

Senate Bill 406

By: Senators Brass of the 6th, James of the 28th, Kirkpatrick of the 32nd, Dixon of the 45th,
Sims of the 12th and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to require the registration of owners' associations; to provide for an
3 exception; to provide for renewals and amendments; to provide for fees; to provide for
4 inspection, maintenance, and retention of records; to provide for records maintenance; to
5 provide for denial, suspension, and revocation of records; to provide for notices, orders, and
6 complaints; to provide for hearings; to provide for a stay of collections of fines or fees; to
7 provide for binding arbitration; to provide for reports; to provide for appeals; to provide for
8 rights of owners' association owners; to provide for priority of application of payments by
9 owners to owners' associations; to provide for rules and regulations; to provide for
10 definitions; to provide for authorization of liens and use of assessments; to provide for
11 written notice of certain sums; to amend Title 44 of the Official Code of Georgia Annotated,
12 relating to property, so as to provide for property owners' associations to submit to Article
13 6 of Chapter 3, relating to owners' associations, after the creation of such associations; to
14 provide for voting procedures; to provide for applicability of such article; to provide for
15 recordation of a vote to submit to such article; to provide for notice; to provide for records
16 of dispossessory proceedings; to provide for a time certain to pay outstanding sums; to
17 provide for an itemized list of attorney's fees claimed; to provide for an order finding

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18 reasonableness; to provide for related matters; to provide for a short title; to provide for
19 effective dates and applicability; to repeal conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **SECTION 1.**

22 This Act shall be known and may be cited as the "Georgia Property Owners' Bill of Rights
23 Act."

24 **SECTION 2.**

25 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
26 is amended by adding a new chapter to read as follows:

27 "CHAPTER 17A

28 43-17A-1.

29 As used in this chapter, the term:

30 (1) 'Accelerated assessment' means any regular assessment that would otherwise not be
31 due until some future date but has been accelerated and made due and payable prior to
32 such future date.

33 (2) 'Assessment' means and includes regular assessments, special assessments, and
34 specific assessments.

35 (3) 'Governing documents' means an owners' association's declaration, bylaws, articles
36 of incorporation, and any rules and regulations established by its board of directors.

37 (4) 'Nonregistered owners' association' means an owners' association that elects not to
38 register with the Secretary of State pursuant to subparagraph (a)(2)(B) of Code
39 Section 43-17A-2.

40 (5) 'Owner' means the record owner or owners of fee simple title to a single lot, unit, or
41 other individually owned property located in an owners' development, excluding,
42 however, any person holding such interest merely as security for the performance or
43 satisfaction of any obligation.

44 (6) 'Owners' association' means a nongovernmental association of participating owners
45 of residential property in a delineated geographic area in which recorded covenants apply
46 to such delineated geographic area, comprising a neighborhood, condominium
47 development, common interest community, as such term is defined in Code
48 Section 44-16-2, or group of homeowners or property owners, including, but not limited
49 to, associations formed pursuant to Articles 3 and 6 of Chapter 3 of Title 44 and;
50 provided, however, that such term shall not include nonregistered owners' associations.

51 (7) 'Owners' development' means real property which is located within this state, is
52 subject to governing documents, and contains lots, and which may contain common
53 areas.

54 (8) 'Regular assessments' or 'dues' means assessments imposed on owners on a regular
55 or recurring basis for the purpose of funding the owners' association's regular operating
56 budget for costs which may include, but shall not be limited to, common area
57 maintenance and routine repairs, utilities, landscaping, and reserve fund contributions.
58 Such term shall not include special assessments or specific assessments.

59 (9) 'Special assessments' means an assessment imposed on owners for costs which are
60 not included in the owners' association's regular operating budget, and which may
61 include, but shall not be limited to, legal costs and common area nonroutine or emergency
62 repairs, renovations, and other capital projects. Such term shall not include regular
63 assessments or specific assessments.

64 (10) 'Specific assessments' means an assessment imposed on an owner for:

- 65 (A) Costs incurred by the owners' association to repair or remediate damage caused by
66 such owner to the owners' association, which may include, but shall not be limited to,
67 damage to common areas; or
68 (B) Fees or fines for nonpayment, insufficient payment, or untimely payment of any
69 assessment or for violation of a covenant of the owners' association.

70 43-17A-2.

71 (a)(1) No person shall operate an owners' association in this state unless such person is
72 registered under this chapter as an owners' association.

