

Senate Special Judiciary Committee

The Senate Special Judiciary Committee met in Room 125 of the Capitol on Tuesday, February 5, 2008 at 3:00pm.

The following Senators were present:

Meyer von Bremen of the 12th
Cowsert of the 46th
Tarver of the 22nd
Thompson of the 5th
Weber of the 40th
Harp of the 29th
Ramsey of the 43rd
Hill of the 32nd
Adelman of the 42nd

Note: Senator Reed was absent.

Chairman Meyer von Bremen called the meeting to order at 3:04 p.m.

The following legislation was discussed.

SB 217 (Thompson, 5th) – A bill to be entitled an Act to amend Title 44 of the Official Code of Georgia Annotated, relating to property, so as to prohibit covenants which prohibit xeriscaping by providing that yards in a subdivision be planted with certain types of grass or other shrubs, trees, or bushes; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

Senator Curt Thompson presented a committee substitute to SB 217. The substitute recommended the following changes:

1. **Section 44-3-251 line 8**, deleting the language “on behalf of its members.”
2. **Section 44-3-251 line 17**, deleting the language “the members of the association as well as the association as well”
3. **Section 44-3-252 line 20**, inserting after the word or “an owners’ association”

Julie Howard of the Community Association Institute testified in favor of the bill.

She made the following points:

1. Allow for voluntary associations to have standing to sue based on things that affect the neighborhoods
2. Expressed that owner association was a term of art.
3. The bill only pertained to enforcement in subdivisions only and it does not apply to rezoning.

Chairman Meyer von Bremen asked if master & sub association was defined in Section 1 of the bill. Response was yes.

Chairman Meyer von Bremen asked if there were any questions or comments.

Senator Ramsey commented that the bill appeared to allow two bites of the apple. Possibly bring suit as part of homeowners' association and individual.

Senator Tarver inquired about the language of "nearby"; asked that it be defined in the scope of the legislation.

Senator Weber asked whether homeowners associations can be sued. The response was yes.

Ron Jayson of the Georgia Real Estate Investors Association testified about his constituents' concerns about the bill. He made the following inquiries:

1. If the association can sue, notice should be given to those who may actually own the homes (i.e. landlords)
2. Owners of property should be given notice that the association is going to sue.

Senator Adelman inquired whether constructive notice would satisfy the concerns about the notice, response was yes.

Senator Weber questioned whether or not homeowners can be sued. The response was possibly yes.

The bill only relates to the enforcement in subdivisions only. It does not apply to rezoning.

Chairman Meyer von Bremen suggested that a notice provision be added to [SB 217](#).

Senator Harp suggested that the minimum amount of notice should be used similar to zoning.

This bill was tabled until the substitute was drafted.

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There being no further business, Chairman Meyer von Bremen adjourned the meeting at 3:40pm.

Respectfully submitted,

/s/ Senator Judson Hill of the 32nd, Secretary

/s/ Kim Crowell, Recording Secretary

Senate Special Judiciary Committee

The Senate Special Judiciary Committee met in Room 125 of the Capitol on Tuesday, February 12, 2008 at 2:00pm.

The following Senators were present:

Meyer von Bremen of the 12th
Cowsert of the 46th
Tarver of the 22nd
Thompson of the 5th
Weber of the 40th
Harp of the 29th
Reed of the 35th
Ramsey of the 43rd
Adelman of the 42nd

Note: Senator Judson Hill was absent.

Chairman Meyer von Bremen called the meeting to order at 2:04 p.m.

The following legislation was discussed.

SB 374 (Weber, 40th) – Liens; revise certain time periods of filing materialmen's/mechanics liens; provide for certain notices regarding waiver of liens or claim upon bond.

Bill Hobson-Troutman Sanders Construction Attorney testified in favor of the bill.

- The purpose of the bill was to add clear definition of lien action
- Addressed the timing of filing to 90 days rather than 3 months
- There is a change in the language from 12 months to 365 days
- 12 month period to enforce lien, 365 days, now enforcement of lien must be within 60 days.

Proposed changes to the bill were as follows:

- Line 1-cleaned up gender
- Line 10-giving notice to owner if they think lien is not valid
- Line 21-resolved issue of last day of work

Senator Reed had a language question about putting owner of property on notice at the same time lien is filed and inquired as to why this was not the case.

