

House Bill 410 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 32nd, Clark of the 98th, Teasley of the 37th, and Hatchett of the 150th

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 provide for fees for statements of
3 amounts owing to a condominium association, property owners' association, and similar
4 associations that are not subject to the "Georgia Condominium Act" or "Georgia Property
5 Owners' Association Act"; to provide for information required in a statement of account; to
6 provide for the manner of providing such statements; to provide for fees for certain services;
7 to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to regulation of
11 specialized land transactions, is amended by revising subsection (d) of Code
12 Section 44-3-109, relating to lien for assessments, personal obligation of unit owner, notice
13 and foreclosure, lapse, right to statement of assessments, and effect of failure to furnish
14 statement, as follows:

15 ~~“(d)(1) Any unit owner, mortgagee of a unit, person having executed a contract for the~~
16 ~~purchase of a condominium unit, or lender considering the loan of funds to be secured by~~
17 ~~a condominium unit shall be entitled upon request to a statement from the association or~~
18 ~~its management agent setting forth the amount of assessments past due and unpaid~~
19 ~~together with late charges and interest applicable thereto against that condominium unit.~~
20 ~~Such request shall be in writing, shall be delivered to the registered office of the~~
21 ~~association, and shall state an address to which the statement is to be directed. Failure~~
22 ~~on the part of the association to mail or otherwise furnish such statement regarding~~
23 ~~amounts due and payable at the expiration of such five-day period with respect to the~~
24 ~~condominium unit involved to such address as may be specified in the written request~~
25 ~~therefor within five business days from the receipt of such request shall cause the lien for~~
26 ~~assessments created by this Code section to be extinguished and of no further force or~~

27 ~~effect as to the title or interest acquired by the purchaser or lender, if any, as the case may~~
 28 ~~be, and their respective successors and assigns, in the transaction contemplated in~~
 29 ~~connection with such request. The information specified in such statement shall be~~
 30 ~~binding upon the association and upon every unit owner. Payment of a fee not exceeding~~
 31 ~~\$10.00 may be required as a prerequisite to the issuance of such a statement if the~~
 32 ~~condominium instruments so provided. Within ten business days after receiving a written~~
 33 ~~or electronic request for a statement of account from a unit owner or the unit owner's~~
 34 ~~designee, a mortgage lender, or a mortgagee of a unit or the designee of such mortgagee~~
 35 ~~of a unit, the association shall issue a statement of account. Such request shall be~~
 36 ~~considered received at the time it is sent if it is transmitted by electronic means or by~~
 37 ~~hand delivery; within three days if transmitted by first-class mail; and upon delivery if~~
 38 ~~transmitted by statutory overnight delivery. An association shall designate on its website~~
 39 ~~or otherwise publish the name of a person or entity with a street or email address for~~
 40 ~~receipt of a request for such statement of account. A statement of account shall be~~
 41 ~~delivered by e-mail, electronic download, hand delivery, regular mail, or statutory~~
 42 ~~overnight delivery to the requester on the date of the issuance of the statement of account.~~
 43 (2) A statement of account shall be completed by an officer, authorized agent, or
 44 authorized representative of the association, including any authorized agent, authorized
 45 representative, or employee of a management company authorized to complete such
 46 statement of account on behalf of the board or association. A statement of account shall
 47 contain all of the following information regarding the property for which the transaction
 48 is to occur:
 49 (A) Date of issuance;
 50 (B) Name of the unit owner or owners as reflected in the books and records of the
 51 association;
 52 (C) Unit designation and address;
 53 (D) Attorney's name and contact information if the account is delinquent and has been
 54 turned over to an attorney for collection;
 55 (E) Fee for the preparation and delivery of the statement of account;
 56 (F) Name of the requester;
 57 (G) Assessment and other information including:
 58 (i) The amount of the regular periodic assessment levied against the unit and the
 59 frequency of payment;
 60 (ii) The date through which the regular periodic assessment has been paid;
 61 (iii) The due date for the next installment of the regular periodic assessment and the
 62 amount due;

63 (iv) An itemized list of all assessments, special assessments, and other moneys owed
64 to the association on the date of issuance by the unit owner for a specific unit; and
65 (v) An itemized list of any additional assessments, special assessments, and other
66 moneys that are scheduled to become due for each day after the date of issuance for
67 the effective period of the statement of account. In calculating the amount that is
68 scheduled to become due, the association shall assume that any delinquent amount
69 will remain delinquent during the effective period of the statement of account; and
70 (H) The signature of an officer or authorized agent of the association.