73 (2)(A) Subject to subparagraph (B) of this paragraph, no owners' association or its
74 agent shall collect fines or fees against any owner, or file or record liens or initiate
75 foreclosure proceedings against any lot unless such owners' association is registered
76 pursuant to this Code section.

77 (B)(i) An entity that would otherwise constitute an owners' association may by
78 written notice to the Secretary of State elect not to register under this chapter as an
79 owners' association or otherwise to comply with this chapter and thereby shall be
80 deemed a nonregistered owners' association.

81 (ii) No nonregistered owners' association or its agent shall assess or collect fines or
82 fees or accelerated assessments against any owner.

83 (3) Each owners' association shall file with the Secretary of State a copy of the governing
84 documents of the owners' association with a registration statement on a form as
85 prescribed by the Secretary of State that shall be signed by the applicant, who shall be an
86 authorized officer or representative of the owners' association. Such form shall, at a
87 minimum, require:

88 (A) The name, address, and officers of the owners' association; and

89 (B) That each registration statement include a financial statement of the owners'
90 association dated no more than one year prior to filing.

- 91 (b) Upon the Secretary of State's determination of an owners' association's compliance
92 with subsection (a) of this Code section and unless the Secretary of State finds grounds for
93 denial pursuant to Code Section 43-17A-3, the Secretary of State shall register such
94 owners' association. The owners' association shall be authorized to operate immediately
95 upon the filing of the registration statement under paragraph (3) of subsection (a) of this
96 Code section, unless and until the Secretary of State finds grounds for denial pursuant to
97 Code Section 43-17A-3. The date of such filing shall constitute the effective date of the
98 registration statement. The Secretary of State shall immediately notify the owners'
99 association of such registration.
- 100 (c) Each registration statement issued pursuant to this Code section shall expire on
101 December 31 of each year and each owners' association shall annually submit to the
102 Secretary of State by such date a renewal application containing the information required
103 for a registration statement in subsection (a) of this Code section.
- 104 (d) In the event of a change in name, address, officers, or other change which materially
105 affects the business and control of an owners' association, the owners' association shall
106 within 30 days file an amended registration statement with the Secretary of State.
- 107 (e) The fee for filing of an owners' association's initial registration statement and each
108 annual renewal shall be \$100.00.
- 109 (f) Records relating to an owners' association's governing documents, finances,
110 assessments, fines, fees, liens, and foreclosures shall be subject to such reasonable
111 examinations by representatives of the Secretary of State as the Secretary of State may
112 deem in the public interest or for the protection of the public.
- 113 (g) An owners' association shall maintain for not less than ten years at an office located
114 in this state or, if it has no office in this state, its principal office all records, including
115 electronic records and records in any other format, relating to any assessments, fines, fees,
116 liens, and foreclosures. The owners' association or its agent shall notify the Secretary of

117 State of the address of the office at which such records are kept, if different from the
118 address provided in response to subparagraph (a)(3)(A) of this Code section.

119 (h) The Secretary of State in the administration of this chapter shall comply with the
120 record retention provisions of Article 5 of Chapter 18 of Title 50, relating to state records
121 management.

122 43-17A-3.

123 (a) The Secretary of State, by order, may deny, suspend, or revoke a registration statement
124 of an owners' association; may limit the fines or fees that an owners' association may
125 collect or perform in this state; or bar a person who is an officer, director, trustee, or
126 executive personnel employee, or board member of an owners' association if the Secretary
127 of State finds that such action is in the public interest and that the officer, director, trustee,
128 or executive personnel employee, or board member has:

129 (1) Filed an application for a registration statement with the Secretary of State which, as
130 of its effective date, or any date after filing in the case of an order denying effectiveness,
131 was incomplete in any material respect or contained a statement that was, in light of the
132 circumstances under which it was made, false or misleading with respect to a material
133 fact;

134 (2) Willfully violated or failed to comply with this chapter or a rule promulgated by the
135 Secretary of State under this chapter;

136 (3) Failed to pay the proper filing fee within 30 days after notification from the Secretary
137 of State of a deficiency, provided that the Secretary of State may provide for the
138 reinstatement of the registration or the suspension of a fine or penalty at such time as the
139 deficiency is corrected; or

140 (4) Failed to comply with a subpoena or order issued by the Secretary of State.