Senator Meyer von Bremen inquired about line 13 of the bill: the question presented was why require the notice if it will not invalidate the lien?

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Mr. Hobson's response was the purpose was for title examiners to match up names with parties.

Line 26: Notice if property owner could not be found; putting it in the mail would be sufficient.

He also asked why notice was increased from 14 to 30 days for the purpose of Commencement Action.

Mr. Hobson responded regarding the difficulty of getting a case number for the lien action. This notice does not go to the owner (in rem action).

Proposed changes to the bill were as follows:

1. Line 10-pg 3: language regarding arbitration venue
2. Line 19 paragraph 4: subcontractor or contractor absconds
3. Section 4: Lien Discharge Board (surety bond) subs the property owner with bond company and provides notice.
4. Interim Wavier & Release conditional upon payment

Senator Cowser inquired why lien is not extinguished within 90 days when action is filed.

Response from Mr. Hobson is the suit is barred after 60 days and officially extinguished after 90 days.

Mark Woodall-GA Branch of Associated General Contractors testified in favor of bill

- Creates a process to get rid of bogus liens.

Senator Reed proposed an amendment to Line 13 pg. 2: delete word "not", and Line 24: change "within 7 days" to "at time lien is filed a true and correct copy must be submitted by claimant to property owner."

Motion was presented to **DO PASS BY SUBSTITUTE** by Senator Curt Thompson seconded by Senator Reed. The vote was unanimous.

SB 374 was tabled due to lack of quorum.

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 3:07pm.

Respectfully submitted,

/s/ Senator Meyer von Bremen of the 12th, Chairman

/s/ Kim Crowell, Recording Secretary

The Senate Special Judiciary Committee

The Senate Special Judiciary Committee met in Room 125 of the Capitol on Thursday, February 21, 2008 at 4:00pm.

The following Senators were present:

Meyer von Bremen of the 12th
Cowsert of the 46th
Tarver of the 22nd
Thompson of the 5th
Weber of the 40th
Harp of the 29th
Reed of the 35th
Adelman of the 42nd

Note: Senator Ramsey of the 43rd was not present. Vice Chairman Adelman called the meeting to order at 4:13 p.m. Vice Chairman Adelman allowed a representative from Senate Legislative Counsel to begin discussion about Reviser Bills SB 455 & 456. Chairman Meyer von Bremen arrived after the meeting commenced.

The following legislation was discussed:

[SB 455](#) (Adelman, 42nd) O.G.C.A; correct errors/omissions

[SB 456](#) (Adelman, 42nd) O.G.C.A; correct errors/omissions

Legislative Counsel explained that the purpose of SB 455 & 456 was to clean up typographical and stylistic errors present in the Official Code of Georgia Annotated.

Senator Harp of the 29th made a motion to **DO PASS** for both bills; motion was seconded by Senator Reed of the 35th. The vote was unanimous.

[SB 217](#) (Thompson, 5th) Property Owners' Associations; shall have standing as a party to bring legal action to enforce certain covenants.

Senator Curt Thompson of the 5th presented a substitute to SB 217 memorializing the previously discussed revisions at the meeting held on Tuesday, February 5, 2008.

Senator Harp of the 29th made a motion to **DO PASS BY SUBSTITUTE**; motion was seconded by Senator Reed of the 35th. The vote was unanimous.

HB 422 (Rep. Willard, 49th) Relating to property, so as to provide a minimum amount for liens in the "Georgia Condominium Act" and the "Georgia Property Owners' Association Act"; to provide for the recovery of attorney's fees in actions involving covenants running with the land; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 422 was removed from agenda.

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 3:25pm.

Respectfully submitted,

/s/ Senator Meyer von Bremen of the 12th, Chairman

/s/ Kim Crowell, Recording Secretary

The Senate Special Judiciary Committee

The Senate Special Judiciary Committee met in Room 125 of the Capitol on Tuesday, February 26, 2008 at 2:00pm.

The following Senators were present:

Meyer von Bremen of the 12th
Thompson of the 5th
Harp of the 29th
Weber of the 40th
Cowsert of the 46th
Adelman of the 42nd

Note: Senators Reed and Ramsey were absent. Senators Judson Hill and Tarver arrived after the meeting had commenced.

