

Georgia Condominium Act

44-3-70 G

*** CODE SECTION *** 12/03/01

44-3-70.

This article shall be known and may be cited as the "Georgia Condominium Act."

44-3-71 G

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44-3-71.

As used in this article, the term:

(1) "Additional property" means any property which may be added to an expandable condominium in accordance with the provisions of the declaration and this article.

(2) "Association" means a corporation formed for the purpose of exercising the powers of the association of any condominium created pursuant to this article.

(3) "Board of directors" or "board" means an executive and administrative body, by whatever name denominated, designated in the condominium instruments as the governing body of the association.

(4) "Common elements" means all portions of the condominium other than the units.

(5) "Common expenses" means all expenditures lawfully made or incurred by or on behalf of the association together with all funds lawfully assessed for the creation and maintenance of reserves pursuant to the provisions of the condominium instruments.

(6) "Common profits" means all income collected or accrued by or on behalf of the association other than income derived from assessments pursuant to Code Section 44-3-80.

(7) "Condominium" means the property lawfully submitted to this article by the recordation of condominium instruments pursuant to this article. No property shall be deemed to be a condominium within the meaning of this article unless undivided interests in common elements are vested in the unit owners.

(8) "Condominium instruments" means the declaration and plats and plans recorded pursuant to this article. Any exhibit, schedule, or certification accompanying a condominium instrument and recorded simultaneously therewith shall be deemed an integral part of that condominium instrument. Any amendment or certification of any condominium instrument shall, from the time of the recordation of such amendment or certification, be deemed an integral part of the

affected condominium instrument so long as such amendment or certification was made in accordance with this article.

(9) "Condominium unit" means a unit, as defined in paragraph (28) of this Code section, together with the undivided interest in the common elements appertaining to that unit.

(10) "Conversion condominium" means a condominium all or part of which may be used for residential purposes, which condominium contains any building or portion thereof that at any time before the recording of the declaration was occupied wholly or partially by persons other than persons who, at the time of the recording, had contractual rights to acquire one or more units within the condominium. This paragraph shall not apply to any condominium created prior to July 1, 1980, or to the expansion of any such condominium.

(11) "Convertible space" means a portion of a structure within a condominium, which portion may be converted in accordance with this article into one or more units or common elements, including, but not limited to, limited common elements.

(12) "Court" means the superior court of the county where the condominium or any part thereof is located.

(13) "Declarant" means all owners and lessees of the property who execute the declaration or on whose behalf the declaration is executed; provided, however, that the phrase "owner and lessees," as used in this Code section and in Code Sections 44-3-72 and 44-3-89, shall not include in his capacity as such any mortgagee, any lien holder, any person having an equitable interest under any contract for the sale or lease of a unit, or any lessee or tenant of a unit. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within the definition of "declarant." Any successor-in-title of any owner or lessee referred to in this paragraph who comes to stand in the same relation to the condominium as his predecessor did shall also come within such definition.

(14) "Declaration" means the recordable instrument containing those matters required by Code Section 44-3-77 and any lawful amendments thereto.

(15) "Expandable condominium" means a condominium to which additional property may be added in accordance with the declaration and this article.

(16) "Foreclosure" means, without limitation, the judicial foreclosure of a mortgage and the exercise of a power of sale contained in any mortgage.

(17) "Identifying number" means one or more letters, numbers, symbols, words, or any combination thereof that identifies only one unit in the condominium.

(18) "Leasehold condominium" means a condominium in all or any

portion of which each unit owner owns an estate for years or leasehold estate in his unit or in the property on or within which that unit is situated or both. A condominium including an estate for years in property, or an interest therein, on or within which no units are situated or to be situated shall not be deemed a leasehold condominium within the meaning of this article.

(19) "Limited common element" means a portion of the common elements reserved for the exclusive use of those entitled to the use of one or more, but less than all, of the units.

(20) "Mortgage" means a mortgage, deed to secure debt, deed of trust, or other instrument conveying a lien upon or security title to property.

(21) "Mortgagee" means the holder of a mortgage.

(22) "Officer" means an officer of the association.

(23) "Permanently assigned limited common element" means a limited common element which cannot be reassigned or which can be reassigned only with the consent of the unit owner or owners of the unit or units to which it is assigned.

(24) "Person" means a natural person, corporation, partnership, association, trust, other entity, or any combination thereof.

(25) "Property" means any real property and any interest in real property, including, without limitation, parcels of air space.

(26) "Record" means to file for record in the office of the clerk of the superior court of all counties in which the condominium or any part thereof is located.

(27) "Submitted property" means the property lawfully submitted to this article by the recordation of condominium instruments pursuant to this article. Additional property shall be deemed to be submitted property upon the expansion of a condominium pursuant to this article.

(28) "Unit" means a portion of the condominium intended for any type of independent ownership and use. For the purposes of this article, a convertible space shall also be deemed a unit.