141 (b) The Secretary of State shall not begin a proceeding based solely on a fact or transaction
142 known to the Secretary of State on or before the effective date of the registration statement
143 unless the proceeding is begun within 90 days after such effective date.

144 (c) If the Secretary of State finds that an applicant or registered person is no longer in
145 existence; has ceased to do business as an owners' association or its agent; is adjudicated
146 mentally incompetent or subjected to the control of a committee, conservator, or guardian;
147 or cannot be located after reasonable search, the Secretary of State, by order, may deny the
148 application or revoke the registration statement.

149 (d) Any order issued by the Secretary of State pursuant to this Code section shall state
150 specifically the grounds for its issuance and a copy of such order shall be mailed to the
151 owners' association at its registered address.

152 (e) The Secretary of State may delegate any of his or her powers and duties under this
153 chapter as he or she desires to a division director in his or her office. Such division
154 director, when duly appointed, shall be the ultimate decision maker in all contested case
155 hearings held pursuant to Code Section 43-17-16 and Chapter 13 of Title 50, the 'Georgia
156 Administrative Procedure Act.'

157 43-17A-4.

158 (a)(1) When the Secretary of State has issued any order denying, suspending, or revoking
159 a registration statement of an owners' association, limiting the fines or fees that an
160 owners' association may collect or perform in this state, or barring a person who is an
161 officer, director, trustee, or executive personnel employee, or board member of an
162 owners' association under Code Section 43-17A-3, he or she shall promptly send to the
163 owners' association a notice of opportunity for hearing.

164 (2) Before entering an order refusing to register any person under Code
165 Section 43-17A-3 and after the entering of any order for revocation or suspension, the
166 Secretary of State shall promptly send to such person a notice of opportunity for hearing.

167 (3) Any hearing conducted pursuant to this Code section shall be overseen by the
168 Secretary of State or a person designated by the Secretary of State.

169 (b) Notices of opportunity for hearing shall be served by investigators appointed by the
170 Secretary of State or sent by registered or certified mail or statutory overnight delivery,
171 return receipt requested, to the addressee's business mailing address or residential address
172 as shown on information filed with the Secretary of State or directed for service to the
173 sheriff of the county where such person resides or is found. Such notice shall state:

174 (1) The order which has been issued or which is proposed to be issued;

175 (2) The grounds for issuing such order or proposed order; and

176 (3) That the person to whom such notice is sent will be afforded a hearing upon request
177 if such request is made within ten days after receipt of the notice.

178 (c) When a person requests a hearing after receipt of the notice provided for in
179 subsection (b) of this Code section, a date, time, and place for such hearing shall be
180 immediately set and the person requesting such hearing shall be notified of such hearing.
181 Except as provided in subsection (b) of Code Section 43-17A-3, the date set for such
182 hearing shall be within 30 days, but not earlier than five days after the request for hearing
183 has been made, unless otherwise agreed to by the person requesting the hearing.

184 (d) For the purpose of conducting any hearing as provided in this Code section, the
185 Secretary of State shall have the power to administer oaths, to call any party to testify under
186 oath at such hearing, to require the attendance of witnesses and the production of books,
187 records, and papers, and to interview and take written statements of witnesses; and for such
188 purposes the Secretary of State is authorized to issue a subpoena for any witness or a
189 subpoena for production of documentary evidence to compel the production of any books,
190 records, or papers. A subpoena may be served by registered or certified mail or statutory
191 overnight delivery, return receipt requested, to the addressee's business mailing address or
192 residential address as shown on information filed with the Secretary of State or by
193 investigators appointed by the Secretary of State or shall be directed for service to the

194 sheriff of the county where such witness resides or is found or where the person in custody
195 of any books, records, or papers resides or is found. The fees and mileage of the sheriff,
196 witness, or person shall be paid from the funds in the state treasury for the use of the
197 Secretary of State in the same manner that other expenses of the Secretary of State are paid.

198 (e)(1) At any hearing conducted under this Code section, a party or any affected person
199 may appear in their own behalf or may be represented by an agent. Upon written request
200 of both parties, the hearing shall be held virtually.

201 (2) A stenographic record of the testimony and other evidence submitted shall be taken
202 unless the Secretary of State and the person requesting the hearing shall agree that such
203 a stenographic record of the testimony shall not be taken.

