

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1541
Committee Substitute Favorable 5/26/05

Short Title: Homeowner Association Amendments. (Public)

Sponsors:

Referred to:

April 21, 2005

A BILL TO BE ENTITLED
AN ACT TO AMEND THE LAWS GOVERNING HOMEOWNER ASSOCIATIONS
TO PROVIDE GREATER PROTECTIONS FOR HOMEOWNERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47F-3-102(11) reads as rewritten:

"§ 47F-3-102. Powers of owners' association.

Unless the articles of incorporation or the declaration expressly provides to the contrary, the association may:

...

(11) Impose reasonable charges for late payment of assessments assessments, not to exceed the greater of twenty-five dollars (\$25.00) or ten percent (10%) of the amount of the unpaid assessment and, after notice and an opportunity to be heard, suspend privileges or services provided by the association (except rights of access to lots) during any period that assessments or other amounts due and owing to the association remain unpaid for a period of 30 days or longer;

...."

SECTION 2. G.S. 47F-3-103 is amended by adding a new subsection to read:

"(f) The association shall publish the names and addresses of all officers and board members of the association within 30 days of their election."

SECTION 3. G.S. 47F-3-107.1 reads as rewritten:

"§ 47F-3-107.1. Procedures for fines and suspension of planned community privileges or services.

Unless a specific procedure for the imposition of fines or suspension of planned community privileges or services is provided for in the declaration, a hearing shall be held before the executive board or an adjudicatory panel appointed by the executive board to determine if any lot owner should be fined or if planned community privileges or services should be suspended pursuant to the powers granted to the association in

1 G.S. 47F-3-102(11) and (12). Any adjudicatory panel appointed by the executive board
2 shall be composed of members of the association who are not officers of the association
3 or members of the executive board. If the executive board fails to appoint an
4 adjudicatory panel to hear such matters, hearings under this section shall be held before
5 the executive board. The lot owner charged shall be given notice of the charge,
6 opportunity to be heard and to present evidence, and notice of the decision. If it is
7 decided that a fine should be imposed, a fine not to exceed one hundred ~~fifty~~ dollars
8 ~~(\$150.00)~~ (\$100.00) may be imposed for the violation and without further hearing, for
9 each day more than five days after the decision that the violation occurs. Such fines
10 shall be shall be assessments secured by liens under G.S. 47F-3-116. If it is decided that
11 a suspension of planned community privileges or services should be imposed, the
12 suspension may be continued without further hearing until the violation or delinquency
13 is cured. The lot owner may appeal the decision of an adjudicatory panel to the full
14 executive board by delivering written notice of appeal to the executive board within 15
15 days after the date of the decision. The executive board may affirm, vacate, or modify
16 the prior decision of the adjudicatory body."

17 **SECTION 4.** G.S. 47F-3-108 reads as rewritten:

18 **"§ 47F-3-108. Meetings.**

19 (a) A meeting of the association shall be held at least once each year. Special
20 meetings of the association may be called by the president, a majority of the executive
21 board, or by lot owners having ten percent (10%), or any lower percentage specified in
22 the bylaws, of the votes in the association. Not less than 10 nor more than 60 days in
23 advance of any meeting, the secretary or other officer specified in the bylaws shall
24 cause notice to be hand-delivered or sent prepaid by United States mail to the mailing
25 address of each lot or to any other mailing address designated in writing by the lot
26 owner, or sent by electronic means, including by electronic mail over the Internet, to an
27 electronic mailing address designated in writing by the lot owner. The notice of any
28 meeting shall state the time and place of the meeting and the items on the agenda,
29 including the general nature of any proposed amendment to the declaration or bylaws,
30 any budget changes, and any proposal to remove a director or officer.

31 (b) Meetings of the executive board shall be held as provided in the bylaws. At
32 regular intervals, the executive board meeting shall provide lot owners an opportunity to
33 attend a portion of an executive board meeting and to speak to the executive board
34 about their issues or concerns. The executive board may place reasonable restrictions on
35 the number of persons who speak on each side of an issue and may place reasonable
36 time restrictions on persons who speak.

37 (c) Except as otherwise provided in the bylaws, meetings of the association and
38 the executive board shall be conducted in accordance with general principles of
39 parliamentary procedure so as to facilitate the orderly and efficient completion of
40 business."