Chairman Meyer von Bremen called the meeting to order at 2:15 p.m.

The following legislation was discussed:

SB 496 (Senator Tate, 38th) Mortgage Businesses; prohibit soliciting or facilitating fraudulent appraisal of value of property offered as security for mortgage/loan.

Senator Tate testified about the bill. The purpose of the bill was to prohibit the illegal influence of home appraisers' evaluation of properties for the purpose of obtaining a mortgage.

Senator Judson Hill had a question about the wording in the bill, specifically the word "instruct".

Motion was made to **DO PASS** by Senator Tarver. The motion was seconded by Senator Judson Hill. The vote was unanimous. **SB 496 VOTE DO PASS.**

SB 508 (Senator Meyer von Bremen, 12th) Probate Courts; update/change provisions

Judge Mike Braceful-Morgan County and Judge Jim Clark-Probate Gwinnett County

Chairman Meyer von Bremen had a question about Section 6 which allows judges to settle a structured settlement for minors to superior court judges.

Remaining summary of bill:

Section 7- parents can view natural records of minors.

Section 8-in every county where property is owned.

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Section 9-limits probating of wills to 5 years.

Senator Weber had a question about the year's support in Section 7.

Committee Sub presented to Section 7 line 17: restore or conserve

A motion was made by Senator Reed to **DO PASS BY SUBSTITUTE**; the motion was seconded by Senator Tarver. The vote was unanimous.

SB 508 DO PASS BY COMMITTEE SUBSTITUTE

SB 482 (Senator Hill, 32nd): Government; State Law Library; repeal Chapter 11

SB 482 tabled until next meeting.

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 2:45pm.

Respectfully submitted,

/s/ Senator Judson Hill of the 32nd, Secretary

/s/ Kim Crowell, Recording Secretary

The Senate Special Judiciary Committee

The Senate Special Judiciary Committee met in Room 125 of the Capitol, Thursday, February 28, 2008 at 1:00pm.

The following Senators were present:

Meyer von Bremen of the 12th

Thompson of the 5th

Hill, 32nd

Cowsert, 46th

Ramsey, 43rd

Note: Senators Adelman, Reed, Weber, Harp, and Tarver, were absent.

Chairman Meyer von Bremen called the meeting to order at 1:13 p.m.

The following legislation was discussed:

SB 482 (Senator Judson Hill, 32nd): Government; State Law Library; repeal Chapter 11.

Senator Judson Hill presented bill with a substitute.

Jeff Millstein-Chief Deputy Attorney General

- The purpose of the law is to convert the law library to a private entity. The library will bow out of federal depository library capacity.

Senator Cowsert made a motion to **DO PASS BY SUBSTITUTE** and the motion was seconded by Senator Ramsey. The vote was unanimous.

SB 482 DO PASS BY COMMITTEE SUBSTITUTE

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 2:45pm.

Respectfully submitted,

/s/ Senator Judson Hill of the 32nd, Secretary

/s/ Kim Crowell, Recording Secretary

The Senate Special Judiciary Committee

The Senate Special Judiciary Committee met in Room 125 of the Capitol, Thursday, March 6, 2008 at 4:00pm.

The following Senators were present:

Meyer von Bremen, 12th
Weber, 40th
Ramsey, 43rd
Tarver, 22nd
Harp, 29th
Adelman, 42nd

Note: Senators Reed, Curt Thompson, Cowsert and Judson Hill were absent.

Chairman Meyer von Bremen called the meeting to order at 4:32 p.m.

The following legislation was discussed:

HB 422 (Rep. Willard, 49th) Specialized land transactions; minimum amount for liens; provide

Rep. Willard spoke to the bill.

- The purpose of the bill is to compel payment of condo association dues.
- \$2000 threshold before foreclosure proceedings are instituted.

Randy Lipshultz from the Community Association Institute testified about the bill.

- The purpose of the bill is to stop the threat of foreclosure for nominal amounts of condo fees.

Senator Harp made a motion to do pass by substitute; motion seconded by Senator Weber. The vote was unanimous.

HB 422 DO PASS BY SUBSTITUTE

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 4:45pm.

