



COMMUNITY ASSOCIATION PROTECTIONS AND TRANSPARENCY ACT (HB 748/SB 374)

Georgia Legislature

2017 - 2018

General Overview

- This Act seeks to consolidate and enhance provisions of three separate acts regarding governance for all common interest residential property associations including condominium, cooperative, and homeowners' associations. The Act proposes to add provisions that codify legal protections and require specific business transition and turnover procedures.

Operating Account

- Prior to turnover and transition, a declarant or developer shall establish a two-year operating and expense budget.

Reserve Fund

- In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and any other item that has a deferred maintenance expense or replacement cost that exceeds \$10,000. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance.

Turnover & Transition Requirements

- At the time that property owners other than the developer elect a majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control. Simultaneously, or for the purposes of this paragraph not more than **90 days** thereafter, the developer shall deliver to the association, at the developer's expense, all property of the unit owners and of the association which is held or controlled by the developer.

- Not more than 90 days after turnover and transition, the developer, declarant or other establishing entity shall deliver to the community association all information, reports, official documents i.e. articles of incorporation, bylaws, minute books and other records (Commissioner wants to amend this to 30 days for the turnover of the above essential documents to include bank statements, etc.).

Bond Requirements

- *Performance Bonds* – A performance bond, in the amount of 125 percent of the cost of construction and build out of amenities, must be posted by the developer, declarant or other establishing entity prior to conveyance of the first property in a community association.
- *Maintenance Bonds* - Prior to conveyance of the first property in a community association, the developer, declarant or other establishing entity must post a maintenance bond for a term of at least 24 months.

Penalties

- Civil penalties for violations of the article shall not be less than \$500 and not more than \$5,000 per violation at the discretion of the court, in addition to any other remedies available at law to the community association.

Effective Date

- January 1, 2019