

## 2014 End of Session Report

The Georgia LAC successfully introduced a change to the Georgia Condominium Act to ensure that governing documents could not be drafted to limit and/or prohibit an association's ability to bring an action in its own name for claims or other matters relating to any portions of the units or common elements which the association has the responsibility to administer, repair or maintain. HB 820 passed the Georgia Legislature this Session and became law on July 1, 2014. This bill was a product of the GA LAC's continuing efforts to positively impact condominium associations in Georgia.

The LAC also was successful in ensuring that Georgia's community associations were not negatively impacted by the new Georgia transfer fee bill. House Bill 160 also passed the Georgia Legislature and became law on July 1, 2013, three years after its initial introduction. As originally proposed, this bill would have prohibited any type of private transfer fees upon conveyance of real property in Georgia. The LAC spent considerable time working with the sponsors of the bill, the Georgia Real Property Law Bar, to carve out transfer fees provided for in governing declarations for Georgia's community associations. Because of the LAC's efforts, the legislation provides express exclusions for fees paid to communities formed pursuant to the Georgia Condominium Act and the Georgia Property Owners' Association Act, as well as for fees paid to Georgia common law homeowner associations.

The Georgia LAC also followed multiple other bills of interest to community associations; however, given this was an election year the session was short and focuses, with a limited number of bills making it to the floor in both the House and Senate for a vote.

Condominium Standing to Sue-HB 820 passed the Georgia Legislature this Session and became law on July 1, 2014. This bill was written and sponsored by the GA LAC in order to ensure covenants were not drafted to restrict/prohibit association's standing to bring claims related to common elements or other areas a condominium is required to maintain. Based on Georgia case law there was a growing number of governing documents restricting and/or prohibiting an association's right to bring a claim for defects above and beyond the statutory restrictions provided in the Georgia Right to Repair Act.

Priority Lien-As noted in the 2013 Session, the GA LAC continued with its effort to adopt a Georgia priority lien for the benefit of Georgia's condominiums and property owners' associations after foreclosures. Senate Bill 56 was introduced in 2013, during this first of a two-year session. SB56 would have amended the Georgia Condominium Act and the Georgia Property Owners' Association Act to expressly provide that an association's assessment lien is superior to the lien of any mortgage in an amount equal to half of the common expense assessments that came due during the 12 months immediately preceding the date of the foreclosure, or six months of assessments for condominiums.

Associations continue to defer maintenance in their communities due to losses from foreclosures, and assessments for the remaining owners continue to increase to make up for the continuing bad debt. A limited priority lien would help curb this impact; however, in 2014 the GA LAC was not successful in pursuing this bill due to opposition presented in the 2013 session.

Condominium Special Assessment-House Bill 854 was introduced and drafted by GA LAC. The Condominium Act caps the amount an association can specially assess to \$200.00 without a membership vote. The proposed revision would permit a special assessment equal to 1/6th of the

annual assessment without a vote by members. The bill passed out of the House after GA LAC spoke at multiple hearings on the matter, but it was stalled in a Senate Committee and a short legislative session during an election year.

Water Meter-House Bill 408 was dropped late in the 2013 Session and did not get heard. LAC supports the bill which would require that for residential buildings with master water meters, water companies may only charge residential water and waste-water rates on a per dwelling basis, as normally charged for single family residential users. This bill would be a great benefit to communities with a master meter and ensure they are not charged commercial water and waste-water rates; however, the bill did not pass during the 2014 session.

Priority of Covenants in Subdivisions-House Bill 464 was introduced in 2013 to help prevent subdivisions whose developers are foreclosed upon from losing the benefit and protections of already recorded covenants when a new developer takes over. The bill would prohibit removal of covenants from the community by a subsequent developer. This bill did not pass during the 2014 session.

Tax Redemption-House Bill 69 was introduced in 2013 and would have cleared up language in the relevant statutes regarding fees paid for fees due to condominium and property owners' associations following a tax sale redemption. The LAC worked with sponsor but this bill stalled out.

Confirmation on Foreclosures-House Bill 344 was introduced in 2013 but there were no hearings or other activity associated with it. There was no action to push this bill in 2014.

## 2015 Legislative Agenda

The LAC anticipates another active session in 2015. The LAC plans to re-introduce a bill to increase the amount a condominium association board may specially assess to unit owners without a member vote, currently capped at \$200. The LAC also plans to re-introduce a priority lien bill for condominiums only based on commits from legislators provided to LAC's lobbyists. The LAC also intends to continue to protect the rights of management companies to charge their fees for closings and transfers of homes in the communities they manage. In addition, the LAC will support other legislation already introduced or that may be introduced for the benefit of community associations. Of course, the LAC will continue to monitor and defend against legislation that may negatively impact Georgia's communities.