

House Bill 145

By: Representatives Lewis-Ward of the 115th, Drenner of the 85th, Frye of the 122nd, and Wilkerson of the 38th

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 provide for certificates of good standing
3 for payment of annual assessments; to require associations to offer to participate in
4 alternative dispute resolution prior to the effectuation of a lien on a lot for unpaid
5 assessments; to provide that such a lien shall be inferior to liens for unpaid medical bills; to
6 provide for alternative dispute resolution policies and requirements therefor; to provide for
7 a definition; to provide for related matters; to provide for applicability; to repeal conflicting
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 6 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to
12 property owners' associations, is amended by adding a new subsection to Code Section
13 44-3-225, relating to assessment of expenses, exemption from liability, and liability for
14 unpaid assessments, to read as follows:

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15 "(e) If a lot owner pays the annual assessment by the due date and has no other outstanding
16 balance due to the association, the association shall provide the lot owner a certificate of
17 good standing within 45 days and without cost to the lot owner."

18 **SECTION 2.**

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

23 "(a) Prior to obtaining a lien for unpaid assessments pursuant to this subsection, the
24 association shall offer the lot owner and, if so requested by the lot owner, participate in
25 alternative dispute resolution in accordance with Code Section 44-3-232.2. All sums
26 lawfully assessed by the association against any lot owner or property owners' association
27 lot, whether for the share of the common expenses pertaining to that lot, fines, or otherwise,
28 and all reasonable charges made to any lot owner or lot for materials furnished or services
29 rendered by the association at the owner's request to or on behalf of the lot owner or lot,
30 shall, from the time the sums became due and payable, be the personal obligation of the lot
31 owner and constitute a lien in favor of the association on the lot, provided that the
32 association has complied with this Code section and Code Section 44-2-232.2. Such lien
33 shall be prior and superior to all other liens whatsoever except:

- 34 (1) Liens for ad valorem taxes on the lot;
- 35 (2) The lien of any first priority mortgage covering the lot and the lien of any mortgage
36 recorded prior to the recording of the declaration; ~~or~~
- 37 (3) The lien of any secondary purchase money mortgage covering the lot, provided that
38 neither the grantee nor any successor grantee on the mortgage is the seller of the lot; and
- 39 (4) Liens on the lot for unpaid medical bills.

40 The recording of the declaration pursuant to this article shall constitute record notice of the
41 existence of the lien, and no further recordation of any claim of lien for assessments shall
42 be required."

43 SECTION 3.

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

45 "44-3-232.2.

46 (a) As used in this Code section, the term 'alternative dispute resolution' means mediation,
47 arbitration, conciliation, or other nonjudicial procedure that involves a neutral party in the
48 decision-making process.

49 (b)(1) An association shall adopt a written policy providing for a fair, reasonable, and
50 expeditious alternative dispute resolution procedure for resolving any dispute regarding
51 sums assessed by the association.

52 (2) The association shall provide a copy of such policy to each lot owner annually and
53 shall make a copy of such policy available to a lot owner upon request.

54 (c) In developing an alternative dispute resolution procedure pursuant to this Code section,
55 an association shall make maximum, reasonable use of available local dispute resolution
56 programs involving a neutral third party, including low-cost mediation programs.

57 (d) A fair, reasonable, and expeditious alternative dispute resolution procedure shall, at a
58 minimum, satisfy all of the following requirements:

59 (1) The procedure may be invoked by a lot owner. A request invoking the procedure
60 shall be in writing;

61 (2) The procedure shall provide for prompt deadlines. The procedure shall state the
62 maximum time for the association to act on a request invoking the procedure;

63 (3) If the procedure is invoked by a lot owner, the association shall participate in the
64 procedure; and

65 (4) A lot owner shall not be charged a fee to participate in the process."

66 **SECTION 4.**

67 This Act shall not apply to contracts entered into prior to July 1, 2023, before the expiration
68 or first renewal of such contract.

69 **SECTION 5.**

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