(29) "Unit owner" means one or more persons, including the declarant, who own a condominium unit or, in the case of a leasehold condominium, whose leasehold interest or interests in the condominium extend for the entire balance of the unexpired term or terms.

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44-3-72.

A condominium shall come into existence upon the recordation of the declaration pursuant to this article and of the plats and plans required by Code Section 44-3-83. The declaration shall be duly

executed by or on behalf of all of the owners and lessees of the submitted property.

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44-3-73.

After the submission of any property to this article, no description of a condominium unit located thereon shall be deemed vague, uncertain, or otherwise insufficient if it sets forth the identifying number of that unit, the name of the condominium, the name of the county or counties in which the condominium is located, and the deed book and page number where the first page of the declaration is recorded. Any such description shall be deemed to include the undivided interest in the common elements appertaining to such unit even if such interest is not stated or referred to in the description.

44-3-74 G

*** CODE SECTION *** 12/03/01

44-3-74.

(a) The declaration and any amendments thereto shall be entitled to recordation if executed in the manner required for recording deeds to real property. All condominium instruments and any amendments and certifications thereto shall set forth the name of the condominium; the name of the county or counties in which the condominium is located; and, except for the declaration itself, the deed book and page number where the first page of the declaration is recorded or the document number assigned to the declaration upon its recordation. All condominium instruments and all amendments and certifications thereto shall be recorded in every county where any portion of the condominium is located. The recordation shall not require the approval of any county or municipal authority or official except as to the manner of execution prescribed by this Code section.

(b) In addition to the records and indexes required to be maintained by the clerk of the superior court, such clerk shall maintain one or more separate plat books, entitled "Condominium Plat Book," in which shall be recorded all plats required to be filed pursuant to this article. In addition to such plats, there shall also be entitled to be recorded in such plat books other plats, including site plans and plot plans, prepared by a registered land surveyor and affecting any condominium; but the same shall not constitute the recording of a plat pursuant to Code Section 44-3-83 unless they comply with all requirements thereof. The record of the declaration and of any amendment thereto shall contain a reference to the plat book and page number of the plat or plats recorded in connection therewith.

(c) The plans required to be recorded pursuant to Code Section 44-3-83 shall be kept by the clerk of the superior court in a separate file for each condominium and shall be indexed in the same manner as a conveyance entitled to record, numbered serially in the order of receipt, each designated "Condominium Plans," with the name of the condominium, and each containing a reference to the deed book

and page number where the first page of the declaration is recorded or the document number assigned to the declaration upon its recordation. The record of the declaration and of any amendment thereto shall contain a reference to the file number of the plans recorded in connection therewith.

(d) All deeds, mortgages, liens, leases, and encumbrances of any kind affecting any condominium unit or duplicate originals thereof or copies thereof certified by the clerk of the superior court in whose office the same are first recorded shall be recorded in all counties in which any part of the submitted property is located.

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44-3-75.

(a) Except to the extent otherwise provided by the condominium instruments:

(1) The terms defined in Code Section 44-3-71 shall be deemed to have the meanings therein specified wherever they appear in the condominium instruments unless the context otherwise requires;

(2) To the extent that walls, floors, or ceilings are designated as the boundaries of the units or of any specified units, all doors and windows therein and all lath, wallboard, plasterboard, plaster, paneling, molding, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof shall be deemed a part of such units; but all other portions of such walls, floors, or ceilings shall be deemed a part of the common elements;

(3) If any chutes, flues, ducts, conduits, wires, bearing walls, bearing columns, or any other apparatus lies partially inside and partially outside of the designated boundaries of a unit, any portions thereof serving only that unit shall be deemed a part of that unit; but any portions thereof serving more than one unit or any portion of the common elements shall be deemed a part of the common elements;

(4) Subject to paragraph (3) of this subsection, all space, interior partitions, and other fixtures and improvements within the boundaries of a unit shall be deemed a part of that unit;

(5) Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, and any other apparatus designed to serve a single unit shall be deemed a limited common element appertaining to that unit exclusively; and

(6) The requirement of consent to or joinder in any act or instrument by any unit owner shall not be deemed to require the consent to or joinder in such act or instrument by any mortgagee of or the holder of any lien upon such unit owner's condominium unit except to the extent expressly required by this article.

(b) In the event that any allocation of undivided interest in the common elements, votes in the association, or liability for common expenses stated in any deed or mortgage to or of any condominium unit conflicts with the allocations thereof as set forth in the declaration, the declaration shall control.

(c) In the event of any inconsistency between this article and the provisions of any declaration, this article shall control. Unless otherwise provided in the condominium instruments, in the event of any inconsistency between the declaration and the provisions of any bylaws of the association, the declaration shall control.

(d) The condominium instruments shall be construed together and shall be deemed to incorporate one another to the extent that any requirement of this article as to the content of one would be satisfied if any other condominium instrument were incorporated therein by reference.

