

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

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

SECTION 2.

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

"CHAPTER 17A

43-17A-1.

As used in this chapter, the term:

~~(A)~~ccelerated assessment' means any regular assessment that would otherwise not be due until some future date but has been accelerated and made due and payable prior to such future date.

~~(A)~~ssessment' means and includes regular assessments, special assessments, and specific assessments.

~~(G)~~overning documents' means an owners' association's declaration, bylaws, articles of incorporation, and any rules and regulations established by its board of directors.

~~(N)~~onregistered owners' association' means an owners' association that elects not to register with the Secretary of State pursuant to subparagraph (a)(2)(B) of Code Section

43-17A-2.

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

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

~~(O)wners' development~~' means real property which is located within this state, is subject to governing documents, and contains lots, and which may contain common areas.

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

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

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

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

43-17A-2.

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

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

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

No nonregistered owners' association or its agent shall assess or collect fines or fees or accelerated assessments against any owner.

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

- (A) The name, address, and officers of the owners' association; and
- (B) That each registration statement include a financial statement of the owners' association dated no more than one year prior to filing.

~~Upon~~ Upon the Secretary of State's determination of an owners' association's compliance with subsection (a) of this Code section and unless the Secretary of State finds grounds for denial pursuant to Code Section 43-17A-3, the Secretary of State shall register such owners' association. The owners' association shall be authorized to operate immediately upon the filing of the registration statement under paragraph (3) of subsection (a) of this Code section, unless and until the Secretary of State finds grounds for denial pursuant to Code Section 43-17A-3. The date of such filing shall constitute the effective date of the registration statement. The Secretary of State shall immediately notify the owners' association of such registration.

~~Each~~ Each registration statement issued pursuant to this Code section shall expire on December 31 of each year and each owners' association shall annually submit to the Secretary of State by such date a renewal application containing the information required for a registration statement in subsection (a) of this Code section.

~~(d)~~ the event of a change in name, address, officers, or other change which materially affects the business and control of an owners' association, the owners' association shall within 30 days file an amended registration statement with the Secretary of State.

~~The~~ fee for filing of an owners' association's initial registration statement and each annual renewal shall be \$100.00.

~~Records~~ Records relating to an owners' association's governing documents, finances, assessments, fines, fees, liens, and foreclosures shall be subject to such reasonable examinations by representatives of the Secretary of State as the Secretary of State may deem in the public interest or for the protection of the public.

~~An~~ owners' association shall maintain for not less than ten years at an office located in this state or, if it has no office in this state, its principal office all records, including electronic records and records in any other format, relating to any assessments, fines, fees, liens, and foreclosures. The owners' association or its agent shall notify the Secretary of

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

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

43-17A-3.

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

- (1) Filed an application for a registration statement with the Secretary of State which, as of its effective date, or any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that was, in light of the circumstances under which it was made, false or misleading with respect to a material fact;
- (2) Willfully violated or failed to comply with this chapter or a rule promulgated by the Secretary of State under this chapter;
- (3) Failed to pay the proper filing fee within 30 days after notification from the Secretary of State of a deficiency, provided that the Secretary of State may provide for the reinstatement of the registration or the suspension of a fine or penalty at such time as the deficiency is corrected; or
- (4) Failed to comply with a subpoena or order issued by the Secretary of State.

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

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

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

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

43-17A-4.

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

Before entering an order refusing to register any person under Code Section 43-17A-3 and after the entering of any order for revocation or suspension, the Secretary of State shall promptly send to such person a notice of opportunity for hearing. S. B. 406 - 7 -

(3) Any hearing conducted pursuant to this Code section shall be overseen by the Secretary of State or a person designated by the Secretary of State. Notices of opportunity for hearing shall be served by investigators appointed by the Secretary of State or sent by registered or certified mail or statutory overnight delivery, return receipt requested, to the addressee's business mailing address or residential address as shown on information filed with the Secretary of State or directed for service to the sheriff of the county where such person resides or is found. Such notice shall state:

(1) The order which has been issued or which is proposed to be issued;
(2) The grounds for issuing such order or proposed order; and
(3) That the person to whom such notice is sent will be afforded a hearing upon request if such request is made within ten days after receipt of the notice.