Respectfully submitted,

/s/ Senator Meyer von Bremen of the 12th, Chairman

/s/ Kim Crowell, Recording Secretary

**The Senate Special Judiciary Committee
Met in Room 125 of the Capitol, March 19, 2008 at 2:00pm.**

The following Senators were present:

Meyer von Bremen, 12th
Cowsert, 46th
Hill, 32nd
Harp, 29th
Reed, 35th
Adelman, 42nd

Note: Senators Ramsey, C.Thompson, Tarver, and Weber were absent.

Chairman Meyer von Bremen called the meeting to order at 2:14 p.m.

The following legislation was discussed:

HB 470 (Rep. Parrish, 156th) Georgia Lemon Law; enact

- Bill Cloud from Gov. Office of Consumer Affairs testified about the bill.
- The purpose of the bill is to expand the Lemon Law rights period to 24 months or first 24,000 miles.
- Serious safety defect is only allowed 1 repair attempt.
- Attorney's fees are allowed for those wrongly sued.
- Reasonable offset amount was changed for motor homes to \$90,000.

Senator Harp inquired about the arbitration being non-binding or not.

Senator Judson Hill-strongly disagrees with the bill.

Question presented was why limit the vehicles to 12,000 pounds or less? It should include fleet and 18 wheelers. Wanted to expand the Lemon Law to sole proprietorship and small businesses.

Response from Mr. Cloud: The Lemon Law pertains to family and passenger vehicles over 12,000 pounds. If this provision is included it may be going beyond the scope of the Lemon Law for commercial vehicles over 12,000 pounds. UCC is a remedy, but cost is an issue.

Senator Adelman: Inquired about the resources used to enforce the Lemon Law if the provision Senator Judson Hill suggested is implemented.

Response from Mr. Cloud: The matter must meet a checklist of requirements. More funds would be needed to enforce the Lemon Law if it was expanded.

Senator Reed raised a motion to do pass by substitute, and Senator Harp seconded.

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Senator Meyer von Bremen was the Senate sponsor for the bill.

Senator Judson Hill did not participate in the vote. The vote was unanimous.

HB 470 DO PASS BY COMMITTEE SUBSTITUTE

HB 958 (Rep. Rice, 51st) Magistrate court; certain judgments; clarify appeal procedure

- Representative Rice testified on behalf of the bill.
- The purpose is to reduce costs and improve court efficiency
- Plaintiffs who fail to appear cannot refile in magistrate court.
- Improves statement of claim requirement
- Improves the counterclaim specificity requirement
- Eliminates 30 day requirement for post judgment interrogatories

Senator Cowsert: He liked the bill, expanding the requirement and inquired about the pretrial discovery, preliminary discovery before filing a claim, right of appeal barred if they fail to appear.

Judge Hutchinson Chief Judge Magistrate Court Gwinnett County: The burden should be on the plaintiff because of the cost to the defendant. This should be waived if and only if a reasonable excuse is given for failing to appear.

Senator Reed made a motion to do pass. Motion seconded by Senator Harp. The vote was unanimous.

HB 958 DO PASS

HB 1086 (Representative Ralston 7th)-Court Bailiffs; maximum per diem; eliminate

Senator Harp raised a motion to do pass. Senator Reed seconded motion. The vote was unanimous.

HB 1086 DO PASS

HB 1160 (Rep. Walker, 107th) Transferable development rights; severance

- Senator Stoner, 6th testified on behalf of the bill.
- Updating the current law to strike out section 6 of bill

Senator Harp raised a motion to do pass by substitute. Senator Reed seconded motion. The vote was unanimous.

Senator Stoner is the Senate sponsor for the bill.

HB 1160 DO PASS BY COMMITTEE SUBSTITUTE

HB 1132 (Rep. Lindsey, 54th) Uniform Environmental Covenants Act (Senator Adelman presiding as chair)

Senator Adelman, 42nd (Vice Chair of Special Judiciary Committee) chaired the meeting for this particular bill.

Senator Meyer von Bremen recused himself due to law firm's involvement with the legislation. He did not participate in the vote.

- Representative Lindsey testified on behalf of the bill.
- The purpose of the bill is to address the process whereby property owners and EPD would enter into negotiations to return land to previous state.
- Section 44-16-11 related to brownfields, certain parties need to be allowed to bring suit.

Senator Reed stated that Senator Meyer von Bremen can be in the meeting for the purpose of maintaining a quorum; however he cannot participate in the vote.