(e) If any provision, sentence, clause, phrase, or word of any condominium instrument or the application thereof in any circumstances is held invalid, the validity of the remainder of the condominium instrument and of the application of any such provision, sentence, clause, phrase, or word in other circumstances shall not be affected thereby.

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44-3-76.

Every unit owner and all those entitled to occupy a unit shall comply with all lawful provisions of the condominium instruments. In addition, any unit owner and all those entitled to occupy a unit shall comply with any reasonable rules or regulations adopted by the association pursuant to the condominium instruments which have been provided to the unit owners and with the lawful provisions of bylaws of the association. Any lack of such compliance shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the association or, in any proper case, by one or more aggrieved unit owners, on their own behalf or as a class action. If and to the extent provided in the condominium instruments, the association shall be empowered to impose and assess fines and suspend temporarily voting rights and the right of use of certain of the common elements in order to enforce such compliance; provided, however, that no such suspension shall deny any unit owner or occupants access to the unit owned or occupied nor cause any hazardous or unsanitary condition to exist. If the voting right of a unit owner has been suspended, then to the extent provided in the condominium instruments, that unit owner's vote shall not count for purposes of establishing a quorum or taking any action which requires a vote of the owners under this article or the condominium instruments. Notwithstanding any other provision of this Code section, to the extent provided in the condominium instruments, water, gas, electricity, heat, and air conditioning services being provided to a unit or unit owner by the association may be

terminated for failure to pay assessments and other amounts due pursuant to subsection (a) of Code Section 44-3-109, subject to the suspension standards and notice requirements imposed on the institutional providers providing such services to the condominium development, only after a final judgment or final judgments in excess of a total of \$750.00 are obtained in favor of the association from a court of competent jurisdiction. The utility services shall not be required to be restored until the judgment or judgments are paid in full. All common expenses for termination of any services pursuant to this Code section shall be an assessment and a lien against the unit.

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44-3-77.

(a) The declaration for every condominium shall contain the following:

(1) The name of the condominium, which name shall include the word "condominium" or be followed by the words "a condominium";

(2) The name of the county or counties in which the condominium is located;

(3) A legal description by metes and bounds of the submitted property, including any horizontal, upper and lower, boundaries as well as the vertical, lateral, boundaries;

(4) A description or delineation of the boundaries of the units, including any horizontal, upper and lower, boundaries as well as the vertical, lateral, boundaries;

(5) A description or delineation of any limited common elements showing or designating the unit or units to which each is assigned;

(6) A description or delineation of all common elements which may subsequently be assigned as limited common elements together with a statement that they may be so assigned and a description of the method whereby any such assignments shall be made in accordance with Code Section 44-3-82;

(7) The allocation to each unit of an undivided interest in the common elements in accordance with Code Section 44-3-78;

(8) The allocation to each unit of a number of votes in the association in accordance with Code Section 44-3-79;

(9) The allocation to each unit of a share of the liability for common expenses in accordance with Code Section 44-3-80;

(10) Any limitations or restrictions on the powers of the association and the board of directors;

(11) The name and address of the attorney or other person who prepared the declaration;

(12) A statement of any and all restrictions on the general use of the condominium or a statement that there are no such restrictions; and

(13) Such other matters not inconsistent with this article as the declarant deems appropriate.

(b) If the condominium is an expandable condominium, the declaration shall also contain the following:

(1) The explicit reservation of an option or options to expand the condominium;

(2) A time limit or date not exceeding seven years from the recording of the declaration upon which all options to expand the condominium shall expire together with a statement of any circumstances which will terminate any such option prior to the expiration of the time limit so specified; provided, however, that, if the condominium instruments so provide, the unit owners of units to which two-thirds of the votes in the association appertain, exclusive of any vote or votes appurtenant to any unit or units then owned by the declarant, may consent to the extension of any such option within one year prior to the date upon which the option would otherwise have expired;

(3) A statement of any other limitations on the option or options or a statement that there are no such limitations;

(4) A legal description by metes and bounds of the additional property, including any horizontal, upper and lower, boundaries as well as the vertical, lateral, boundaries;

(5) A statement as to whether portions of the additional property may be added to the condominium at different times, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds thereof or regulating the order in which they may be added to the condominium, or a statement that there are no such limitations;

(6) A statement of any limitations as to the location of any improvements that may be made on any portions of the additional property or a statement that there are no such limitations;

(7) A statement of the maximum number of units that may be created on the additional property. If portions of the additional property may be added to the condominium and the boundaries of those portions are fixed in accordance with paragraph (5) of this subsection, the declaration shall also state the maximum number of units that may be created on each such portion added to the condominium. If portions of the additional property may be added to the condominium and the boundaries of those portions are not fixed in accordance with paragraph (5) of this subsection, then the declaration shall also state the maximum average number of

units per acre that may be created on any such portion added to the condominium;

