

House Bill 1219

By: Representatives Lewis-Ward of the 115th, Powell of the 33rd, Hugley of the 141st, Greene of the 154th, Mitchell of the 88th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated,
2 relating to property owners' associations, so as to require new property owners' associations
3 to be subject to the Georgia Property Owners' Association Act; to require property owners'
4 associations to vote on whether to be subject to such acts, respectively; to provide for
5 termination of property owners' associations; to provide for procedures for a vote to
6 terminate a property owners' association; to provide for court approval of termination plans;
7 to provide for procedures to terminate a property owners' association; to provide for a
8 termination trustee; to provide for powers and duties; to provide for penalties; to provide for
9 related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 6 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to
13 property owners' associations, is amended by revising subsection (a) of and adding a new
14 subsection to Code Section 44-3-235, relating to applicability of article, to read as follows:
15 "(a) This article shall apply to all property which is submitted to this article on or before
16 June 30, 2026. This article shall apply to all associations created on or after July 1, 2026,

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17 regardless of whether the property is submitted to this article. This article shall also apply
18 to any association of owners subject to a recorded declaration of covenants upon property,
19 which covenants are administered by an owners' association in which membership is
20 mandatory for all owners of lots in the development, which declaration is amended in
21 accordance with Code Section 44-3-222 in order to submit the property owners' association
22 to this article; provided, however, that any amendment ~~must~~ shall conform the instrument
23 creating the property owners' association to this article, and the property owners'
24 development shall thereafter be deemed to be submitted to this article."

25 "(d) By its next annual meeting or meeting required to be held by the instrument, any
26 association in existence prior to July 1, 2026, shall hold a meeting of the members to vote
27 on whether to amend the instrument to specify if this article applies to the association. The
28 association shall obtain the affirmative approval of a majority of the voting interests, or the
29 approval of the required number of members specified in the instrument if specified in such
30 instruments, at a meeting of the membership at which a quorum has been attained in order
31 to amend the instrument pursuant to this paragraph."

32 SECTION 2.

33 Said article is further amended by adding a new Code section to read as follows:

34 "44-3-236.

35 (a) An association may be terminated by a plan of termination that meets the requirements
36 of this Code section and is approved by the superior court in which the association is
37 located.

38 (b)(1) A lot owner intending to terminate a property owners' association in which he or
39 she is a member shall provide the board a petition for a plan of termination that is signed
40 by at least 20 percent of the voting members of the association. The board shall hold a
41 meeting of the members within 60 days after receipt of the signed petition. A voting
42 interest of the association shall not be suspended for any reason for the purpose of signing

43 the petition or determining whether the 20 percent threshold for such petition has been
44 met.

45 (2) Notice of such meeting shall include:

46 (A) A copy of the proposed plan of termination;

47 (B) An explanation of how the common areas and the assets of the association will be
48 managed or transferred; and

49 (C) The manner in which the voting will take place.

50 (3) If the board fails to call a meeting within the time period specified by paragraph (1)
51 of this subsection, any member may petition the superior court in which the association
52 is located for an order compelling the association to comply with this subsection.

53 (c)(1) When considering a plan of termination, the total voting interests of the
54 association shall include all voting interests. A voting interest of the association shall not
55 be suspended for any reason when voting on termination.

56 (2) A lot owner desiring to reject a plan of termination shall do so either by voting in
57 person or by proxy to reject the plan or by delivering a written objection to the
58 association before or at such meeting.

59 (3) If the members reject a plan of termination, no plan of termination shall be
60 considered for at least 18 months after the date of the rejection.

61 (d) If a plan of termination is approved, the board shall submit such plan to the superior
62 court in which the association is located. The court shall examine the plan of termination
63 and determine its procedural sufficiency. Within 45 days of receipt of the plan of
64 termination, the court shall enter an order accepting the plan of termination or denying the
65 plan of termination for procedural efficiencies. If the court determines that the plan of
66 termination meets the requirements of this Code section, the court shall authorize the
67 termination and the termination may proceed.

68 (e)(1) A plan of termination and the consents or joinders of lot owners shall be recorded
69 in the public records of each county in which any portion of the association is located.
70 Such plan is only effective on recordation or at a later date specified in the plan.

71 (2) Upon recordation or the date specified in the plan of termination, there shall be
72 appointed a termination trustee. The board shall be appointed as the termination trustee
73 unless another person is appointed in the plan of termination. If the board is not the
74 termination trustee, the person appointed in the plan of termination shall have the same
75 powers and duties as the board as listed in subsection (f) of this Code section. If the
76 board is unable, unwilling, or fails to act as termination trustee, a lot owner may petition
77 the superior court of the county in which the association is located to appoint a
78 termination trustee.

79 (f) The approval of a plan of termination does not terminate the board, which shall
80 continue in existence with all powers and duties such board had before approval of the
81 plan. Notwithstanding any provision to the contrary in the declaration or bylaws, after
82 approval of a plan of termination, the board shall:

83 (1) Employ directors, agents, and other persons to liquidate or conclude the board's
84 affairs;

85 (2) Conduct the affairs of the association as necessary for the liquidation or termination;

86 (3) Carry out contracts and collect, pay, and settle debts and claims for and against the
87 association;

88 (4) Defend suits brought against the association;

89 (5) Sue in the name of the association for all sums due or owed to the association or to
90 recover any association property;

91 (6) Perform any act necessary to maintain, repair, or demolish unsafe or uninhabitable
92 improvements or other association property;

- 93 (7) Sell at public or private auction or exchange, convey, or otherwise dispose of assets
94 of the association for an amount deemed to be in the best interests of the association and
95 execute bills of sale and deeds of conveyance in the name of the association;
- 96 (8) Collect and receive rents, profits, accounts receivable, income, maintenance fees,
97 special assessments, or insurance proceeds for the association; and
- 98 (9) Contract and do anything in the name of the association which is proper or
99 convenient to terminate the affairs of the association.
- 100 (g)(1) All remaining association funds after the payment of any lawful debts must be
101 distributed equally among members or as otherwise provided in the plan of termination.
- 102 (2) A member shall not be held personally liable for unpaid obligations beyond the
103 member's regular assessments or special assessments that existed before the vote of
104 termination.
- 105 (h) If the board fails to hold the meeting pursuant to subsection (b) of this Code section,
106 obstructs the termination process, or refuses to record the decision of the members to
107 terminate, a member may file a petition with the superior court in which the association is
108 located for a court order to:
- 109 (1) Verify compliance with the procedural requirements of this Code section;
110 (2) Order the Secretary of State to dissolve the association; or
111 (3) Appoint a termination trustee to manage the distribution of assets and resolution of
112 liabilities.
- 113 (i)(1) An officer or director of the association shall not:
- 114 (A) Fail to call or notice a meeting after the receipt of a valid petition for a plan of
115 termination;
- 116 (B) Spend association funds to campaign for or against a plan of termination; or
117 (C) Conceal any financial or property records relevant to a plan of termination.
- 118 (2) Any person in violation of paragraph (1) of this subsection shall be subject to:
- 119 (A) A civil penalty of up to \$5,000.00 per violation;

120 (B) Removal from office by court order; or

121 (C) Personal liability for legal fees incurred by petitioners."

122 **SECTION 3.**

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