Senator Harp recommended the following change to the bill: Line 24 Section 44-16-11, "if harm occurs or is reasonably likely to occur."

Senator Harp raised a motion to do pass. Motion seconded by Senator Reed. The vote was unanimous.

HB 1132 DO PASS BY COMMITTEE SUBSTITUTE

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 2:45pm.

Respectfully submitted,

/s/ Senator Judson Hill of the 32nd, Secretary

/s/ Kim Crowell, Recording Secretary

**The Senate Special Judiciary Committee
met in Room 307 Coverdell Legislative Office Building,
March 26, 2008 at 5:00pm.**

The following Senators were present:

Meyer von Bremen, 12th
Cowsert, 46th
Tarver, 22nd
Adelman, 42nd
Harp, 29th

Note: Senators Ramsey, Curt Thompson, Reed, Judson Hill, and Weber were absent. Lieutenant Governor appointed Senator Grant ex officio for the day for the purpose of having a quorum. Senator Adelman had to leave meeting before all legislation had been addressed.

Chairman Meyer von Bremen called the meeting to order at 5:09 p.m.

The following legislation was discussed:

HB 92 (Rep. Everson, 106th) Tattoo; misdemeanor; eye socket; repeal

Representative Everson testified on behalf of the bill.

Senator Harp raised a motion to do pass. The motion was seconded by Senator Adelman. The vote was unanimous.

HB 92 DO PASS

HB 111 (Representative A. Scott, 153rd) Delayed birth certificates: petitions in probate and superior court

- Purpose of bill is to allow for the filing of delayed birth certificates to be filed in both probate and superior court.

Senator Harp raised a motion to do pass. The motion was seconded by Senator Adelman. The vote was unanimous.

HB 111 DO PASS

HB 1018 (Rep. Lane, 167th) Superior court fees; cross indexing

HB 1018 DO PASS

HB 1104 (Rep. Dempsey, 13th) Charitable solicitations; definitions; revise certain provisions

Bob Terry of the Secretary of State testified on behalf of the bill.

- Provides clarity as to who is exempt from registering with the Sec. of State
- Tries to mirror the Federal requirement of charitable organization.
- Organizations must identify themselves as paid solicitors when making cold calls.
- Changes the requirement from one year to 2 years for registration
- Clarifies the scope of jurisdiction

Senator Tarver: Are there limitations as to who can serve as paid solicitor? Response is yes, no felony convictions.

Senator Adelman: Question about the fees for renewal from \$10 to \$25 annually.

Senator Harp raised a motion to do pass. The motion was seconded by Senator Adelman. The vote was unanimous.

HB 1104 DO PASS

HB 1000 (Rep. J. Heard, 104th) Watercraft Certificate of Title Act; enact

- Senator Grant 25th was appointed ex-officio for the purpose of maintaining a quorum.

Col. Homer Briceson (Department of Natural Resources) testified on behalf of the bill. Current law does not require the titling of boats.

Mike Vacquer, (GA Tax Commission) testified against the bill stating that a change in Section 52-7A-23 line 12 regarding the cost of each title was agreed upon and would satisfy some of his peoples concern about compensation for the increased amount of work required with titling the boats.

As a whole they do not want to be a part of the bill and titling boats. Also not sure if boat title will be susceptible to ad valorem tax.

Senator Harp raised a motion to do pass. Motion seconded by Senator Tarver. The vote was unanimous.

HB 1000 DO PASS BY COMMITTEE SUBSTITUTE

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 5:45pm.

Respectfully submitted,

/s/ Senator Meyer von Bremen of the 12th, Chairman

/s/ Kim Crowell, Recording Secretary

November 19, 2008

The Honorable Bob Ewing
Secretary of the Senate
Georgia General Assembly
Room 353 Capitol Building
Atlanta, Georgia 30334

Re: Senate Special Judiciary Committee Legislation

Dear Mr. Ewing:

I am returning the following bills assigned to the Senate Special Judiciary Committee for the 2008 Session of the General Assembly:

[Senate Bill 41](#)
[Senate Bill 270](#)

No action was taken on the aforementioned legislation.

Sincerely,

/s/ Kimberly F. Crowell
Recording Secretary
Senate Special Judiciary Committee

Enclosures