(8) With regard to the additional property, a statement of whether any units may be created therein that may not be restricted exclusively to residential use and, if so, a statement of the maximum extent thereof or a limitation as to the extent of such nonresidential use;

(9) A statement of the extent to which any structures erected on any portion of the additional property added to the condominium will be compatible with structures on the submitted property in terms of quality of construction, the principal materials to be used, and architectural style or a statement that no assurances are made in those regards;

(10) A description of all other improvements that will be made on any portion of the additional property added to the condominium, or a statement of any limitations as to what other improvements may be made thereon, or a statement that no assurances are made in that regard;

(11) A statement that any units created on any portion of the additional property added to the condominium will be substantially identical to the units on the submitted property, or a statement of any limitations as to what types of units may be created thereon, or a statement that no assurances are made in that regard;

(12) A description of the declarant's reserved right, if any, to create limited common elements within any portion of the additional property or to designate common elements therein which may subsequently be assigned as limited common elements, in terms of the types, sizes, and maximum number of such limited common elements within each such portion, or a statement that no limitations are placed on that right; and

(13) A statement of a formula, ratio, or other method whereby, upon the expansion of any expandable condominium, there shall be reallocated among the units the undivided interests in the common elements, the votes in the association, and the liability for common expenses.

Plats or plans may be recorded with the declaration of any amendment thereto and identified therein to supplement or provide information required to be furnished pursuant to this subsection; and provided, further, that paragraph (8) of this subsection need not be complied with if none of the units on the submitted property are restricted exclusively to residential use.

(c) If the condominium contains any convertible space, the declaration shall also contain a statement of a formula, ratio, or other method whereby, upon the conversion of all or any portion of a convertible space, there shall be allocated among the units created therefrom such undivided interest in the common elements, such number of votes in the association, and such liability for common

expenses as previously pertained to such convertible space.

(d) If the condominium is a leasehold condominium, with respect to any ground lease, other lease, or other instrument creating the estate for years, the expiration or termination of which may terminate or reduce the condominium, the declaration shall set forth the county or counties wherein the same are recorded and the deed book and page number where the first page of each such lease or other instrument is recorded. The declaration shall also contain the following:

(1) The date upon which such leasehold or estate for years is due to expire;

(2) A statement of whether any property will be owned by the unit owners in fee simple and, if so, a legal description by metes and bounds of any such property. With respect to any improvements owned by the unit owners in fee simple, the declaration shall contain a statement of any rights the unit owners shall have to remove the improvements after the expiration or termination of the leasehold or estate for years involved or a statement that they shall have no such rights;

(3) A statement of the name and address of the person or persons to whom payments of rent must be made by the unit owners unless such rent is collected from the unit owners as a part of the common expenses; and

(4) A statement of the share of liability for payments under any such lease or other instrument which are chargeable against each unit.

(e) Whenever this Code section requires a legal description by metes and bounds of submitted property or additional property, such requirement shall be deemed to include a requirement of a legally sufficient description of any easements that are submitted to this article or that may be added to the condominium, as the case may be. In the case of any such easement, the declaration shall contain the following:

(1) A description of the permitted use or uses;

(2) If the benefit of the easement does not inure to all units and their lawful occupants, a statement of the relevant restrictions and limitations on utilization; and

(3) If any person other than those entitled to occupy any unit may use the easement, a statement of the rights of others to such use.

Notwithstanding any other provision of this subsection, the foregoing requirements may be satisfied by attaching a true copy of any such easement to the declaration.

(f) Whenever this Code section requires a legal description by metes and bounds of submitted property or additional property, such requirement shall be deemed to include a separate legal description by metes and bounds of all property in which the unit owners

collectively shall or may be tenants in common or joint tenants with any other persons. No units shall be situated on any such property, however, and the declaration shall describe the nature of the unit owners' estate therein. No such property shall be shown on the same plat or plats showing other portions of the condominium but shall be shown instead on separate plats unless such property is specifically shown and labeled as being owned subject to such a tenancy.

(g) Wherever this article requires a statement of a method for allocation or reallocation of undivided interests in the common elements, votes in the association, and the liability for common expenses, such method shall be so related to the physical characteristics of the units affected or otherwise so stated as to enable any person to determine the interest, vote, or share in such matters pertaining to any particular unit upon such allocation or reallocation. Certain spaces within the units, including, without limitation, attic, basement, and garage space, may but need not be omitted from such calculation or partially discounted by the use of a ratio so long as the same basis of calculation is employed for all units in the condominium. In the event that the declaration allocates or provides for the allocation to any unit of a different share of undivided interests in common elements than is allocated for liability for common expenses, such difference shall be based upon a good faith estimate of the declarant regarding the approximate relative maintenance or other costs occasioning such disparity, and the basis of such determination shall be stated in the declaration; provided, however, that no unit owner or other person may require any reallocation on account of any disparity between actual costs and the determination reflected in the declaration. Subject to the foregoing sentence of this subsection, nothing contained in this article shall be construed to require that the proportions of undivided interest in the common elements, of votes in the association, or of liability for common expenses assigned and allocated to each unit be equal, it being intended that such proportions may be independent.