204 (3) The Secretary of State shall determine the admissibility of such evidence, but a party
205 may at any time make objection to any such determination; provided, however, that, if
206 the Secretary of State refuses to admit evidence, the party offering such evidence shall
207 make a proffer thereof and such proffer shall be made a part of the record of the hearing.

208 (f)(1) In the case of any hearing conducted under this Code section, the Secretary of
209 State may conduct the hearing or may appoint a referee to conduct such hearing. The
210 appointed referee shall have the same powers and authority in conducting the hearing as
211 are granted in this Code section to the Secretary of State.

212 (2) In any hearing conducted by a referee, the referee shall submit to the Secretary of
213 State a written report that includes the transcript of the testimony and evidence, if such
214 transcript is requested by the Secretary of State; the findings of fact and conclusions of
215 law; and any recommendations of action to be taken by the Secretary of State. Within
216 30 days of the time of submission of such report to the Secretary of State, a copy of the
217 report shall be served upon the person who requested the hearing or their attorney or
218 other representative of record by registered or certified mail or statutory overnight
219 delivery, return receipt requested. That person or their attorney, within 30 days of service
220 of the copy of such written report and recommendations, may file with the Secretary of

221 State written objections to the report which shall be considered by the Secretary of State
222 before a final order is entered.

223 (3) No recommendation of the referee shall be approved, modified, or disapproved by
224 the Secretary of State until after 30 days following the service of such report as provided
225 in this subsection.

226 (4) The recommendations of the referee may be approved, modified, or disapproved by
227 the Secretary of State. The Secretary of State may direct the referee to take additional
228 testimony or to permit the introduction of further documentary evidence.

229 (5) In any hearing conducted by a referee, a transcript of testimony, evidence, and
230 objections, if any, shall have the same force and effect as if such hearing or hearings had
231 been conducted by the Secretary of State.

232 (6) All recommendations of the referee shall be advisory only and shall not have the
233 effect of an order of the Secretary of State.

234 (g) If the Secretary of State does not receive a request for a hearing as provided in
235 subsection (b) of this Code section, he or she may permit an order previously entered to
236 remain in effect or may enter a proposed order. If a hearing is requested and conducted as
237 provided for in this Code section, the Secretary of State shall issue a written order which
238 shall set forth his or her findings with respect to the matters involved.

239 (h) All orders entered pursuant to Code Section 43-17A-3 shall be entered pursuant to this
240 Code section, except when:

241 (1) The Secretary of State deems that the public health, safety, or welfare imperatively
242 requires emergency action and incorporates a finding to that effect in the order, in which
243 case the order may be effective immediately pending proceedings, which proceedings
244 shall be promptly instituted and determined; or

245 (2) The order is expressly required by a court order, to be made without the right to a
246 hearing or continuance of any type.

247 (i) Unless the owners' association prevails in a hearing conducted under this Code section,
248 it shall be required to pay an administrative service fee of \$100.00 to the Secretary of State
249 by order of the Secretary of State.

250 43-17A-5.

251 (a)(1) Any person residing in an owners' development claiming that he or she has been
252 damaged by such owners' association's action or inaction may file a complaint with the
253 Secretary of State, who shall appoint a hearing officer to conduct the proceedings. Such
254 complaint shall be a written statement of the facts constituting the complaint and shall be
255 made within 180 days of the alleged action or inaction.

256 (2) Upon the filing of such complaint under this subsection, the hearing officer shall
257 investigate the statement of facts made and in his or her discretion order a hearing before
258 the hearing officer, giving the complainant and the respondent notice of such filing and
259 the time and place of such hearing. Immediately upon the conclusion of the hearing, the
260 hearing officer shall report his or her findings and render conclusions upon the matter to
261 the complainant and respondent in each case, who shall have 15 days thereafter in which
262 to make effective and satisfy the hearing officer's conclusions.

263 (3) If such settlement is not effected within the time frames set forth in paragraph (2) of
264 this subsection, the hearing officer, the complainant, or the respondent may bring an
265 action to enforce the claim.

266 (b) It shall be unlawful in connection with any hearing under this Code section for any
267 person to knowingly make or cause to be made to the Secretary of State, the hearing
268 officer, or anyone acting on their behalf any false or misleading written or oral statement
269 of material fact or any statement which omits a material fact.