41 **SECTION 5.** G.S. 47F-3-116 reads as rewritten:

42 **"§ 47F-3-116. Lien for assessments.**

43 (a) Any assessment levied against a lot remaining unpaid for a period of 30 days
44 or longer shall constitute a lien on that lot when a claim of lien is filed of record in the

1 office of the clerk of superior court of the county in which the lot is located in the
2 manner provided herein. Unless the declaration otherwise provides, fees, charges, late
3 charges, and other charges imposed pursuant to G.S. 47F-3-102, 47F-3-107,
4 47F-3-107.1, and 47F-3-115 are enforceable as assessments under this section. The
5 Except as provided in subsections (a1) and (a2) of this section, the association may
6 foreclose the claim of lien in like manner as a mortgage on real estate under power of
7 sale under Article 2A of Chapter 45 of the General Statutes. ~~Unless the declaration~~
8 ~~otherwise provides, fees, charges, late charges, fines, interest, and other charges~~
9 ~~imposed pursuant to G.S. 47F 3 102, 47F 3 107, 47F 3 107.1, and 47F 3 115 are~~
10 ~~enforceable as assessments under this section.~~

11 (a1) An association may not foreclose an association assessment lien under Article
12 2A of Chapter 45 of the General Statutes if the debt securing the lien consists solely of
13 fines imposed by the association, interest on unpaid fines, or attorneys' fees incurred by
14 the association solely associated with fines imposed by the association. The association,
15 however, may enforce the lien by judicial foreclosure as provided in Article 29A of
16 Chapter 1 of the General Statutes.

17 (a2) An association shall not levy, charge, or attempt to collect a service,
18 collection, consulting, or administration fee from any lot owner unless the fee is
19 expressly allowed in the declaration. Any lien securing a debt consisting solely of these
20 fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter
21 1 of the General Statutes.

22 (b) The lien under this section is prior to all liens and encumbrances on a lot
23 except (i) liens and encumbrances (specifically including, but not limited to, a mortgage
24 or deed of trust on the lot) recorded before the docketing of the claim of lien in the
25 office of the clerk of superior court, and (ii) liens for real estate taxes and other
26 governmental assessments and charges against the lot. This subsection does not affect
27 the priority of mechanics' or materialmen's liens.

28 (c) A lien for unpaid assessments is extinguished unless proceedings to enforce
29 the lien are instituted within three years after the docketing of the claim of lien in the
30 office of the clerk of superior court.

31 (d) This section does not prohibit other actions to recover the sums for which
32 subsection (a) of this section creates a lien or prohibit an association taking a deed in
33 lieu of foreclosure.

34 (e) A judgment, decree, or order in any action brought under this section shall
35 include costs and reasonable attorneys' fees for the prevailing party. If the lot owner
36 does not contest the collection of debt and enforcement of a lien after the expiration of
37 the 15-day period following notice as required in subsection (e1) of this section, then
38 reasonable attorneys' fees shall not exceed one thousand two hundred dollars (\$1,200),
39 not including costs or expenses incurred. The collection of debt and enforcement of a
40 lien remain uncontested as long as the lot owner does not dispute, contest, or raise any
41 objection, defense, offset, or counterclaim as to the amount or validity of the debt and
42 lien asserted or the association's right to collect the debt and enforce the lien as provided
43 in this section. The attorneys' fee limitation in this subsection shall not apply to judicial

1 foreclosures or to proceedings authorized under subsection (d) of this section or
2 G.S. 47F-3-120.

3 (e1) A lot owner may not be required to pay attorneys' fees and court costs until
4 the lot owner is notified in writing of the association's intent to seek payment of
5 attorneys' fees and court costs. The notice must be sent by first-class mail to the
6 property address and, if different, to the mailing address for the lot owner in the
7 association's records. In addition, the notice must either be hand-delivered to the
8 property address or sent certified mail with confirmation of delivery by the U.S. Postal
9 Service to the property address and, if different, to the mailing address for the lot owner
10 in the association's records. The notice shall set out the outstanding balance due as of
11 the date of the notice and state that the lot owner has 15 days from the mailing of the
12 notice by first-class mail to pay the outstanding balance without the attorneys' fees and
13 court costs. If the lot owner pays the outstanding balance within this period, then the lot
14 owner shall have no obligation to pay attorneys' fees and court costs. The notice shall
15 also inform the lot owner of the opportunity to contact a representative of the
16 association to discuss a payment schedule for the outstanding balance as provided in
17 subsection (e2) of this section and shall provide the name and telephone number of the
18 representative.