44-3-78 G

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44-3-78.

(a) The declaration shall allocate to each unit depicted on plats or plans that comply with subsections (a) and (b) of Code Section 44-3-83 an undivided interest in the common elements. Such allocation may be by percentage, fraction, formula, or any other method which indicates the relative undivided interests in the common elements. If an equal undivided interest in the common elements is allocated to each unit, the declaration may merely so state.

(b) All of the undivided interests in the common elements shall be allocated to the units created by the declaration and shall be subject to reallocation as provided in this article.

(c) If the undivided interests allocated are other than equal, the undivided interest allocated to each unit shall be reflected by a

table or provision in the declaration or by an exhibit or schedule accompanying the declaration and recorded simultaneously therewith identifying the units, listing them serially or grouping them together in the case of units to which identical undivided interests are allocated, and setting forth the fraction, percentage, or other statement of undivided interest in the common elements allocated thereto.

(d) Except to the extent otherwise expressly provided by this article, the undivided interest in the common elements allocated to any unit shall not be altered; and any purported transfer, encumbrance, or other disposition of that interest without the unit to which it pertains shall be void.

(e) The common elements shall not be subject to any action for partition except as provided in Code Sections 44-3-98 and 44-3-99.

(f) No undivided interest in the common elements shall be allocated to any unit unless such unit is depicted on plats or plans that comply with subsections (a) and (b) of Code Section 44-3-83.

44-3-79 G

*** CODE SECTION *** 12/03/01

44-3-79.

(a) The declaration shall allocate a number of votes in the association to each unit depicted on plats or plans that comply with subsections (a) and (b) of Code Section 44-3-83. The allocation of such votes may be by percentage, fraction, formula, or any other method which indicates the relative voting power allocated to each unit. If an equal vote is allocated to each unit, the declaration may merely so state. All of the votes in the association shall be allocated among the units depicted on such plats or plans and shall be subject to reallocation as provided in this article.

(b) Since a unit owner may be more than one person, if only one of those persons is present at a meeting of the association, that person shall be entitled to cast the votes pertaining to that unit. However, if more than one of those persons is present, the vote pertaining to that unit shall be cast only in accordance with their unanimous agreement unless the condominium instruments expressly provide otherwise; and such consent shall be conclusively presumed if any one of them purports to cast the votes pertaining to that unit without protest being made immediately by any of the others to the person presiding over the meeting.

(c) The votes pertaining to any unit may, and, in the case of any unit owner not a natural person or persons, shall, be cast pursuant to a proxy or proxies duly executed by or on behalf of the unit owner or, in cases where the unit owner is more than one person, by or on behalf of the joint owners of the unit. No such proxy shall be revocable except by written notice delivered to the association by the unit owner or by any joint owners of a unit. Any proxy shall be void if it is not dated or if it purports to be revocable without such notice.

(d) Except in the case of any condominium of which no part is restricted exclusively to residential use, if 50 percent or more of the votes in the association pertain to 25 percent or less of the condominium units, then in any case where a majority vote is required by the condominium instruments or by this article the requirement for such a majority shall be deemed to include, in addition to the specified majority of the votes, assent by the unit owners of a like majority of the condominium units.

(e) Anything in this Code section to the contrary notwithstanding, no votes in the association shall be deemed to pertain to any condominium unit during such time as the unit owner thereof is the association nor shall any vote be allocated to any condominium unit unless the condominium unit is depicted on plats or plans that comply with subsections (a) and (b) of Code Section 44-3-83. Except to the extent otherwise expressly provided or permitted by this article, the votes allocated to any condominium unit shall not be altered.

44-3-80 G

*** CODE SECTION *** 12/03/01

44-3-80.

(a) Except to the extent that the condominium instruments provide otherwise, any common expenses associated with the maintenance, repair, renovation, restoration, or replacement of any limited common element shall be specially assessed against the condominium unit to which that limited common element was assigned at the time the expenses were made or incurred; however, if any limited common element was assigned at that time to more than one unit, the common expenses shall be specifically assessed against each condominium unit equally so that the total of the special assessments equals the total of the expenses.

