

OCGA 2020 HOA Assessments Guidance

The Official Code of Georgia for 2020 codifies the Georgia Property Owner's Association Act (the "Act") which authorizes and describes the various charges that any homeowner's association covered by the ACT is empowered to impose and assess on its members:

- Assessments for common expenses @ § 44-3-225;
- Late or Delinquency Charges @ § 44-3-232 (b)(1);
- Interest @ § 44-3-232 (b)(2);
- Fines @ § 44-3-223;
- Fees for providing statements of past due and unpaid assessments, charges and interest @ § 44-3-232 (d); and
- Passthrough costs such as costs of collection, court costs, reasonable attorney fees, and in some cases, cost incurred for the protection and preservation of the lot and fair rental value of the lot during an action of foreclosure brought by the HOA

§ 44-3-232 (a) and (b) provide that assessments, fines, interest, cost of collections and all reasonable costs and charges against lot owners are the personal obligation of the lot owner and constitute a lien in favor of the association on the lot. Recording of the declaration pursuant to the Act constitutes a record notice of the lien, and no further recordation of any claim of lien for assessments is required.

§ 44-3-225 (a) describes how assessments are to be equitably assessed if all the lots are not equally benefited.

- §§ (a)(1) requires expenses benefiting less than all the lots shall be specially assessed only among the benefited lots, as determined by the Board of Directors;
- §§ (a)(2) requires expenses benefiting less than all the lots, and caused by any occupant, licensee or invitee of any lot or lots, shall be specially assessed only among the lot or lots occasioning any such common expense;
- §§ (a)(3) requires common expenses significantly disproportionately benefiting all of the lots shall be assessed equitable among all the lots as determined by the Board of Directors;

No lot owner other than the association can be exempted from any liability for an assessment for any reason whatsoever per § 44-3-225 (b). However, this is tempered by the provisions of subsections (c) and (d). §§ (c) exempts a grantee in a conveyance from liability for any unpaid assessments not set forth in a statement provided by the association per § 44-3-232 (d). §§ (d) provides for an "out" for foreclosed property owners (banks and buyers) for any unpaid amounts owed prior to their acquisition. After foreclosure they are responsible. Note that §§ (d) also provides that forgone unpaid assessments are deemed to be a common expense of the association collectible from all of the lot owners, including the new lot owner.