19 (e2) The association, acting through its executive board and in the board's sole
20 discretion, may agree to allow payment of an outstanding balance in installments.
21 Neither the association nor the lot owner is obligated to offer or accept any proposed
22 installment schedule. Reasonable administrative fees and costs for accepting and
23 processing installments may be added to the outstanding balance and included in an
24 installment payment schedule. Reasonable attorneys' fees may be added to the
25 outstanding balance and included in an installment schedule only after the lot owner has
26 been given notice as required in subsection (e1) of this section.

27 (f) Where the holder of a first mortgage or first deed of trust of record, or other
28 purchaser of a lot obtains title to the lot as a result of foreclosure of a first mortgage or
29 first deed of trust, such purchaser and its heirs, successors, and assigns, shall not be
30 liable for the assessments against such lot which became due prior to the acquisition of
31 title to such lot by such purchaser. Such unpaid assessments shall be deemed to be
32 common expenses collectible from all the lot owners including such purchaser, its heirs,
33 successors, and assigns.

34 (g) A claim of lien shall set forth the name and address of the association, the
35 name of the record owner of the lot at the time the claim of lien is filed, a description of
36 the lot, and the amount of the lien claimed."

37 **SECTION 6.** G.S. 47F-3-118 reads as rewritten:

38 **"§ 47F-3-118. Association records.**

39 (a) The association shall keep financial records sufficiently detailed to enable the
40 association to comply with this Chapter. All financial and other ~~records~~-records,
41 including records of meetings of the association and executive board, shall be made
42 reasonably available for examination by any lot owner and the lot owner's authorized
43 ~~agents~~-agents as required in the bylaws and Chapter 55A of the General Statutes. If the
44 bylaws do not specify particular records to be maintained, the association shall keep

1 accurate records of all cash receipts and expenditures and all assets and liabilities. In
2 addition to any specific information that is required by the bylaws to be assembled and
3 reported to the lot owners at specified times, the association shall make an annual
4 income and expense statement and balance sheet available to all lot owners at no charge
5 and within 75 days after the close of the fiscal year to which the information relates.
6 Notwithstanding the bylaws, a more extensive compilation, review, or audit of the
7 association's books and records for the current or immediately preceding fiscal year may
8 be required by a vote of the majority of the executive board or by the affirmative vote of
9 two-thirds of the lot owners present in person or by proxy at any annual meeting or any
10 special meeting duly called for that purpose.

11 (b) The association, upon written request, shall furnish to a lot owner or the lot
12 owner's authorized agents a statement setting forth the amount of unpaid assessments
13 and other charges against a lot. The statement shall be furnished within 10 business days
14 after receipt of the request and is binding on the association, the executive board, and
15 every lot owner."

16 **SECTION 7.** Article 3 of Chapter 47F of the General Statutes is amended by
17 adding the following new section to read:

18 **"§ 47F-3-121. American and State flags and political sign displays.**

19 Notwithstanding any provision in any declaration of covenants, no restriction on the
20 use of land shall be construed to:

21 (1) Regulate or prohibit the display of the flag of the United States or
22 North Carolina, of a size no greater than four feet by six feet. The
23 United States flag must be displayed in accordance with the patriotic
24 customs set forth in 4 U.S.C. §§ 5-10, as amended, governing the
25 display and use of the flag of the United States unless:

- 26 a. For restrictions registered prior to October 1, 2005, the
27 restriction specifically uses the following terms:
28 1. Flag of the United States of America;
29 2. American flag;
30 3. United States flag; or
31 4. North Carolina flag

32 b. For restrictions registered on or after October 1, 2005, the
33 restriction shall be written on the first page of the instrument or
34 conveyance in print that is in boldface type, capital letters, and
35 no smaller than the largest print used elsewhere in the
36 instrument or conveyance. The restriction shall be construed to
37 regulate or prohibit the display of the United States or North
38 Carolina flag only if the restriction specifically states: **'THIS**
39 **DOCUMENT REGULATES OR PROHIBITS THE**
40 **DISPLAY OF THE FLAG OF THE UNITED STATES OF**
41 **AMERICA OR STATE OF NORTH CAROLINA'.**

42 This subdivision shall apply to owners of property who display the
43 flag of the United States or North Carolina on property owned

1 exclusively by them and does not apply to common areas, easements,
 2 rights-of-way, or other areas owned by others.