270 (c) The filing of a complaint under this subsection shall act as an automatic stay
271 prohibiting the respondent from collecting or attempting to collect from the complainant
272 any fines or fees that are the subject of the complaint or related to the subject of the

273 complaint. Such automatic stay shall expire upon the rendering of the hearing officer's
274 conclusions following the hearing; provided, however, that the hearing officer shall be
275 authorized to extend such stay for 15 days after the rendering of his or her conclusions
276 following the hearing.

277 (d) The nonprevailing party in a hearing conducted under this Code section shall be
278 required to pay an administrative service fee of \$100.00 to the Secretary of State by order
279 of the Secretary of State.

280 43-17A-6.

281 (a)(1) An appeal may be taken from any order of the Secretary of State resulting from
282 a hearing held in accordance with Code Section 43-17A-4 or any decision of a hearing
283 officer resulting from a hearing held in accordance with Code Section 43-17A-5 by any
284 person adversely affected by such order or decision to:

285 (A) Where the amount demanded or the value of the property claimed does not exceed
286 the amount provided for in paragraph (5) of subsection (a) of Code Section 15-10-2, the
287 magistrate court of the county in which the largest portion of the owners' development
288 is located; or

289 (B) In all other cases, the superior court of the county in which the largest portion of
290 the owners' development is located.

291 (2) Appeals pursuant to paragraph (1) of this subsection shall be accomplished by
292 -serving the Secretary of State, within 20 days after the date of entry of such order, a copy
293 of the petition for de novo review filed in the appropriate court and signed by the
294 petitioner, stating:

295 (A) The order from which the appeal is taken;

296 (B) The grounds upon which a reversal or modification of the order is sought; and

297 (C) A demand for a certified transcript of the record of the order.

298 (b) Upon receipt of the petition for review, the Secretary of State shall, within ten days
299 thereafter, make, certify, and deliver to the appropriate court a transcript of the record of
300 the order from which the appeal is taken, provided that the appellant shall pay the
301 reasonable costs of such transcript. Such petition and such transcript shall constitute
302 appellant's complaint which shall be entered on the trial calendar of the court.

303 (c) If the order of the Secretary of State is reversed, the reviewing court shall by its
304 mandate specifically direct the Secretary of State as to any further action to be taken by the
305 Secretary of State in the matter, including the making and entering of an order or orders in
306 connection with such reversal and the conditions, limitations, or restrictions to be included
307 in such order or orders.

308 (d) A decision of a magistrate court pursuant to this Code section may be appealed by
309 petition for review pursuant to Chapter 3 of Title 5.

310 (e) The nonprevailing party in an appeal conducted under this Code section shall be
311 required to pay the court costs of the prevailing party, if any, by order of the court.

312 43-17A-7.

313 Owners shall have the right to:

314 (1) Inspect and obtain copies of owners' association records, accounting records, and
315 other records of the owners' association upon written demand and in compliance with the
316 laws of this state and the governing documents. Such accounting records shall be the
317 finalized balance sheet, budget, profit and loss statements, and bank statements for the
318 past three years;

319 (2) Upon written demand to the owners' association, a copy of the owners' association
320 certificate of insurance for all such insurance obtained by the owners' association for the
321 benefit of the owner and that may apply to a potential claim or submitted claim;

322 (3) Notice of meetings of members in a fair and reasonable manner consistent with the
323 governing documents and the laws of this state;

- 324 (4) Attend meetings of the members of the owners' association, which shall be called and
325 held by the board of directors at least annually;
- 326 (5) Access to common areas, amenities, and common elements subject to the terms
327 contained in the governing documents;
- 328 (6) Ingress, egress, and access to their individually owned property;
- 329 (7) Statutory notice and process requirements under the laws of this state should an
330 owners' association proceed with foreclosure action against an individually owned
331 property;
- 332 (8) Amend governing documents with the approval thresholds required by the laws of
333 this state and the governing documents;
- 334 (9) Expect, unless otherwise provided by the laws of this state, that a director of an
335 owners' association board of directors shall perform his or her duties in good faith and
336 with the degree of care an ordinary, prudent person in a like position would exercise
337 under similar circumstances;
- 338 (10) Expect directors to disclose to the other directors on the owners' association's board
339 of directors any conflicting interest with respect to a transaction;
- 340 (11) Be free from governing documents that interfere with the freedom of residents to
341 determine the composition of their household, except that owners' associations shall have
342 the power, subject to the laws of this state and federal law, to require that all occupants
343 of a household be members of a single housekeeping unit, and to limit the total number
344 of occupants permitted in each individually owned property and its fair share use of the
345 common facilities, including parking; and
- 346 (12) Challenge discriminatory practices by an owners' association as authorized by the
347 laws of this state or federal law.