(b) To the extent that the condominium instruments expressly so provide:

(1) Any other common expenses benefiting less than all of the units shall be specially assessed equitably among all of the condominium units so benefited;

(2) Any other common expenses occasioned by the conduct of less than all of those entitled to occupy all of the units or by the licensees or invitees of any such unit or units shall be specially assessed against the condominium unit or units, the conduct of any occupant, licensee, or invitee of which occasioned any such common expenses;

(3) Any other common expenses significantly disproportionately benefiting all of the units shall be assessed equitably among all of the condominium units; and

(4) Other than for limited common elements expressly designated as such in the condominium instruments and assigned to fewer than all

units, nothing contained in paragraph (1) or (3) of this subsection shall permit an association to specially or disproportionately allocate common expenses for periodic maintenance, repair, and replacement of any portion of the common elements or the units which the association has the obligation to maintain, repair, or replace.

(c) The amount of all common expenses not specially assessed pursuant to subsection (a) or (b) of this Code section, less the amount of all undistributed and unreserved common profits, shall be assessed against the condominium units in accordance with the allocation of liability for common expenses set forth in the declaration. The allocation may be by percentage, fraction, formula, or any other method which indicates the relative liabilities for common expenses. If an equal liability for common expenses is allocated to each unit, the declaration may merely so state. The entire liability for common expenses shall be allocated among the units depicted on plats or plans that comply with subsections (a) and (b) of Code Section 44-3-83 and shall be subject to reallocation as provided in this article. Except to the extent otherwise expressly provided or permitted by this article, the allocations of the liability shall not be altered; provided, however, that no reallocation shall affect any assessment or installation thereof becoming due and payable prior to reallocation. The assessments shall be made by the association annually or more often if the condominium instruments so provide and shall be payable in the manner determined by the association.

(d) No unit owner other than the association shall be exempted from any liability for any assessment under this Code section or under any condominium instrument for any reason whatsoever, including, without limitation, abandonment, nonuse, or waiver of the use or enjoyment of his unit or any part of the common elements.

(e) Unless otherwise provided in the condominium instruments and except as provided in subsection (f) of this Code section, the grantee in a conveyance of a condominium unit shall be jointly and severally liable with the grantor thereof for all unpaid assessments against the latter up to the time of the conveyance without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor; provided, however, that, if the grantor or grantee shall request a statement from the association as provided in Code Section 44-3-109, such grantee and his successors, successors-in-title, and assigns shall not be liable for nor shall the condominium unit conveyed be subject to a lien for any unpaid assessments against such grantor in excess of any amount set forth in the statement.

(f) In the event that the holder of a first priority mortgage or a secondary purchase money mortgage of record, provided that neither the grantee nor any successor grantee on the secondary purchase money mortgage is the seller of the unit, or any other person acquires title to any condominium unit as a result of foreclosure of any such mortgage, such holder or other person and successors, successors-in-title, and assigns shall not be liable for nor shall the condominium unit be subject to a lien for any assessment under this Code section or under any condominium instrument chargeable to

the condominium unit on account of any period prior to the acquisition of title; provided, however, that the unpaid share of an assessment or assessments shall be deemed to be common expenses collectable from all of the unit owners, including such holder or other person and successors, successors-in-title, and assigns.

(g) A condominium instrument recorded on or after July 1, 1990, shall not authorize the board of directors to impose:

(1) Except as provided in subsections (a) and (b) of this Code section and subsections (a) and (b) of Code Section 44-3-109, a special assessment fee per unit in excess of an average of \$200.00 per fiscal year without the approval of a majority of the unit owners; or

(2) A monthly maintenance fee increase in excess of the percentage equal to the annual rate of inflation as measured by the Consumer Price Index for All Urban Consumers for the immediately preceding 12 month period may be disapproved by unit owners holding a majority of the association vote.

44-3-81 G

*** CODE SECTION *** 12/03/01

44-3-81.

(a) Interests in the common elements shall not be allocated to any units to be created within any additional property until plats or plans depicting the same are recorded pursuant to subsection (c) of Code Section 44-3-83. Upon the submission of any additional property, the declarant shall execute and record an amendment to the declaration reallocating undivided interests in the common elements, votes in the association, and liabilities for common expenses in the manner provided in the declaration.

(b) If all of a convertible space is converted into common elements, including, without limitation, limited common elements, the undivided interest in the common elements pertaining to such convertible space shall then pertain to the remaining units and shall be allocated among them in proportion to their undivided interests in the common elements. In the case of the conversion of all or any portion of any convertible space into one or more units or common elements, including, without limitation, limited common elements, the undivided interests in the common elements, the votes in the association, and the liability for common expenses shall be reallocated in the manner provided in the declaration. The declarant shall immediately prepare, execute, and record an amendment to the declaration effecting the reallocation of undivided interests produced thereby.