3 (2) Regulate or prohibit the indoor or outdoor display of a political sign by
 4 an association member on property owned exclusively by the member,
 5 unless:

6 a. For restrictions registered prior to October 1, 2005, the
 7 restriction specifically uses the term 'political signs'.

8 b. For restrictions registered on or after October 1, 2005, the
 9 restriction shall be written on the first page of the instrument or
 10 conveyance in print that is in boldface type, capital letters, and
 11 no smaller than the largest print used elsewhere in the
 12 instrument or conveyance. The restriction shall be construed to
 13 regulate or prohibit the display of political signs only if the
 14 restriction specifically states: **THIS DOCUMENT**
 15 **REGULATES OR PROHIBITS THE DISPLAY OF THE**
 16 **POLITICAL SIGNS'.**

17 Even when display of a political sign is permitted under this
 18 subdivision, an association (i) may prohibit the display of political
 19 signs earlier than 45 days before the day of the election and later than
 20 seven days after an election day, and (ii) may regulate the size and
 21 number of political signs that may be placed on a member's property if
 22 the association's regulation is no more restrictive than any applicable
 23 city, town, or county ordinance that regulates the size and number of
 24 political signs on residential property. If the local government in which
 25 the property is located does not regulate the size and number of
 26 political signs on residential property, the association shall permit at
 27 least one political sign with the maximum dimensions of 24 inches by
 28 24 inches on a member's property. For the purposes of this
 29 subdivision, 'political sign' means a sign that attempts to influence the
 30 outcome of an election, including supporting or opposing an issue on
 31 the election ballot. This subdivision shall apply to owners of property
 32 who display political signs on property owned exclusively by them and
 33 does not apply to common areas, easements, rights-of-way, or other
 34 areas owned by others."

35 **SECTION 8.** G.S. 47C-3-102(11) reads as rewritten:

36 "**§ 47C-3-102. Powers of unit owners' association.**

37 (a) Unless the declaration expressly provides to the contrary, the association,
 38 even if unincorporated, may:

39 ...
 40 (11) Impose charges for late payment of ~~assessments~~ assessments, not to
 41 exceed the greater of twenty-five dollars (\$25.00) or ten percent (10%)
 42 of the amount of the unpaid assessment and, after notice and an
 43 opportunity to be heard, levy reasonable fines not to exceed one
 44 hundred ~~fifty~~ dollars (~~\$150.00~~)(~~\$100.00~~) (G.S. 47C-3-107.1) for

1 violations of the declaration, bylaws, and rules and regulations of the
2 association;"

3 **SECTION 9.** G.S. 47C-3-103 is amended by adding a new subsection to
4 read:

5 "(g) The association shall publish the names and addresses of all officers and
6 board members of the association within 30 days of the election."

7 **SECTION 10.** G.S. 47C-3-107.1 reads as rewritten:

8 "**§ 47C-3-107.1. Charges for late payments, fines. Procedures for fines and**
9 **suspension of condominium privileges or services.**

