

House Bill 1088 (AS PASSED HOUSE AND SENATE)

By: Representatives Gunter of the 8th, Gambill of the 15th, Scoggins of the 14th, Smith of the 18th, Hogan of the 179th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 7 of Article 5 of Chapter 3 of Title 44 of the Official Code of Georgia
2 Annotated, relating to miscellaneous provisions regarding time-share projects and programs,
3 so as to authorize nonjudicial foreclosure of time-share estates; to provide for notice; to
4 provide for transfer of title; to provide for a power of attorney; to provide for related matters;
5 to provide for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 7 of Article 5 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated,
9 relating to miscellaneous provisions regarding time-share projects and programs, is amended
10 by adding a new Code section to read as follows:

11 "44-3-206.

12 (a) An owners' association may foreclose its lien upon a time-share estate in accordance
13 with subsection (c) of Code Section 44-3-109 or may foreclose its lien under a power of
14 sale that such owners' association shall have under this Code section in order to sell a
15 time-share estate for the purpose of paying any or all unpaid assessments and other charges
16 owed by the owner of such time-share estate.

17 (b)(1) In order for an owners' association to foreclose its lien upon a time-share estate
18 under a power of sale, a notice of sale shall be:

19 (A) Accomplished in writing sent by registered or certified mail or statutory overnight
20 delivery, return receipt requested, to the property address of the owner most recently
21 provided to the owners' association no later than 30 days prior to the date of the
22 proposed sale and shall be deemed given on the official postmark day or the day on
23 which it is received for delivery by a commercial delivery firm;

24 (B) Provided in writing to any lien holder, sent by registered or certified mail or
25 statutory overnight delivery, return receipt requested; and

26 (C) Provided by advertising the time, place, and terms of said sale in a newspaper in
27 which sheriff's advertisements are published in the county where the development is
28 located, once a week during the four calendar weeks immediately preceding the
29 calendar week of the date of such sale.

30 (2) Any sale pursuant to this subsection shall occur on a legal sale day within the legal
31 hours of sale at the legal place of sale in the county where the development is located.

32 (c) A sale undertaken as authorized by this Code section shall divest the owner of all right,
33 title, interest, and equity that such owner has in or to the time-share estate and shall vest
34 fee simple title to the time-share estate in the purchaser or purchasers at said sale. The
35 proceeds of said sale shall be applied first in accordance with the lien priorities set forth in
36 paragraphs (1) through (4) of subsection (a) of Code Section 44-3-109, after which any
37 remaining proceeds shall be applied to the payment in full of such unpaid assessments and
38 other charges and next to the payment of all expenses actually incurred by the owners'
39 association in connection with said proceedings, including attorneys' fees, and any
40 remaining proceeds shall be paid to the owner. The owners' association may bid at said
41 sale and purchase the time-share estate.

42 (d) For the purpose of carrying out and effectuating the power of sale authorized by this
43 Code section, the owners' association shall be constituted the true and lawful

44 attorney-in-fact of such owner to sell such time-share estate, as provided in this Code
45 section, and convey the same to the purchaser or purchasers at said sale in as full and ample
46 a manner as such owner could do in person. The power and agency hereby granted are
47 coupled with an interest and are irrevocable by death or otherwise."

48 **SECTION 2.**

49 This Act shall become effective upon its approval by the Governor or upon its becoming law
50 without such approval.

51 **SECTION 3.**

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