

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1541
Committee Substitute Favorable 5/26/05
Third Edition Engrossed 6/1/05

Short Title: Homeowner Association Amendments. (Public)

Sponsors:

Referred to:

April 21, 2005

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

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 47F-3-102(11) reads as rewritten:
6 **"§ 47F-3-102. Powers of owners' association.**

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

9 ...

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

17"

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

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

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

23 **"§ 47F-3-107.1. Procedures for fines and suspension of planned community**
24 **privileges or services.**

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

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

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

19 "**§ 47F-3-108. Meetings.**

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

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

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

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

43 "**§ 47F-3-116. Lien for assessments.**

1 (a) Any assessment levied against a lot remaining unpaid for a period of 30 days
2 or longer shall constitute a lien on that lot when a claim of lien is filed of record in the
3 office of the clerk of superior court of the county in which the lot is located in the
4 manner provided herein. Unless the declaration otherwise provides, fees, charges, late
5 charges, and other charges imposed pursuant to G.S. 47F-3-102, 47F-3-107,
6 47F-3-107.1, and 47F-3-115 are enforceable as assessments under this section. The
7 Except as provided in subsections (a1) and (a2) of this section, the association may
8 foreclose the claim of lien in like manner as a mortgage on real estate under power of
9 sale under Article 2A of Chapter 45 of the General Statutes. Unless the declaration
10 otherwise provides, fees, charges, late charges, fines, interest, and other charges
11 imposed pursuant to G.S. 47F-3-102, 47F-3-107, 47F-3-107.1, and 47F-3-115 are
12 enforceable as assessments under this section.

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

19 (a2) An association shall not levy, charge, or attempt to collect a service,
20 collection, consulting, or administration fee from any lot owner unless the fee is
21 expressly allowed in the declaration. Any lien securing a debt consisting solely of these
22 fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter
23 1 of the General Statutes.

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

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

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

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

1 in this section. The attorneys' fee limitation in this subsection shall not apply to judicial
2 foreclosures or to proceedings authorized under subsection (d) of this section or
3 G.S. 47F-3-120.

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

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

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

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

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

39 **"§ 47F-3-118. Association records.**

40 (a) The association shall keep financial records sufficiently detailed to enable the
41 association to comply with this Chapter. All financial and other ~~records~~ records,
42 including records of meetings of the association and executive board, shall be made
43 reasonably available for examination by any lot owner and the lot owner's authorized
44 agents. ~~agents~~ agents as required in the bylaws and Chapter 55A of the General Statutes. If the

1 bylaws do not specify particular records to be maintained, the association shall keep
2 accurate records of all cash receipts and expenditures and all assets and liabilities. In
3 addition to any specific information that is required by the bylaws to be assembled and
4 reported to the lot owners at specified times, the association shall make an annual
5 income and expense statement and balance sheet available to all lot owners at no charge
6 and within 75 days after the close of the fiscal year to which the information relates.
7 Notwithstanding the bylaws, a more extensive compilation, review, or audit of the
8 association's books and records for the current or immediately preceding fiscal year may
9 be required by a vote of the majority of the executive board or by the affirmative vote of
10 two-thirds of the lot owners present in person or by proxy at any annual meeting or any
11 special meeting duly called for that purpose.

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

17 (c) No financial payments, including payments made in the form of goods and
18 services, may be made to any officer or member of the association's executive board or
19 to a business, business associate, or relative of an officer or member of the executive
20 board, unless those payments are made for services and expenses on behalf of the
21 association and are given prior approval by the board."

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

24 **"§ 47F-3-121. American and State flags and political sign displays.**

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

27 (1) Regulate or prohibit the display of the flag of the United States or
28 North Carolina, of a size no greater than four feet by six feet, which is
29 displayed in accordance with or in a manner consistent with the
30 patriotic customs set forth in 4 U.S.C. §§ 5-10, as amended, governing
31 the display and use of the flag of the United States unless:

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

- 34 1. Flag of the United States of America;
- 35 2. American flag;
- 36 3. United States flag; or
- 37 4. North Carolina flag

38 b. For restrictions registered on or after October 1, 2005, the
39 restriction shall be written on the first page of the instrument or
40 conveyance in print that is in boldface type, capital letters, and
41 no smaller than the largest print used elsewhere in the
42 instrument or conveyance. The restriction shall be construed to
43 regulate or prohibit the display of the United States or North
44 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 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 outcome of an election, including supporting or opposing an issue on the election ballot. This subdivision shall apply to owners of property who display political signs on property owned exclusively by them and does not apply to common areas, easements, rights-of-way, or other areas owned by others."