10 ~~The bylaws of the association may provide for a hearing before an adjudicatory~~
11 ~~panel to determine if a unit owner should be fined not to exceed one hundred fifty~~
12 ~~dollars (\$150.00) for a violation of the declaration, bylaws or rules and regulations of~~
13 ~~the association. Such panel shall accord to the party charged with the violation notice of~~
14 ~~the charge, opportunity to be heard and to present evidence, and notice of the decision.~~
15 ~~Such a fine shall be an assessment secured by lien under G.S. 47C-3-116. Unless a~~
16 ~~specific procedure for the imposition of fines or suspension of condominium privileges~~
17 ~~or services is provided for in the declaration, a hearing shall be held before the~~
18 ~~executive board or an adjudicatory panel appointed by the executive board to determine~~
19 ~~if any unit owner should be fined or if condominium privileges or services should be~~
20 ~~suspended pursuant to the powers granted to the association in G.S. 47C-3-102(11).~~
21 ~~Any adjudicatory panel appointed by the executive board shall be composed of~~
22 ~~members of the association who are not officers of the association or members of the~~
23 ~~executive board. The unit owner charged shall be given notice of the charge,~~
24 ~~opportunity to be heard and to present evidence, and notice of the decision. If it is~~
25 ~~decided that a fine should be imposed, a fine not to exceed one hundred dollars~~
26 ~~(\$100.00) may be imposed for the violation and without further hearing, for each day~~
27 ~~more than five days after the decision that the violation occurs. Such fines shall be~~
28 ~~assessments secured by liens under G.S. 47C-3-116. If it is decided that a suspension of~~
29 ~~condominium privileges or services should be imposed, the suspension may be~~
30 ~~continued without further hearing until the violation or delinquency is cured. A unit~~
31 ~~owner may appeal a decision of an adjudicatory panel to the full executive board by~~
32 ~~delivering written notice of appeal to the executive board within 15 days after the date~~
33 ~~of the decision. The executive board may affirm, vacate, or modify the prior decision of~~
34 ~~the adjudicatory body."~~

35 **SECTION 11.** G.S. 47C-3-108 reads as rewritten:

36 "**§ 47C-3-108. Meetings.**

37 (a) A meeting of the association shall be held at least once each year. Special
38 meetings of the association may be called by the president, a majority of the executive
39 board, or by unit owners having twenty percent (20%) or any lower percentage specified
40 in the bylaws of the votes in the association. Not less than 10 nor more than 50 days in
41 advance of any meeting, the secretary or other officer specified in the bylaws shall
42 cause notice to be hand-delivered or sent prepaid by United States mail to the mailing
43 address of each unit or to any other mailing address designated in writing by the unit
44 owner, or sent by electronic means, including by electronic mail over the Internet, to an

1 electronic mailing address designated in writing by the unit owner. The notice of any
2 meeting must state the time and place of the meeting and the items on the agenda,
3 including the general nature of any proposed amendment to the declaration or bylaws,
4 any budget changes, and any proposal to remove a director or officer.

5 (b) Meetings of the executive board shall be held as provided in the bylaws. At
6 regular intervals, the executive board meeting shall provide unit owners an opportunity
7 to attend a portion of an executive board meeting and to speak to the executive board
8 about their issues and concerns. The executive board may place reasonable restrictions
9 on the number of persons who speak on each side of an issue and may place reasonable
10 time restrictions on persons who speak.

11 (c) Except as otherwise provided for in the bylaws, meetings of the association
12 and executive board shall be conducted in accordance with general principles of
13 parliamentary procedure so as to facilitate the orderly and efficient completion of
14 business."

15 **SECTION 12.** G.S. 47C-3-116 reads as rewritten:

16 **"§ 47C-3-116. Lien for assessments.**

17 (a) Any assessment levied against a unit remaining unpaid for a period of 30
18 days or longer shall constitute a lien on that unit when a claim of lien is filed of record
19 in the office of the clerk of superior court of the county in which the unit is located in
20 the manner provided therefor by Article 8 of Chapter 44 of the General Statutes. Unless
21 the declaration otherwise provides, fees, charges, late charges and other charges
22 imposed pursuant to G.S. 47C-3-102, 47C-3-107, 47C-3-107.1, and 47C-3-115 are
23 enforceable as assessments under this section. Except as provided in subsections (a1)
24 and (a2) of this section, ~~The~~ the association's lien may be foreclosed in like manner as a
25 mortgage on real estate under power of sale under Article 2A of Chapter 45 of the
26 General Statutes. ~~Unless the declaration otherwise provides, fees, charges, late charges,~~
27 ~~finer, and interest charged pursuant to G.S. 47C 3 102(10), (11), and (12),~~
28 ~~G.S. 47C 3 107(d) and 47C 3 107.1, are enforceable as assessments under this section.~~

29 (a1) An association may not foreclose an association assessment lien under Article
30 2A of Chapter 45 of the General Statutes if the debt securing the lien consists solely of
31 finer imposed by the association, interest on unpaid fines, or attorneys' fees incurred by
32 the association solely associated with fines imposed by the association. The association,
33 however, may enforce the lien by judicial foreclosure as provided in Article 29A of
34 Chapter 1 of the General Statutes.