(c) In the case of a leasehold condominium, upon the expiration or termination of any leasehold or estate for years with respect to any land upon or within which any unit exists, every such unit together with all common elements located upon or within such leasehold or estate for years shall be deemed to have been withdrawn from the condominium unless the declaration provides for the termination of

the condominium in such event. The undivided interest in the common elements pertaining to any unit thereby withdrawn from the condominium shall then pertain to the remaining units and shall be allocated among them in proportion to their undivided interests in the common elements. The association shall immediately prepare, execute, and record an amendment to the declaration effecting the reallocation of undivided interests produced thereby. In the case of the reduction of a condominium on account of the expiration or termination of a leasehold or estate for years, all votes attributable to any unit located upon such property immediately prior to such reduction shall thereby be eliminated; in addition, the liability for common expenses pertaining to any such unit shall be allocated to the remaining units in proportion to their relative liabilities for common expenses.

44-3-82 G

*** CODE SECTION *** 12/03/01

44-3-82.

(a) All assignments and reassignments of limited common elements shall be made or provided for in the condominium instruments. No limited common element shall be assigned or reassigned except in accordance with this article. No amendment to any condominium instrument shall alter any rights or obligations with respect to any limited common element without the consent of all unit owners whose use of the limited common element is or may be directly affected by the assignment or reassignment, as evidenced by their execution of the amendment, except to the extent that the condominium instruments expressly provided otherwise prior to or simultaneously with the first assignment of the limited common element.

(b) Unless expressly prohibited by the condominium instruments, a limited common element may be reassigned upon written application to the association by the owners of units to which the limited common element appertains and the owners of units to which the limited common element is being reassigned. The association shall immediately prepare and execute an amendment to the declaration reassigning all rights and obligations with respect to the limited common element involved. Such amendment shall be delivered immediately to the owners of the units to which the limited common element appertains and the owners of units to which the limited common element is being reassigned and upon payment by them of all reasonable costs for the preparation, execution, and recordation thereof. The amendment shall become effective when the association and the owners of the units to which the limited common element appertains and the owners of units to which the limited common element is being reassigned have executed and recorded the same. No vote of the unit owners shall be necessary for the amendment provided in this Code section to be executed by the association.

(c) A common element not previously assigned as a limited common element shall be so assigned only pursuant to the declaration. The amendment to the declaration making such an assignment shall be prepared and executed by the association. The amendment shall be delivered to the unit owner or owners to whose unit the assignment

is being made upon payment by them of all reasonable costs for the preparation, execution, and recordation thereof. The amendment shall become effective after execution by the association and such unit owner or owners and recordation, and the recordation thereof shall be conclusive evidence that the method prescribed pursuant to the declaration was adhered to. Unless otherwise required by the condominium instruments, no vote of the unit owners shall be necessary for the amendment provided in this Code section to be executed by the association.

44-3-83 G

*** CODE SECTION *** 12/03/01

44-3-83.

(a) Prior to the first conveyance of a condominium unit, there shall be recorded one or more plats of survey showing the location and dimensions of the submitted property; the location and dimensions of all structural improvements located on any portion of the submitted property; the intended location and dimensions of all contemplated structural improvements committed to be provided by the declaration on any portion of the submitted property; and, to the extent feasible, the location and dimensions of all easements appurtenant to the submitted property or otherwise submitted to this article as part of the common elements. With respect to all such structural improvements, the plats shall indicate which, if any, have not been begun by use of the phrase "NOT YET BEGUN." No structural improvement which contains or constitutes all or part of any unit or units and which is located on any portion of the submitted property shall be commenced on any portion of the submitted property after the recording of the plats. The declarant shall complete all structural improvements depicted on the plats, subject only to such limitations, if any, as may be expressly stated in the declaration with respect to those labeled "NOT YET BEGUN" on the plats, provided that, within six months after written notice from the association, the declarant shall be obligated to complete within a reasonable time every structural improvement actually commenced on the submitted property, notwithstanding any provision of the declaration, unless the declarant removes within a reasonable time all portions of any such structural improvement and restores the surface of the land affected thereby to substantially the same condition as that which existed prior to commencement of any such structural improvement; and provided, further, that nothing contained in this sentence shall exempt the declarant from any contractual liability to complete any such structural improvement. If the submitted property consists of noncontiguous parcels, the plats shall indicate the approximate distances between such parcels unless such information is disclosed in the declaration. If, with respect to any portion or portions, but less than all, of the submitted property, the unit owners are to own only a leasehold or estate for years, the plats shall show the location and dimensions of any such portion or portions and shall label each such portion by use of the phrase "LEASED LAND." To the extent feasible, the plats shall show all easements to which the submitted property or any portion thereof is subject. The plats shall also show all encroachments by or on any operation of the submitted property. In

the case of any units which have vertical boundaries lying wholly or partially outside of structures for which plans pursuant to subsection (b) of this Code section are recorded, the plats shall show the location and dimensions of the vertical boundaries to the extent that they are not shown on the plans; and the units or portions thereof thus depicted shall bear their identifying numbers. Each plat shall be certified as to its accuracy and compliance with this subsection by a registered land surveyor. The specification within this subsection of items that shall be shown on the plats shall not be construed to mean that the plats shall not also show all other items customarily shown or required by law to be shown for land title surveys.