71 (3) Upon request, the following additional information shall be provided:

72 (A) Any open violation of any rule or regulation notice to the unit owner in the
73 association's official records;

74 (B) A list of and contact information for all other associations of which the unit owner
75 is a member by virtue of ownership of the unit;

76 (C) A copy of the current covenants and bylaws of the association and a copy of the
77 rules and regulations adopted by the association;

78 (D) A copy of the association's certificate of insurance for any insurance provided by
79 the association to the unit or the name, address, and telephone number of the
80 association's insurance provider of any such insurance; and

81 (E) Assigned parking or garage space number, as reflected in the books and records of
82 the association, as applicable.

83 (4) A statement of account that is hand delivered or sent by electronic means shall have
84 a 30 day effective period. A statement of account that is sent by regular mail or statutory
85 overnight delivery shall have a 35 day effective period. If additional information is
86 needed or a mistake related to the statement of account becomes known to the association
87 or its agent within the effective period, an amended statement of account may be
88 delivered and become effective provided that a sale or refinancing of the unit has not
89 been completed during the effective period. An amended statement of account shall be
90 delivered on the date of issuance and a new 30 day or 35 day effective period, as
91 applicable, shall begin on such date.

92 (5) An association shall waive the right to collect any moneys owed in excess of the
93 amount specified in the statement of account from any person who in good faith relies
94 upon such statement of account and from the person's successors and assigns. Any
95 person other than a unit owner who relies on a statement of account shall receive the
96 benefits and protection thereof.

97 (6) The association or its agent's failure to:

98 (A) Furnish a statement of account as requested and in accordance with this subsection
 99 shall result in the association's forfeiture of its fee for the preparation and delivery of
 100 the statement of account; and

101 (B) Disclose the correct amount of an assessment, a special assessment, or other
 102 moneys owed to the association shall result in the loss of any obligation of a buyer to
 103 pay the undisclosed sum due and loss of the lien right for the incorrect reported
 104 assessment, special assessment, or other money owed to the association.

105 (7)(A) An association or its authorized agent may charge a reasonable fee for the
 106 preparation and delivery of a statement of account which shall not exceed \$100.00.
 107 When additional information is requested as provided in paragraph (3) of this
 108 subsection, the association or its authorized agent may charge an additional fee not to
 109 exceed \$50.00. If a statement of account is requested on an expedited basis and
 110 delivered within three business days after the request, the association or its agent may
 111 charge an additional fee of \$50.00. If an amended statement of account is requested,
 112 an association or its authorized agent may charge a fee of not more than \$25.00 for such
 113 amended statement of account.

114 (B) The fees specified in this paragraph shall be adjusted every five years by the total
 115 percentage of inflation or deflation during such five-year period, as determined by the
 116 Consumer Price Index for all urban consumers, U.S. city average, all items, as
 117 published by the Bureau of Labor Statistics of the United States Department of Labor,
 118 in increments to the nearest dollar."

119 **SECTION 2.**

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

124 ~~"(d)(1) Any lot owner, mortgagee of a lot, person having executed a contract for the~~
 125 ~~purchase of a lot, or lender considering the loan of funds to be secured by a lot shall be~~
 126 ~~entitled upon request to a statement from the association or its management agent setting~~
 127 ~~forth the amount of assessments past due and unpaid together with late charges and~~
 128 ~~interest applicable thereto against that lot. Such request shall be in writing, shall be~~
 129 ~~delivered to the registered office of the association, and shall state an address to which~~
 130 ~~the statement is to be directed. Failure on the part of the association, within five business~~
 131 ~~days from the receipt of such request, to mail or otherwise furnish such statement~~
 132 ~~regarding amounts due and payable at the expiration of such five-day period with respect~~
 133 ~~to the lot involved to such address as may be specified in the written request therefor shall~~