35 (a2) An association shall not levy, charge, or attempt to collect a service,
36 collection, consulting, or administration fee from any unit owner unless the fee is
37 expressly allowed in the declaration. Any lien secured by debt consisting solely of these
38 fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter
39 1 of the General Statutes.

40 (b) The lien under this section is prior to all other liens and encumbrances on a
41 unit except (i) liens and encumbrances (specifically including, but not limited to, a
42 mortgage or deed of trust on the unit) recorded before the docketing of the lien in the
43 office of the clerk of superior court, and (ii) liens for real estate taxes and other

1 governmental assessments or charges against the unit. This subsection does not affect
2 the priority of mechanics' or materialmen's liens.

3 (c) A lien for unpaid assessments is extinguished unless proceedings to enforce
4 the lien are instituted within three years after the docketing thereof in the office of the
5 clerk of superior court.

6 (d) This section does not prohibit actions to recover sums for which subsection
7 (a) creates a lien or prohibit an association taking a deed in lieu of foreclosure.

8 (e) A judgment, decree, or order in any action brought under this section ~~must~~
9 shall include costs and reasonable attorneys' fees for the prevailing party. If the unit
10 owner does not contest the collection of debt and enforcement of a lien after the
11 expiration of the 15-day period following notice as required in subsection (e1) of this
12 section, then reasonable attorneys' fees shall not exceed one thousand two hundred
13 dollars (\$1,200), not including costs or expenses incurred. The collection of debt and
14 enforcement of a lien remain uncontested as long as the unit owner does not dispute,
15 contest, or raise any objection, defense, offset, or counterclaim as to the amount or
16 validity of the debt and lien asserted or the association's right to collect the debt and
17 enforce the lien as provided in this section. The attorneys' fee limitation in this
18 subsection shall not apply to judicial foreclosures or proceedings authorized under
19 subsection (d) of this section or G.S. 47F-4-117.

20 (e1) A unit owner may not be required to pay attorneys' fees and court costs until
21 the unit owner is notified in writing of the association's intent to seek payment of
22 attorneys' fees and court costs. The notice must be sent by first-class mail to the
23 property address and, if different, to the mailing address for the unit owner in the
24 association's records. In addition, the notice must either be hand-delivered to the
25 property address or sent certified mail with confirmation of delivery by the U.S. Postal
26 Service to the property address and, if different, to the mailing address for the unit
27 owner in the association's records. The notice shall set out the outstanding balance due
28 as of the date of the notice and state that the unit owner has 15 days from the mailing of
29 the notice by first-class mail to pay the outstanding balance without the attorneys' fees
30 and court costs. If the unit owner pays the outstanding balance within this period, then
31 the unit owner shall have no obligation to pay attorneys' fees and court costs. The notice
32 shall also inform the unit owner of the opportunity to contact a representative of the
33 association to discuss a payment schedule for the outstanding balance as provided in
34 subsection (e2) of this section and shall provide the name and telephone number of the
35 representative.

36 (e2) The association, acting through its executive board and in the board's sole
37 discretion, may agree to allow payment of an outstanding balance in installments.
38 Neither the association nor the unit owner is obligated to offer or accept any proposed
39 installment schedule. Reasonable administrative fees and costs for accepting and
40 processing installments may be added to the outstanding balance and included in an
41 installment payment schedule. Reasonable attorneys' fees may be added to the
42 outstanding balance and included in an installment schedule only after the unit owner
43 has been given notice as required in subsection (e1) of this section.

1 (f) Where the holder of a first mortgage or first deed of trust of record, or other
2 purchaser of a unit, obtains title to the unit as a result of foreclosure of a first mortgage
3 or first deed of trust, such purchaser, and its heirs, successors and assigns, shall not be
4 liable for the assessments against such unit which became due prior to acquisition of
5 title to such unit by such purchaser. Such unpaid assessments shall be deemed to be
6 common expenses collectible from all the unit owners including such purchaser, and its
7 heirs, successors and assigns."