SECTION 7.1. G.S. 47F-1-102 reads as rewritten:

"§ 47F-1-102. Applicability.

(a) This Chapter applies to all planned communities created within this State on or after January 1, 1999, except as otherwise provided in this section.

1 (b) This Chapter does not apply to a planned community created within this State
2 on or after January 1, 1999:

- 3 (1) Which contains no more than 20 lots (including all lots which may be
4 added or created by the exercise of development rights) unless the
5 declaration provides or is amended to provide that this Chapter does
6 apply to that planned community; or
7 (2) In which all lots are restricted exclusively to nonresidential purposes,
8 unless the declaration provides or is amended to provide that this
9 Chapter does apply to that planned community.

10 (c) Notwithstanding the provisions of subsection (a) of this section, G.S.
11 47F-3-102(1) through (6) and (11) through (17) (Powers of owners' association), G.S.
12 47F-3-103(f) (Executive board members and officers), G.S. 47F-3-107(a), (b), and (c)
13 (Upkeep of planned community; responsibility and assessments for damages), G.S.
14 47F-3-107.1 (Procedures for fines and suspension of planned community privileges or
15 services), G.S. 47F-3-108 (Meetings), G.S. 47F-3-115 (Assessments for common
16 expenses), ~~and~~ G.S. 47F-3-116 (Lien for assessments), G.S. 47F-3-118 (Association
17 records), and G.S. 47C-3-121 (American and State flags and political sign displays)
18 apply to all planned communities created in this State before January 1, 1999, unless the
19 articles of incorporation or the declaration expressly provides to the contrary. These
20 sections apply only with respect to events and circumstances occurring on or after
21 January 1, 1999, and do not invalidate existing provisions of the declaration, bylaws, or
22 plats and plans of those planned communities. G.S. 47F-1-103 (Definitions) also applies
23 to all planned communities created in this State before January 1, 1999, to the extent
24 necessary in construing any of the preceding sections.

25 (d) Notwithstanding the provisions of subsections (a) and (c) of this section, any
26 planned community created prior to January 1, 1999, may elect to make the provisions
27 of this Chapter applicable to it by amending its declaration to provide that this Chapter
28 shall apply to that planned community. The amendment may be made by affirmative
29 vote or written agreement signed by lot owners of lots to which at least sixty-seven
30 percent (67%) of the votes in the association are allocated or any smaller majority the
31 declaration specifies. To the extent the procedures and requirements for amendment in
32 the declaration conflict with the provisions of this subsection, this subsection shall
33 control with respect to any amendment to provide that this Chapter applies to that
34 planned community.

35 (e) This Chapter does not apply to planned communities or lots located outside
36 this State."

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

38 "**§ 47C-3-102. Powers of unit owners' association.**

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

- 41 ...
42 (11) Impose charges for late payment of ~~assessments~~ assessments, not to
43 exceed the greater of twenty-five dollars (\$25.00) or ten percent (10%)
44 of the amount of the unpaid assessment and, after notice and an

1 opportunity to be heard, levy reasonable fines not to exceed one
2 hundred fifty dollars ~~(\$150.00)~~ (\$100.00) (G.S. 47C-3-107.1) for
3 violations of the declaration, bylaws, and rules and regulations of the
4 association;"

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

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

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

10 **"§ 47C-3-107.1. ~~Charges for late payments, fines.~~ Procedures for fines and**
11 **suspension of condominium privileges or services.**

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

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

38 **"§ 47C-3-108. Meetings.**

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

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

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

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

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

18 **"§ 47C-3-116. Lien for assessments.**

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

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

37 (a2) An association shall not levy, charge, or attempt to collect a service,
38 collection, consulting, or administration fee from any unit owner unless the fee is
39 expressly allowed in the declaration. Any lien secured by debt consisting solely of these
40 fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter
41 1 of the General Statutes.

42 (b) The lien under this section is prior to all other liens and encumbrances on a
43 unit except (i) liens and encumbrances (specifically including, but not limited to, a
44 mortgage or deed of trust on the unit) recorded before the docketing of the lien in the

1 office of the clerk of superior court, and (ii) liens for real estate taxes and other
2 governmental assessments or charges against the unit. This subsection does not affect
3 the priority of mechanics' or materialmen's liens.