348 43-17A-8.

349 (a) All funds remitted by an owner to an owners' association shall be applied by such
350 owners' association to the following expenses by ranking of highest to lowest priority as
351 follows:

352 (1) Regular assessments or dues until current;

353 (2) Special assessments until current;

354 (3) Specific assessments until current; and

355 (4) Other fees and fines.

356 (b) No owners' association shall:

357 (1) Refuse to accept payment from an owner in any amount for any assessment; or

358 (2) Assess or collect accelerated assessments against any owner.

359 43-17A-9.

360 The Secretary of State shall adopt such policies, rules, regulations, and procedures as are
361 necessary to implement this chapter."

362 **SECTION 3.**

363 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended in
364 Article 6 of Chapter 3, relating to owners' associations, by revising Code Section 44-3-222,
365 relating to creation of property owners' development and affirmative election to be governed
366 by article, as follows:

367 "44-3-222.

368 A property owners' development shall come into existence upon ~~either~~ the recordation of
369 the declaration pursuant to this article, ~~or~~ the amendment of a recorded declaration in
370 accordance with paragraph (2) of subsection (a) of Code Section 44-3-235, or the
371 recordation of an instrument pursuant to paragraph (3) of subsection (a) of Code
372 Section 44-3-235. Any declaration or amendment intending to bring or avail a

373 development of the benefits and provisions of this article shall state an affirmative election
 374 to be so governed. Any original declaration shall be duly executed by or on behalf of all
 375 of the owners of the submitted property. Any such amendment to an existing declaration
 376 shall be executed in accordance with the terms of the recorded declaration being amended
 377 thereby. Any such instrument specified in paragraph (3) of subsection (a) of Code
 378 Section 44-3-235 shall be executed pursuant to such Code section."

379 **SECTION 4.**

380 Said article is further amended in Code Section 44-3-226, relating to amendments of
 381 instrument and presumption of validity in court action, by revising subsection (b) as follows:

382 "(b)(1) No amendment of an instrument shall require approval of lot owners to which
 383 more than 80 percent of the association vote pertains and the mortgagees holding 80
 384 percent of the voting interest of mortgaged lots; any property owners' association which
 385 exists prior to July 1, 1994, and amends its documents to avail itself of the provisions of
 386 this article, or otherwise submits to this article pursuant to Code Section 44-3-235, shall
 387 be deemed to have amended the association instrument to conform to this such limitation.
 388 ~~This subsection shall not be deemed to eliminate or modify any right of the declarant~~
 389 ~~provided for in the instrument to approve amendments to the instrument so long as the~~
 390 ~~declarant owns any lot primarily for the purpose of sale and, furthermore, this Code~~
 391 ~~section shall not be construed as modifying or altering the rights of a mortgagee set forth~~
 392 ~~elsewhere in this article.~~

393 (2) Provisions of any declaration of an association that submits to this article pursuant
 394 to paragraph (3) of subsection (a) of Code Section 44-3-235 that require a majority in
 395 excess of 80 percent of the association vote to amend shall not be affected or modified
 396 by this Code section if, by the first anniversary of the date of submission, the association
 397 and those mortgagees permitted to vote on amendments vote to retain the requirements

398 by a majority and, if no such vote occurs, those provisions requiring more than 80 percent
399 of the voting interest shall be deemed to only require 80 percent of the voting interest.
400 (3) This subsection shall not be deemed to eliminate or modify any right of a declarant
401 provided for in the instrument to approve amendments to such instrument so long as the
402 declarant owns any lot primarily for the purpose of sale and, furthermore, this Code
403 section shall not be construed as modifying or altering the rights of a mortgagee set forth
404 elsewhere in this article."

