

Senate Bill 117

By: Senators Stone of the 23rd, McKoon of the 29th, Hufstetler of the 52nd, Williams of the 27th, Thompson of the 5th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 44-3-109 of the Official Code of Georgia Annotated, relating to  
2 liens for assessments for condominium owners, so as to require the purchaser of a  
3 condominium development at a foreclosure sale to take title subject to a lien in favor of the  
4 condominium under certain circumstances; to provide for definitions; to provide for related  
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 44-3-109 of the Official Code of Georgia Annotated, relating to liens for  
9 assessments for condominium owners, is amended by revising subsection (a) as follows:

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

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

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

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

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

25 (2) Anything in the condominium instruments to the contrary notwithstanding, in the  
26 case of a foreclosure sale by the holder of any mortgage described in subparagraph (B)

27 or (D) of paragraph (1) of this subsection, the purchaser at the foreclosure sale shall take  
 28 title subject to a lien in favor of and personal obligation to the association in an amount  
 29 equal to a portion of the association's unpaid lien for regular assessments existing prior  
 30 to the foreclosure but not more than the equivalent of the unpaid common expense  
 31 assessments charged to the unit first coming due during the six months prior to such  
 32 foreclosure sale. A lien under this paragraph shall apply only if:

33 (A) The association provides notice of such lien to the mortgage holder at the mailing  
 34 address provided pursuant to subsection (b) of Code Section 44-14-63; and

35 (B) The mortgage holder fails to:

36 (i) Complete foreclosure of the condominium unit within 90 days of receiving the  
 37 notice set forth in subparagraph (A) of this paragraph; or

38 (ii) Provide notice to the association identifying the specific reason why it is  
 39 prohibited from foreclosing on the condominium unit, citing the applicable state or  
 40 federal law or regulations.

41 (3) Except as provided in paragraph (2) of this subsection, the ~~The~~ recording of the  
 42 declaration pursuant to this article shall constitute record notice of the existence of the  
 43 lien, and no further recordation of any claim of lien for assessments shall be required.

44 (4) As used in this subsection, the term:

45 (A) 'Notice' means service by certified mail.

46 (B) 'Regular assessments' means fees collected from a unit owner or condominium unit  
 47 for payment of common expenses in accordance with the association's annual budget."

48 **SECTION 2.**

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