

Senate Bill 56

By: Senator Stone of the 23rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to
2 regulation of specialized land transactions, so as to require the purchaser of a condominium
3 development or other property development at a foreclosure sale to take title subject to a lien
4 in favor of the condominium or property owners' association; to provide for related matters;
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to regulation of
9 specialized land transactions, is amended by revising subsection (a) of Code Section
10 44-3-109, relating to a lien for assessments for condominium owners, as follows:

11 "(a)(1) All sums lawfully assessed by the association against any unit owner or
12 condominium unit, whether for the share of the common expenses pertaining to that
13 condominium unit, for fines, or otherwise, and all reasonable charges made to any unit
14 owner or condominium unit for materials furnished or services rendered by the
15 association at the owner's request to or on behalf of the unit owner or condominium unit,
16 shall, from the time the same become due and payable, be the personal obligation of the
17 unit owner and constitute a lien in favor of the association on the condominium unit prior
18 and superior to all other liens whatsoever except:

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

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

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

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

26 (2) Anything in the condominium instruments to the contrary notwithstanding, in the
27 case of a foreclosure sale by, or deed in lieu of foreclosure given to, the holder of any

28 mortgage described in subparagraphs (B) and (D) of paragraph (1) of this subsection, the
 29 purchaser at the foreclosure sale shall take title subject to a lien in favor of and personal
 30 obligation to the association in an amount equal to a portion of the association's unpaid
 31 lien existing prior to the foreclosure but not more than the equivalent of the unpaid
 32 common expense assessments charged to the unit first coming due during the six months
 33 prior to such foreclosure sale.

34 (3) The recording of the declaration pursuant to this article shall constitute record notice
 35 of the existence of the lien, and no further recordation of any claim of lien for
 36 assessments shall be required."

37 SECTION 2.

38 Said chapter is further amended by revising subsection (a) of Code Section 44-3-232, relating
 39 to the lien for assessments against lot holders, as follows:

40 "(a)(1) All sums lawfully assessed by the association against any lot owner or property
 41 owners' association lot, whether for the share of the common expenses pertaining to that
 42 lot, fines, or otherwise, and all reasonable charges made to any lot owner or lot for
 43 materials furnished or services rendered by the association at the owner's request to or on
 44 behalf of the lot owner or lot, shall, from the time the sums became due and payable, be
 45 the personal obligation of the lot owner and constitute a lien in favor of the association
 46 on the lot prior and superior to all other liens whatsoever except:

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

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

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

53 (2) Anything in the property owners' association instruments to the contrary
 54 notwithstanding, in the case of a foreclosure sale by, or deed in lieu of foreclosure given
 55 to, the holder of any mortgage described in subparagraphs (B) and (C) of paragraph (1)
 56 of this subsection, the purchaser at the foreclosure sale shall take title subject to a lien in
 57 favor of and personal obligation to the association in an amount equal to a portion of the
 58 association's unpaid lien existing prior to the foreclosure but not more than the equivalent
 59 of one-half of the unpaid common expense assessments charged to the lot during the 12
 60 months prior to such foreclosure sale.

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

64

SECTION 3.

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