134 ~~cause the lien for assessments created by this Code section to be extinguished and of no~~
 135 ~~further force or effect as to the title or interest acquired by the purchaser or lender, if any,~~
 136 ~~as the case may be, and their respective successors and assigns, in the transaction~~
 137 ~~contemplated in connection with such request. The information specified in such~~
 138 ~~statement shall be binding upon the association and upon every lot owner. Payment of~~
 139 ~~a fee not exceeding \$10.00 may be required as a prerequisite to the issuance of such a~~
 140 ~~statement if the instrument so provides. Within ten business days after receiving a~~
 141 ~~written or electronic request for a statement of account from a lot owner or the lot owner's~~
 142 ~~designee, a mortgage lender, or a mortgagee of a lot or the designee of such mortgagee~~
 143 ~~of a lot, the board shall issue a statement of account. Such request shall be considered~~
 144 ~~received at the time it is sent if it is transmitted by electronic means or by hand delivery;~~
 145 ~~within three days if transmitted by first-class mail; and upon delivery if transmitted by~~
 146 ~~statutory overnight delivery. The board shall designate on its website or otherwise~~
 147 ~~publish the name of a person or entity with a street or email address for receipt of a~~
 148 ~~request for such statement of account. A statement of account shall be delivered by~~
 149 ~~e-mail, electronic download, hand delivery, regular mail, or statutory overnight delivery~~
 150 ~~to the requester on the date of the issuance of the statement of account.~~

151 (2) A statement of account shall be completed by an officer, authorized agent, or
 152 authorized representative of the board, including any authorized agent, authorized
 153 representative, or employee of a management company authorized to complete such
 154 statement of account on behalf of the board. A statement of account shall contain all of
 155 the following information regarding the property for which the transaction is to occur:

156 (A) Date of issuance;

157 (B) Name of the lot owner or owners as reflected in the books and records of the board;

158 (C) Lot designation and address;

159 (D) Attorney's name and contact information if the account is delinquent and has been
 160 turned over to an attorney for collection;

161 (E) Fee for the preparation and delivery of the statement of account;

162 (F) Name of the requester;

163 (G) Assessment and other information including:

164 (i) The amount of the regular periodic assessment levied against the lot and the
 165 frequency of payment;

166 (ii) The date through which the regular periodic assessment has been paid;

167 (iii) The due date for the next installment of the regular periodic assessment and the
 168 amount due;

169 (iv) An itemized list of all assessments, special assessments, and other moneys owed
 170 to the board on the date of issuance by the lot owner for a specific lot; and

171 (v) An itemized list of any additional assessments, special assessments, and other
 172 moneys that are scheduled to become due for each day after the date of issuance for
 173 the effective period of the statement of account. In calculating the amount that is
 174 scheduled to become due, the board shall assume that any delinquent amount will
 175 remain delinquent during the effective period of the statement of account; and

176 (H) The signature of an officer or authorized agent of the board.

177 (3) Upon request, the following additional information shall be provided:

178 (A) Any open violation of any rule or regulation notice to the lot owner in the board's
 179 official records;

180 (B) A list of and contact information for all other associations of which the lot owner
 181 is a member by virtue of ownership of the lot;

182 (C) A copy of the current covenants and bylaws of the board and a copy of the rules
 183 and regulations adopted by the board;

184 (D) A copy of the board's certificate of insurance for any insurance provided by the
 185 board to the lot or the name, address, and telephone number of the board's insurance
 186 provided of any such insurance; and

187 (E) Assigned parking or garage space number, as reflected in the books and records of
 188 the board, as applicable.