8 **SECTION 13.** G.S. 47C-3-118 reads as rewritten:

9 **"§ 47C-3-118. Association records.**

10 (a) The association shall keep financial records sufficiently detailed to enable the
11 association to comply with this chapter. All financial and other ~~records~~ records,
12 including records of meetings of the association and executive board, shall be made
13 reasonably available for examination by any unit owner and the unit owner's his
14 authorized agents, agents as required by the bylaws and by Chapter 55A of the General
15 Statutes if the association is a nonprofit corporation. If the bylaws do not specify
16 particular records to be maintained, the association shall keep accurate records of all
17 cash receipts and expenditures and all assets and liabilities. In addition to any specific
18 information that is required by the bylaws to be assembled and reported to the unit
19 owners at specified times, the association shall make an annual income and expense
20 statement and balance sheet available to all unit owners at no charge and within 75 days
21 after the close of the fiscal year to which the information relates. Notwithstanding the
22 bylaws, a more extensive compilation, review, or audit of the association's books and
23 records for the current or immediately preceding fiscal year may be required by a vote
24 of the majority of the executive board or by the affirmative vote of two-thirds of the unit
25 owners present in person or by proxy at any annual meeting or any special meeting duly
26 called for that purpose.

27 (b) The association, upon written request, shall furnish a unit owner or the unit
28 owner's authorized agents a statement setting forth the amount of unpaid assessments
29 and other charges against a unit. The statement shall be furnished within 10 business
30 days after receipt of the request and is binding on the association, the executive board,
31 and every unit owner."

32 **SECTION 14.** Article 3 of Chapter 47C of the General Statutes is amended
33 by adding the following new section to read:

34 **"§ 47C-3-121. American and State flags and political sign displays.**

35 Notwithstanding any provision in any declaration of covenants, no restriction on the
36 use of land shall be construed to:

37 (1) Regulate or prohibit the display of the flag of the United States or
38 North Carolina, of a size no greater than four feet by six feet. The
39 United States flag must be displayed in accordance with the patriotic
40 customs set forth in 4 U.S.C. §§ 5-10, as amended, governing the
41 display and use of the flag of the United States unless:

42 a. For restrictions registered prior to October 1, 2005, the
43 restriction specifically uses the following terms:

44 1. Flag of the United States of America;

2. American flag;
3. United States flag; or
4. North Carolina flag.

b. For restrictions registered on or after October 1, 2005, the restriction shall be written on the first page of the instrument or conveyance in print that is in boldface type, capital letters, and no smaller than the largest print used elsewhere in the instrument or conveyance. The restriction shall be construed to regulate or prohibit the display of the United States or North Carolina flag only if the restriction specifically states: **THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA**'.

This subdivision shall apply to owners of property who display the flag of the United States or North Carolina on property owned exclusively by them and does not apply to common areas, easements, rights-of-way, or other areas owned by others.

(2) Regulate or prohibit the indoor or outdoor display of a political sign by an association member on that member's property owned exclusively by the member, unless:

- a. For restrictions registered prior to October 1, 2005, the restriction specifically uses the term 'political signs'.
- b. For restrictions registered on or after October 1, 2005, the restriction shall be written on the first page of the instrument or conveyance in print that is in boldface type, capital letters, and no smaller than the largest print used elsewhere in the instrument or conveyance. The restriction shall be construed to regulate or prohibit the display of political signs only if the restriction specifically states: **THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE POLITICAL SIGNS**'.

Even when display of a political sign is permitted under this subdivision, an association (i) may prohibit the display of political signs earlier than 45 days before the day of the election and later than seven days after an election day, and (ii) may regulate the size and number of political signs that may be placed on a member's property if the association's regulation is no more restrictive than any applicable city, town, or county ordinance that regulates the size and number of political signs on residential property. If the local government in which the property is located does not regulate the size and number of political signs on residential property, the association shall permit at least one political sign with the maximum dimensions of 24 inches by 24 inches on a member's property. For the purposes of this subdivision, 'political sign' means a sign that attempts to influence the

1 outcome of an election, including supporting or opposing an issue on
2 the election ballot. This subdivision shall apply to owners of property
3 who display political signs on property owned exclusively by them and
4 does not apply to common areas, easements, rights-of-way, or other
5 areas owned by others."

6 **SECTION 15.** This act becomes effective January 1, 2006, and applies to
7 violations occurring and proceedings commenced on or after that date and to fiscal
8 years beginning on or after that date.