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

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

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

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

37 (e2) The association, acting through its executive board and in the board's sole
38 discretion, may agree to allow payment of an outstanding balance in installments.
39 Neither the association nor the unit owner is obligated to offer or accept any proposed
40 installment schedule. Reasonable administrative fees and costs for accepting and
41 processing installments may be added to the outstanding balance and included in an
42 installment payment schedule. Reasonable attorneys' fees may be added to the
43 outstanding balance and included in an installment schedule only after the unit owner
44 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 (c) No financial payments, including payments made in the form of goods and
33 services, may be made to any officer or member of the association's executive board or
34 to a business, business associate, or relative of an officer or member of the executive
35 board, unless those payments are made for services and expenses on behalf of the
36 association and are given prior approval by the board."

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

39 **"§ 47C-3-121. American and State flags and political sign displays.**

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

42 (1) Regulate or prohibit the display of the flag of the United States or
43 North Carolina, of a size no greater than four feet by six feet, which is
44 displayed in accordance with or in a manner consistent with the

1 patriotic customs set forth in 4 U.S.C. §§ 5-10, as amended, governing
2 the display and use of the flag of the United States unless:

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

5 1. Flag of the United States of America;

6 2. American flag;

7 3. United States flag; or

8 4. North Carolina flag.

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

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

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

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

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

37 Even when display of a political sign is permitted under this
38 subdivision, an association (i) may prohibit the display of political
39 signs earlier than 45 days before the day of the election and later than
40 seven days after an election day, and (ii) may regulate the size and
41 number of political signs that may be placed on a member's property if
42 the association's regulation is no more restrictive than any applicable
43 city, town, or county ordinance that regulates the size and number of
44 political signs on residential property. If the local government in which

1 the property is located does not regulate the size and number of
2 political signs on residential property, the association shall permit at
3 least one political sign with the maximum dimensions of 24 inches by
4 24 inches on a member's property. For the purposes of this
5 subdivision, 'political sign' means a sign that attempts to influence the
6 outcome of an election, including supporting or opposing an issue on
7 the election ballot. This subdivision shall apply to owners of property
8 who display political signs on property owned exclusively by them and
9 does not apply to common areas, easements, rights-of-way, or other
10 areas owned by others."

11 **SECTION 14.1.** G.S. 47C-1-102 reads as rewritten:

12 **"§ 47C-1-102. Applicability.**

13 (a) This Chapter applies to all condominiums created within this State after
14 October 1, 1986. G.S. 47C-1-105 (Separate Titles and Taxation), 47C-1-106
15 (Applicability of Local Ordinances, Regulations, and Building Codes), 47C-1-107
16 (Eminent Domain), 47C-2-103 (Construction and Validity of Declaration and Bylaws),
17 47C-2-104 (Description of Units), 47C-2-121 (Merger or Consolidation of
18 Condominiums), 47C-3-102(a)(1) through (6) and (11) through (16)(Powers of Unit
19 Owners' Association), 47C-3-103 (Executive board members and officers), 47C-3-107.1
20 (Charges for Late Payment, Fines Procedures for fines and suspension of condominium
21 privileges or services), 47C-3-108 (Meetings) 47C-3-111 (Tort and Contract Liability),
22 47C-3-112 (Conveyance or Encumbrance of Common Elements), 47C-3-116 (Lien for
23 Assessments), 47C-3-118 (Association Records), 47C-3-121 (American and State flags
24 and political sign displays), and 47C-4-117 (Effect of Violation on Rights of Action;
25 Attorney's Fees), and G.S. 47C-1-103 (Definitions), to the extent necessary in
26 construing any of those sections, apply to all condominiums created in this State on or
27 before October 1, 1986, unless the declaration expressly provides to the contrary. Those
28 sections apply only with respect to events and circumstances occurring after October 1,
29 1986, and do not invalidate existing provisions of the declarations, bylaws, or plats or
30 plans of those condominiums.

31 (b) The provisions of Chapter 47A, the Unit Ownership Act, do not apply to
32 condominiums created after October 1, 1986 and do not invalidate any amendment to
33 the declaration, bylaws, and plats and plans of any condominium created on or before
34 October 1, 1986 if the amendment would be permitted by this chapter. The amendment
35 must be adopted in conformity with the procedures and requirements specified by those
36 instruments and by Chapter 47A, the Unit Ownership Act. If the amendment grants to
37 any person any rights, powers, or privileges permitted by this chapter, all correlative
38 obligations, liabilities, and restrictions in this chapter also apply to that person.

39 (c) This chapter does not apply to condominiums or units located outside this
40 State, but the public offering statement provisions (G.S. 47C-4-102 through 47C-4-108)
41 apply to all contracts for the dispositions thereof signed in this State by any party unless
42 exempt under G.S. 47C-4-101(b)."

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