with~~
 199 ~~the lien priorities set forth in paragraphs (1) through (4) of subsection (a) of Code Section~~
 200 ~~44-3-109, after which any remaining proceeds~~ shall be applied to the payment in full of
 201 such unpaid assessments and other charges or mortgage obligations, as applicable, and
 202 next to the payment of all expenses actually incurred by the owners' association in
 203 connection with the trustee foreclosure proceedings, including ~~attorneys'~~ attorney's fees.
 204 Any remaining proceeds shall be paid to the prior owner of the time-share estate. The
 205 owners' association or mortgagee, as applicable, may bid at the sale and purchase the
 206 time-share estate and receive a credit up to the amount of unpaid assessments and other
 207 charges or mortgage obligations, as applicable, and all expenses actually incurred by the
 208 owners' association or mortgagee, as applicable, in connection with the trustee
 209 foreclosure proceedings, including attorney's fees."

210

SECTION 8.

211 Said title is further amended in Code Section 44-3-225, relating to assessment of expenses,
 212 exemption from liability, and liability for unpaid assessments, by revising subsection (c) as
 213 follows:

214 "(c) Unless otherwise provided in the instrument and except as provided in subsection (d)
 215 of this Code section, the grantee in a conveyance of a lot shall be jointly and severally
 216 liable with the grantor thereof for all unpaid assessments against the latter up to the time
 217 of the conveyance without prejudice to the grantee's right to recover from the grantor the
 218 amounts paid by the grantee; provided, however, that, if the grantor or grantee shall request
 219 a statement from the association as provided in subsection ~~(d)~~(e) of Code Section 44-3-232,

220 such grantee and his or her successors, successors-in-title, and assigns shall not be liable
 221 for nor shall the property owners' association lot conveyed be subject to a lien for any
 222 unpaid assessments against such grantor in excess of any amount set forth in the statement."

223 **SECTION 9.**

224 Said title is further amended by revising Code Section 44-3-232, relating to assessments
 225 against lot owners as constituting lien in favor of association, additional charges against lot
 226 owners, procedure for foreclosing lien, and obligation to provide statement of amounts due,
 227 as follows:

228 "44-3-232.

229 (a) All sums lawfully assessed by the association against any lot owner or property owners'
 230 association lot, whether for the share of the common expenses pertaining to that lot, fines,
 231 or otherwise, and all reasonable charges made to any lot owner or lot for materials
 232 furnished or services rendered by the association at the owner's request to or on behalf of
 233 the lot owner or lot, shall, from the time the sums became due and payable, be the personal
 234 obligation of the lot owner and constitute a lien in favor of the association on the lot, which
 235 shall be unenforceable by foreclosure or power of sale against an owner occupied dwelling.
 236 ~~prior and superior to all other liens whatsoever except:~~

237 (1) ~~Liens for ad valorem taxes on the lot;~~

238 (2) ~~The lien of any first priority mortgage covering the lot and the lien of any mortgage~~
 239 ~~recorded prior to the recording of the declaration; or~~

240 (3) ~~The lien of any secondary purchase money mortgage covering the lot, provided that~~
 241 ~~neither the grantee nor any successor grantee on the mortgage is the seller of the lot.~~

242 (b) The recording of the declaration pursuant to this article shall constitute record notice
 243 of the existence of the lien, and no further recordation of any claim of lien for assessments
 244 shall be required.

245 ~~(b)(c)(1)~~ To the extent that the instrument provides, the personal obligation of the lot
246 owner and the lien for assessments shall also include:

247 ~~(1)(A)~~ A late or delinquency charge not in excess of the greater of \$10.00 or 10 percent
248 of the amount of each assessment or installment thereof not paid when due;

249 ~~(2)(B)~~ At a rate not in excess of 10 percent per annum, interest on each assessment or
250 installment thereof and any delinquency or late charge pertaining thereto from the date
251 the same was first due and payable; and

252 ~~(3)(C)~~ The costs of collection, including court costs, the expenses required for the
253 protection and preservation of the lot, and reasonable attorney's fees actually incurred;
254 and

255 ~~(4)~~ The fair rental value of the lot from the time of the institution of an action until the
256 sale of the lot at foreclosure or until judgment rendered in the action is otherwise
257 satisfied.

258 (2) Such assessments shall only be collectable as an unsecured debt. No lien created
259 pursuant to this Code section may be foreclosed or enforced by power of sale against an
260 owner occupied dwelling.

261 ~~(c)(d)~~ Not less than 30 days after notice is sent by certified mail or statutory overnight
262 delivery, return receipt requested, to the lot owner both at the address of the lot and at any
263 other address or addresses which the lot owner may have designated to the association in
264 writing, the lien may be foreclosed by the association by an action, judgment, and court
265 order for foreclosure in the same manner as other liens for the improvement of real
266 property, subject to superior liens or encumbrances, but any such court order for judicial
267 foreclosure shall not affect the rights of holders of superior liens or encumbrances to
268 exercise any rights or powers afforded to them under their security instruments. The notice
269 provided for in this subsection shall specify the amount of the assessments then due and
270 payable together with authorized late charges and the rate of interest accruing thereon. No
271 foreclosure action against a lien arising out of this subsection shall be permitted unless the

272 ~~amount of the lien is at least \$2,000.00. Unless prohibited by the instrument, the~~
273 ~~association shall have the power to bid on the lot at any foreclosure sale and to acquire,~~
274 ~~hold, lease, encumber, and convey the same. The lien for assessments shall lapse and be~~
275 ~~of no further effect, as to assessments or installments thereof, together with late charges~~
276 ~~and interest applicable thereto, four years after the assessment or installment first became~~
277 ~~due and payable. Any provision of this article authorizing foreclosure of a lien created~~
278 ~~pursuant to this Code section shall be void.~~