(b) There shall be recorded prior to the first conveyance of a condominium unit:

(1) Plans which have been prepared, signed, and sealed by a registered architect or registered engineer of every structure which contains or constitutes all or part of any unit or units located on or within any portion of the submitted property, which plans shall show:

(A) The location and dimensions of the exterior walls and roof of such structures;

(B) The walls, partitions, floors, and ceilings as constitute the horizontal boundaries, if any, and the vertical boundaries of each unit, including convertible space, to the extent that such boundaries lie within or coincide with the boundaries of such structures; and

(C) The identifying numbers of all units or portions thereof depicted on the plans; and

(2) A certification by such architect or engineer to the effect that he has visited the site and viewed the property and that, to the best of his knowledge, information, and belief:

(A) The exterior walls and roof of each structure are in place as shown on the plans; and

(B) Such walls, partitions, floors, and ceilings, to the extent shown on said plans, as constitute the horizontal boundaries, if any, and the vertical boundaries of each unit, including convertible space, have been sufficiently constructed so as to establish clearly the physical boundaries of such unit.

In addition, each convertible space depicted in the plans shall be labeled as such by use of the phrase "CONVERTIBLE SPACE." Unless the condominium instruments expressly provide otherwise, it shall be presumed that, in the case of any unit not wholly contained within or constituting one or more of the structures, the horizontal boundaries extend, in the case of each unit, at the same elevation with regard to any part of such unit lying outside of such structures, subject to the following exception: in the case of any unit which does not lie over any other unit other than basement

units, it shall be presumed that the lower horizontal boundary, if any, of that unit lies at the level of the ground with regard to any part of that unit lying outside of the structures. This subsection shall apply to any condominium created on or after July 1, 1980, or to the expansion of any such condominium.

(b.1) There shall be recorded prior to the first conveyance of a condominium unit plans of every structure which contains or constitutes all or part of any unit or units located on or within any portion of the submitted property and a certification by a registered architect or registered engineer to the effect that he has visited the site and viewed the property and that, to the best of his knowledge, information, and belief:

(1) The foundation, structural members, exterior walls, and roof of each such structure are complete and in place as shown on the plans;

(2) The walls, partitions, floors, and ceilings, to the extent shown on the plans, as constituting or coinciding with the vertical and horizontal boundaries of each unit, including convertible space, within each such structure, are sufficiently complete and in place to establish clearly the physical boundaries of such unit and that such physical boundaries are as shown on the plans; and

(3) Each such structure, to the extent of its stage of completion at that time, is constructed substantially in accordance with such plans.

The plans shall show the location and dimensions of the horizontal boundaries, if any, and the vertical boundaries of each unit to the extent that such boundaries lie within or coincide with the boundaries of such structures, and the units, or portions thereof, thus depicted shall bear their identifying numbers. In addition, each convertible space depicted in the plans shall be labeled as such by use of the phrase "CONVERTIBLE SPACE." Unless the condominium instruments expressly provide otherwise, it shall be presumed that, in the case of any unit not wholly contained within or constituting one or more of the structures, the horizontal boundaries extend, in the case of each unit, at the same elevation with regard to any part of such unit lying outside of such structures, subject to the following exception: in the case of any unit which does not lie over any other unit other than basement units, it shall be presumed that the lower horizontal boundary, if any, of that unit lies at the level of the ground with regard to any part of that unit lying outside of the structures. This subsection shall apply to any condominium created prior to July 1, 1980, or to the expansion of any such condominium.

(c) Prior to the first conveyance of a condominium unit located on any portion of any additional property being or having been added to an expandable condominium, there shall be recorded new plats of survey conforming to the requirements of subsection (a) of this Code section and, with regard to any structures on the property being or having been added, plans conforming to the requirements of

subsection (b) of this Code section or certifications, conforming to the certification requirements of subsection (b) of this Code section, of plans previously recorded pursuant to Code Section 44-3-84.

(d) When converting all or any portion of any convertible space into one or more units or limited common elements, the declarant shall record, with regard to the structure or portion thereof constituting that convertible space, plans showing the location and dimensions of the horizontal boundaries, if any, and the vertical boundaries of each unit formed out of such space. The plans shall be certified by a registered architect or registered engineer in accordance with the certification requirements of subsection (b) of this Code section.

(e) When any portion of the submitted property is withdrawn, there shall be recorded a plat or plats showing the portion of the submitted property withdrawn and the remaining submitted property, which plat or plats shall be certified as provided in subsection (a) of this Code section.

44-3-84 G

*** CODE SECTION *** 12/03/01

44-3-84.

Plans previously recorded pursuant to subsection (b) of Code Section 44-3-77 may be used in lieu of new plans to satisfy in whole or in part the requirements of Code Section 44-3-89 if certifications thereof are recorded by the declarant in accordance with subsection (c) of Code Section 44-3-83.