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

For the purpose of conducting any hearing as provided in this Code section, the Secretary of State shall have the power to administer oaths, to call any party to testify under oath at such hearing, to require the attendance of witnesses and the production of books, records, and papers, and to interview and take written statements of witnesses; and for such purposes the Secretary of State is authorized to issue a subpoena for any witness or a subpoena for production of documentary evidence to compel the production of any books, records, or papers. A subpoena may be served by registered or certified mail or statutory overnight delivery, return receipt requested, to the addressee's business mailing address or residential address as shown on information filed with the Secretary of State or by 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 of
195 any books, records, or papers resides or is found. The fees and mileage of the sheriff, witness,
196 or person shall be paid from the funds in the state treasury for the use of the Secretary of State
197 in the same manner that other expenses of the Secretary of State are paid.

198 (d) 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
200 request of both parties, the hearing shall be held virtually.
201

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

205 The Secretary of State shall determine the admissibility of such evidence, but a party
206 may at any time make objection to any such determination; provided, however, that, if
207 the Secretary of State refuses to admit evidence, the party offering such evidence shall
208 make a proffer thereof and such proffer shall be made a part of the record of the
209 hearing. (f)(1) In the case of any hearing conducted under this Code section, the
210 Secretary of State may conduct the hearing or may appoint a referee to conduct such
211 hearing. The appointed referee shall have the same powers and authority in conducting
212 the hearing as are granted in this Code section to the Secretary of State.

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

223 ~~(3)~~ recommendation of the referee shall be approved, modified, or disapproved by the
224 Secretary of State until after 30 days following the service of such report as provided
in this subsection.

226 ~~(4)~~ recommendations of the referee may be approved, modified, or disapproved by the
227 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)~~ 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
231 had been conducted by the Secretary of State.

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

234 ~~(6)~~ 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
237 as provided for in this Code section, the Secretary of State shall issue a written order
238 which shall set forth his or her findings with respect to the matters involved.

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

241 ~~(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
243 which case the order may be effective immediately pending proceedings, which
244 proceedings shall be promptly instituted and determined; or

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

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

43-17A-5.

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

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

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

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

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

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

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

43-17A-6.

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

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

(b) All other cases, the superior court of the county in which the largest portion of the
owners' development is located.

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

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

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

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

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

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

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

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

43-17A-7.

Owners shall have the right to:

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

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

~~(3)~~ Notice of meetings of members in a fair and reasonable manner consistent with the 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 this
333 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 of
339 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
342 have the power, subject to the laws of this state and federal law, to require that all
343 occupants of a household be members of a single housekeeping unit, and to limit the
344 total number of occupants permitted in each individually owned property and its fair
345 share use of the common facilities, including parking; and
346 ~~(12)~~ Challenge discriminatory practices by an owners' association as authorized by the laws
347 of this state or federal law.

43-17A-8.

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

- (1) Regular assessments or dues until current;
- (2) Special assessments until current;
- (3) Specific assessments until current; and
- (4) Other fees and fines.

(b) No owners' association shall:

- (1) Refuse to accept payment from an owner in any amount for any assessment; or
- (2) Assess or collect accelerated assessments against any owner.

43-17A-9.

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

SECTION 3.

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

"44-3-222.

~~The property of the development shall come into existence upon either~~
 the amendment of a recorded declaration in accordance with paragraph (2) of subsection (a) of Code Section 44-3-235, or the recordation of an instrument pursuant to paragraph (3) of subsection (a) of Code Section 44-3-235. Any declaration or amendment intending to bring or avail a

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

SECTION 4.

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

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

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

B98 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 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."

SECTION 5.

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

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

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

SECTION 6.

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

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

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

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

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

SECTION 7.

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

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

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

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

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

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

SECTION 8.

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

"(e) A court of competent jurisdiction may, upon the filing of a motion and a hearing thereon, order all records of the court relating to a dispossessory proceeding to be made unavailable to the public when the tenant has prevailed in the proceeding resulting in a 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
477 such 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
482 actions filed on or after such date.

483 **SECTION 10.**

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