279 ~~(d)~~(e) Any lot owner, mortgagee of a lot, person having executed a contract for the
280 purchase of a lot, or lender considering the loan of funds to be secured by a lot shall be
281 entitled upon request to a statement from the association or its management agent setting
282 forth the amount of assessments past due and unpaid together with late charges and interest
283 applicable thereto against that lot. Such request shall be in writing, shall be delivered to
284 the registered office of the association, and shall state an address to which the statement is
285 to be directed. Failure on the part of the association, within five business days from the
286 receipt of such request, to mail or otherwise furnish such statement regarding amounts due
287 and payable at the expiration of such five-day period with respect to the lot involved to
288 such address as may be specified in the written request therefor shall cause the lien for
289 assessments created by this Code section to be extinguished and of no further force or
290 effect as to the title or interest acquired by the purchaser or lender, if any, as the case may
291 be, and their respective successors and assigns, in the transaction contemplated in
292 connection with such request. The information specified in such statement shall be binding
293 upon the association and upon every lot owner. Payment of a fee not exceeding \$10.00
294 may be required as a prerequisite to the issuance of such a statement if the instrument so
295 provides.

296 ~~(e)~~(f) Nothing in this Code section shall be construed to prohibit actions maintainable
297 pursuant to Code Section 44-3-223 to recover sums for which subsection (a) of this Code
298 section creates a lien."

299

SECTION 10.

300 Said title is further amended in Code Section 44-14-15, relating to fee for a future
301 conveyance and limited circumstances, by revising paragraph (3) of subsection (c) as
302 follows:

303 "(3) A property owners' association formed for the purposes of exercising the powers of
304 an association of property owners that has not been formed pursuant to or which has not
305 adopted the provisions of Article 6 of Chapter 3 of this title, the 'Georgia Property
306 Owners' Association Act,' provided that such association shall comply with subsection
307 ~~(d)~~(e) of Code Section 44-3-232;"

308

SECTION 11.

309 Said title is further amended in Part 1 of Article 7 of Chapter 14, relating to foreclosure in
310 general, by adding new Code sections to read as follows:

311 "44-14-166.

312 (a) Notwithstanding any other provision of law, no person or government entity shall
313 commence a foreclosure, a tax sale, a tax execution sale, a sale of a lien, or any other
314 involuntary forfeiture of an owner occupied dwelling based on nonpayment of nontax
315 service charges.

316 (b) A foreclosure or involuntary sale of an owner occupied dwelling may be commenced
317 for nonpayment of ad valorem or other taxes or default under a duly recorded purchase
318 money mortgage.

319 (c) A foreclosure or involuntary transfer of title made pursuant to subsection (a) of this
320 Code section shall be void and may be set aside upon petition by the owner.

321 44-14-167.

322 (a) Any lien by a property owners' association or condominium association for nontax
323 service charges, including but not limited to assessments and fines, shall not be enforceable
324 by foreclosure or power of sale against an owner occupied dwelling.

325 (b) Any lien by a property owners' association or condominium association for nontax
326 service charges on an owner occupied dwelling shall be considered a personal unsecured
327 obligation of the owner, collectable only by an action for a money judgment.

328 (c) Any contractual or recorded provision authorizing foreclosure or power of sale for
329 nontax service charges shall be deemed void and unenforceable against public policy.

330 (d) Nothing in this Code section shall impair the right of a property owners' association
331 or condominium association to:

332 (1) Suspend the use of common area amenities for delinquency;

333 (2) Levy reasonable late charges; and

334 (3) Record a notice of delinquency for informational purposes.

335 44-14-168.

336 (a) Property owners harmed by a violation of Code Section 36-80-32, 44-14-166,
337 44-14-167, or 48-3-29, may bring a civil action for:

338 (1) Declaratory and injunctive relief setting aside any sale or transfer;

339 (2) Actual damages;

340 (3) Statutory damages of not more than \$5,000.00 per violation; and

341 (4) Reasonable attorney's fees and costs.

342 (b) The Attorney General may bring a civil action seeking a penalty of not more than
343 \$10,000.00 per violation.

344 (c) Any deed or transfer recorded in violation of Code Section 36-80-32, 44-14-166,
345 44-14-167, or 48-3-29 shall not provide bonafide purchaser protection and such
346 instruments shall be considered void."

347 **SECTION 12.**

348 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
349 transportation, is amended by adding a new Code section to read as follows:

350 "46-1-7.

351 (a) Utilities and local authorities may pursue collections for unpaid service charges by civil
352 action but shall not obtain or enforce a lien resulting in foreclosure or tax sale of an owner
353 occupied dwelling.

354 (b) Service disconnections of essential water and sewage services shall comply with due
355 process, notice, medical hardship, and payment plan protections adopted by the
356 commission."

357 **SECTION 13.**

358 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
359 amended in Article 1 of Chapter 3, relating to general provisions relative to tax executions,
360 by adding a new Code section to read as follows:

361 "48-3-29.

362 No tax commissioner, tax collector, or other official shall issue a tax execution or conduct
363 a sale of an owner occupied dwelling based solely or in part on nontax service charge."

364 **SECTION 14.**

365 This Act shall become effective on July 1, 2026, and shall to apply to all foreclosure actions
366 filed on or after such date.

367 **SECTION 15.**

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