405 **SECTION 5.**

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

410 "(c) Not less than ~~30~~ 60 days after notice is sent by certified mail or statutory overnight
411 delivery, return receipt requested, to the lot owner both at the address of the lot and at any
412 other address or addresses which the lot owner may have designated to the association in
413 writing, the lien may be foreclosed by the association by an action, judgment, and court
414 order for foreclosure in the same manner as other liens for the improvement of real
415 property, subject to superior liens or encumbrances, but any such court order for judicial
416 foreclosure shall not affect the rights of holders of superior liens or encumbrances to
417 exercise any rights or powers afforded to them under their security instruments. The notice
418 provided for in this subsection shall specify the amount of the assessments then due and
419 payable together with authorized late charges and the rate of interest accruing thereon and
420 shall state that payment of such amount prior to the sixtieth day following receipt of the
421 notice will eliminate the right of foreclosure. No foreclosure action against a lien arising
422 out of this subsection shall be permitted unless the amount of the lien is at least \$2,000.00
423 the lesser of \$4,000.00 or an amount equal to 12 months of regular assessments, as such

424 term is defined in Code Section 43-17A-1, in arrears but not less than \$2,000.00; provided,
 425 however, that no specific assessment, as such term is defined in Code Section 43-17A-1,
 426 or other fine or fee shall be included in the calculation of the amount of such lien. Unless
 427 prohibited by the instrument, the association shall have the power to bid up to the amount
 428 of the lien on the lot at any foreclosure sale and to acquire, hold, lease, encumber, and
 429 convey the same. The lien for assessments shall lapse and be of no further effect, as to
 430 assessments or installments thereof, together with late charges and interest applicable
 431 thereto, ~~four~~ six years after the assessment or installment first became due and payable."

432 **SECTION 6.**

433 Said article is further amended in Code Section 44-3-235, relating to applicability of article,
 434 by revising subsection (a) as follows:

435 "(a)(1) This article shall apply to all property which is submitted to this article.

436 (2) This article shall also apply to any association of owners subject to a recorded
 437 declaration of covenants upon property, which covenants are administered by an owners'
 438 association in which membership is mandatory for all owners of lots in the development,
 439 which declaration is amended in accordance with Code Section 44-3-222 in order to
 440 submit the property owners' association to this article; provided, however, that any
 441 amendment ~~must~~ shall conform the instrument creating the property owners' association
 442 to this article, and the property owners' development shall thereafter be deemed to be
 443 submitted to this article.

444 (3) This article shall also apply to any association of owners subject to a recorded
 445 declaration of covenants upon property, which covenants are administered by an owners'
 446 association in which membership is mandatory for all owners of lots in the development
 447 subject to such declaration, where 80 percent of the association vote to approve the
 448 submission of such association to this article and records an instrument certifying such

449 vote. Such instrument shall give notice that the recordation of the instrument subjects the
 450 association to the provisions of this article."

451 **SECTION 7.**

452 Said Code section is further amended to add new subsections to read as follows:

453 "(f) Except under circumstances necessitated by emergency conditions involving public
 454 safety or the preservation of property by the association, before an association may collect
 455 or be awarded attorney's fees, it shall provide:

456 (1) An initial written notice by certified mail or statutory overnight delivery to the lot
 457 owner from the association or its agent identifying any outstanding fines or delinquent
 458 fees;

459 (2) Lot owners with 30 days from the receipt of the notice required under paragraph (1)
 460 of this subsection to pay such outstanding fines or delinquent fees; and

461 (3) An itemized list of reasonable attorney's fees claimed.

462 (g) Judges conducting bench trials for an action to recover sums assessed against a lot
 463 owner shall review such claims of attorney's fees for reasonableness and shall enter an
 464 order stating whether the attorney's fees were reasonable before an association can be
 465 awarded such attorney's fees."

466 **SECTION 8.**

467 Said title is further amended in Article 3 of Chapter 7, relating to dispossessory proceedings,
 468 by adding a new subsection to Code Section 44-7-50, relating to demand for possession,
 469 procedure upon a tenant's refusal, and notice to vacate or pay, to read as follows:

470 "(e) A court of competent jurisdiction may, upon the filing of a motion and a hearing
 471 thereon, order all records of the court relating to a dispossessory proceeding to be made
 472 unavailable to the public when the tenant has prevailed in the proceeding resulting in a
 473 judgment in favor of such tenant; has satisfied the judgment in full, including the payment

474 of interest and costs; or seven years have lapsed since the filing of a dismissal or a
475 judgment, provided that the judgment is paid in full with interests and costs. Nothing in
476 this Code section shall prevent the landlord from pursuing all amounts due and owing such
477 landlord in a separate action or through collections."

478 **SECTION 9.**

479 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
480 January 1, 2027.

481 (b) Section 7 of this Act shall become effective on July 1, 2026, and shall apply to all actions
482 filed on or after such date.

483 **SECTION 10.**

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