189 (4) A statement of account that is hand delivered or sent by electronic means shall have
 190 a 30 day effective period. A statement of account that is sent by regular mail or statutory
 191 overnight delivery shall have a 35 day effective period. If additional information is
 192 needed or a mistake related to the statement of account becomes known to the board or
 193 its agent within the effective period, an amended statement of account may be delivered
 194 and become effective provided that a sale or refinancing of the lot has not been completed
 195 during the effective period. An amended statement of account shall be delivered on the
 196 date of issuance and a new 30 day or 35 day effective period, as applicable, shall begin
 197 on such date.

198 (5) A board shall waive the right to collect any moneys owed in excess of the amount
 199 specified in the statement of account from any person who in good faith relies upon such
 200 statement of account and from the person's successors and assigns. Any person other
 201 than a lot owner who relies on a statement of account shall receive the benefits and
 202 protection thereof.

203 (6) The board or its agent's failure to:

204 (A) Furnish a statement of account as requested and in accordance with this subsection
 205 shall result in the board's forfeiture of its fee for the preparation and delivery of the
 206 statement of account; and

207 (B) Disclose the correct amount of an assessment, a special assessment, or other
 208 moneys owed to the board shall result in the loss of any obligation of a buyer to pay the
 209 undisclosed sum due and loss of the lien right for the incorrect reported assessment,
 210 special assessment, or other money owed to the board.

211 (7)(A) A board or its authorized agent may charge a reasonable fee for the preparation
 212 and delivery of a statement of account which shall not exceed \$100.00. When
 213 additional information is requested as provided in paragraph (3) of this subsection, the
 214 board or its authorized agent may charge an additional fee not to exceed \$50.00. If a
 215 statement of account is requested on an expedited basis and delivered within three
 216 business days after the request, the board or its agent may charge an additional fee of
 217 \$50.00. If an amended statement of account is requested, a board or its authorized
 218 agent may charge a fee of not more than \$25.00 for such amended statement of account.

219 (B) The fees specified in this paragraph shall be adjusted every five years by the total
 220 percentage of inflation or deflation during such five-year period, as determined by the
 221 Consumer Price Index for all urban consumers, U.S. city average, all items, as
 222 published by the Bureau of Labor Statistics of the United States Department of Labor,
 223 in increments to the nearest dollar."

224 **SECTION 3.**

225 Said chapter is further amended by adding a new Code section to Article 7, relating to
 226 specialized land transactions, to read as follows:

227 "44-3-251.

228 (a)(1) As used in this Code Section, the term 'association' means a corporation or
 229 voluntary entity formed for the purpose of exercising the powers of a homeowners'
 230 association or property owners' association governing a common interest community that
 231 is not subject to Article 3 or 6 of this Chapter.

232 (2) This Code section shall apply to a common interest community subject to covenants
 233 restricting land to certain uses affecting planned subdivisions containing no fewer than
 234 15 individual lots and requiring mandatory assessment payments to an association
 235 governing such subdivision, which subdivision is not subject to Article 3 or 6 of this
 236 chapter.

237 (b) Within ten business days after receiving a written or electronic request for a statement
 238 of account from a lot owner or the lot owner's designee, a mortgage lender, or a mortgagee
 239 of a lot or the designee of such mortgagee of a lot, the association shall issue a statement
 240 of account. Such request shall be considered received at the time it is sent if it is
 241 transmitted by electronic means or by hand delivery; within three days if transmitted by
 242 first-class mail; and upon delivery if transmitted by statutory overnight delivery. An

243 association shall designate on its website or otherwise publish the name of a person or
 244 entity with a street or email address for receipt of a request for such statement of account.
 245 A statement of account shall be delivered by e-mail, electronic download, hand delivery,
 246 regular mail, or statutory overnight delivery to the requester on the date of the issuance of
 247 the statement of account.

