

We will be an HOA under the 1994 POAA laws. We are not moving to a POA.

The Georgia Property Owners' Association Act of 1994 provides a legal framework for both POAs and HOAs in the state. However, it's crucial to remember that not all communities in Georgia are governed by the Act

Here is what I pulled from internet research.

The transition from pre-1994 homeowners associations (HOAs) in Georgia to the Property Owners Association Act (POAA) reflects significant legal and operational changes. The POAA offers enhancements that address limitations present in earlier statutes, such as automatic statutory liens and the perpetual duration of covenants, which were not guaranteed under prior regulations. In contrast, moving to a generic Property Owners Association (POA) does not offer the same statutory protections and benefits that the POAA confers.

1. Pre-1994 HOA Regulations

Before 1994, Georgia law mandated that covenants in homeowners associations expired after 20 years, as outlined in Code Section 44-5-60(d)(1)11. This limitation often left associations vulnerable to losing control over their established rules and regulations after two decades. The law was amended in 1993 to allow for automatic renewal, but these provisions did not apply retroactively to covenants recorded before that year.

2. Introduction of the POAA

The Georgia Property Owners Association Act (POAA), enacted in 1994, was designed to empower homeowners associations with numerous advantages similar to those governing condominium associations. Associations could opt into the POAA by amending their declarations, allowing them to benefit from enforceable covenants with perpetual duration instead of the prior 20-year expiration.

3. Benefits of Moving to POAA

Transitioning to the POAA provides several substantial benefits. Notably, it permits the creation of automatic statutory liens against properties for unpaid assessments, which does not require filing liens in county records. This allows the association to efficiently enforce payment collections without incurring additional administrative burdens. Furthermore, the POAA also includes provisions that allow for higher interest rates on late payments and the ability to assess fines against members.

4. Limitations of Moving to a POA

Conversely, moving to a general Property Owners Association (POA) does not provide the extensive benefits associated with the POAA. While it establishes governance for property associations, it lacks specific statutory rights like automatic liens and the streamlined process for collection that the POAA supports. As a result, associations that opt for generic POA status face challenges in enforcing regulations and maintaining cohesiveness in community management.

5. All new HOA communities created today are formed under the Georgia Property Owners' Association Act of 1994.

If you were to create a new HOA community in Georgia today, it would be formed under the **Georgia Property Owners' Association Act of 1994**, codified as O.C.G.A. §§ 44-3-200 to 44-3-237. This act provides the overarching legal framework for all HOAs in Georgia, regardless of when they were established.

However, it's crucial to remember that your HOA would also be subject to any subsequent amendments and additions to the Act, as well as other relevant Georgia laws. This includes, but is not limited to:

- **The Georgia Nonprofit Corporation Code:** As HOAs in Georgia must be established as either nonprofit or for-profit corporations, your HOA would need to comply with the relevant provisions of this code.
- **The Community Association Transparency and Protection Act (2018):** This act introduced important requirements for HOAs regarding disclosures, fining limitations, dispute resolution, and website maintenance.
- **Laws related to rental restrictions, solar panels, and parking:** Your HOA would need to adhere to the specific provisions outlined in these laws when creating and enforcing its rules.

We are trying to move the community to POAA laws before we have any more difficult situations. Case in point, we have a very small handful of homeowners who put their costs on the other homeowners. They thumb their noses at all of us to pay their bills. If we move under POAA where every other HOA sits after 1994, we can resolve this issue. We also have a whole situation where our bylaws were not written for gated communities and roads. After we move to POAA laws we can set up the new clearer declarations (takes another 65% community vote). This is where the real work comes into play.

Regards,

Craig McDonnell

President Crooked Creek HOA Board of Directors