248 (c) A statement of account shall be completed by an officer, authorized agent, or
 249 authorized representative of the association, including any authorized agent, authorized
 250 representative, or employee of a management company authorized to complete such
 251 statement of account on behalf of the board or association. A statement of account shall
 252 contain all of the following information regarding the property for which the transaction
 253 is to occur:

254 (1) Date of issuance;

255 (2) Name of the lot owner or owners as reflected in the books and records of the
 256 association;

257 (3) Lot designation or address;

258 (4) Attorney's name and contact information if the account is delinquent and has been
 259 turned over to an attorney for collection;

260 (5) Fee for the preparation and delivery of the statement of account;

261 (6) Name of the requester;

262 (7) Assessment and other information including:

263 (A) The amount of the regular periodic assessment levied against the lot and the
 264 frequency of payment;

265 (B) The date through which the regular periodic assessment has been paid;

266 (C) The due date for the next installment of the regular periodic assessment and the
 267 amount due;

268 (D) An itemized list of all assessments, special assessments, and other moneys owed
 269 to the association on the date of issuance by the lot owner for a specific lot; and

270 (E) An itemized list of any additional assessments, special assessments, and other
 271 moneys that are scheduled to become due for each day after the date of issuance for the
 272 effective period of the statement of account. In calculating the amount that is scheduled
 273 to become due, the association shall assume that any delinquent amount will remain
 274 delinquent during the effective period of the statement of account; and

275 (8) The signature of an officer or authorized agent of the association.

276 (d) Upon request, the following additional information shall be provided:

277 (1) Any open violation of any rule or regulation notice to the lot owner in the
 278 association's official records;

- 279 (2) A list of and contact information for all other associations of which the lot owner is
280 a member by virtue of ownership of the lot;
- 281 (3) A copy of the current covenants and bylaws of the association and a copy of rules and
282 regulations adopted by the association;
- 283 (4) A copy of the association's certificate of insurance for any insurance provided by the
284 association to the lot or the name, address, and telephone number of the association's
285 insurance provider of any such insurance; and
- 286 (5) Assigned parking or garage space number, as reflected in the books and records of
287 the association, as applicable.
- 288 (e) A statement of account that is hand delivered or sent by electronic means shall have
289 a 30 day effective period. A statement of account that is sent by regular mail or statutory
290 overnight delivery shall have a 35 day effective period. If additional information is needed
291 or a mistake related to the statement of account becomes known to the association or its
292 agent within the effective period, an amended statement of account may be delivered and
293 become effective provided that a sale or refinancing of the lot has not been completed
294 during the effective period. An amended statement of account shall be delivered on the
295 date of issuance and a new 30 day or 35 day effective period, as applicable, shall begin on
296 such date.
- 297 (f) An association shall waive the right to collect any moneys owed in excess of the
298 amount specified in the statement of account from any person who in good faith relies upon
299 such statement of account and from the person's successors and assigns. Any person other
300 than a lot owner who relies on a statement of account shall receive the benefits and
301 protection thereof.
- 302 (g) The association or its agent's failure to:
- 303 (1) Furnish a statement of account as requested and in accordance with this subsection
304 shall result in the association's forfeiture of its fee for the preparation and delivery of the
305 statement of account; and
- 306 (2) Disclose the correct amount of an assessment, a special assessment, or other moneys
307 owed to the association shall result in the loss of any obligation of a buyer to pay the
308 undisclosed sum due and loss of the lien right for the incorrect reported assessment,
309 special assessment, or other money owed to the association.
- 310 (h)(1) An association or its authorized agent may charge a reasonable fee for the
311 preparation and delivery of a statement of account which shall not exceed \$100.00.
312 When additional information is requested as provided in paragraph (3) of this subsection,
313 the association or its authorized agent may charge an additional fee not to exceed \$50.00.
314 If a statement of account is requested on an expedited basis and delivered within three
315 business days after the request, the association or its agent may charge an additional fee

316 of \$50.00. If an amended statement of account is requested, an association or its
317 authorized agent may charge a fee of not more than \$25.00 for such amended statement
318 of account.

319 (2) The fees specified in this paragraph shall be adjusted every five years by the total
320 percentage of inflation or deflation during such five-year period, as determined by the
321 Consumer Price Index for all urban consumers, U.S. city average, all items, as published
322 by the Bureau of Labor Statistics of the United States Department of Labor, in increments
323 to the nearest dollar."

324 **SECTION 4.**

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