

HOUSE SELECT COMMITTEE ON
HOMEOWNERS ASSOCIATIONS



**REPORT TO THE
2012 SESSION
of the
2011 GENERAL ASSEMBLY
OF NORTH CAROLINA**

MAY 1, 2012

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TRANSMITTAL LETTER


May 1, 2012

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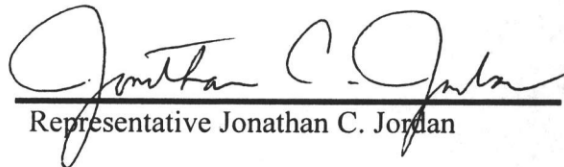
TO THE MEMBERS OF THE 2012 REGULAR SESSION
OF THE 2011 GENERAL ASSEMBLY

The House Select Committee on Homeowners Associations herewith submits to you for your consideration its report pursuant to G.S. 120-19.6(a) and Rule 26(a) of the Rules of the House of Representatives of the 2011 General Assembly.

Respectfully submitted,



Representative Carolyn H. Justice



Representative Jonathan C. Jordan

Co-Chairs
House Select Committee on
Homeowners Associations

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COMMITTEE MEMBERSHIP

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2011 - 2012

Representative Jonathan C. Jordan, Co-Chair
Representative Carolyn H. Justice, Co-Chair
Representative Justin P. Burr
Representative Kelly Hastings
Representative Julia C. Howard
Representative Darrell G. McCormick
Representative Bill McGee
Representative Rodney Moore
Representative Timothy Spear
Representative Jennifer Weiss
Representative Winkie Wilkins

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COMMITTEE STAFF

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Ms. Jennifer McGinnis, Committee Counsel
Mr. Bill Patterson, Committee Counsel
Mr. Daniel Ettefagh, Committee Counsel
Mr. Ed Stiles, Committee Clerk
Ms. Kelly Quick, Committee Staff
Ms. Denise Adams, Committee Staff

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AUTHORIZING LEGISLATION

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Section 1. The House Select Committee on Homeowners Associations (hereinafter "Committee") is established by the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1) and Rule 26 of the Rules of the House of Representatives of the 2011 General Assembly.

Section 2. The Committee consists of the 10 members listed below, appointed by the Speaker of the House of Representatives. Members serve at the pleasure of the Speaker of the House of Representatives. The Speaker of the House of Representatives may dissolve the Committee at any time.

Representative Jonathan C. Jordan, Co-Chair
Representative Carolyn H. Justice, Co-Chair
Representative Justin P. Burr
Representative Kelly Hastings
Representative Julia C. Howard
Representative Darrell G. McCormick
Representative Bill McGee
Representative Rodney Moore
Representative Timothy Spear
Representative Jennifer Weiss
Representative Winkie Wilkins

Section 3. The Committee may study all of the following:

- (1) Homeowners protection and participation in the governance of their homeowners associations, particularly as to assessments and record-keeping.
- (2) Any other matter reasonably related to subdivision (1) of this section, in the discretion of the Committee.

Section 4. The Committee shall meet upon the call of its Co-Chairs. A quorum of the Committee shall be a majority of its members.

Section 5. The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes.

Section 6. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1.

Section 7. The expenses of the Committee including per diem, subsistence, travel allowances for Committee members, and contracts for professional or consultant services

shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations.

Section 8. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Committee.

Section 9. The Committee may submit an interim report on the results of the study, including any proposed legislation, on or before May 1, 2012, by filing a copy of the report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the House of Representatives prior to the convening of the 2013 General Assembly by filing the final report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library. The Committee terminates upon the convening of the 2013 General Assembly or upon the filing of its final report, whichever occurs first.

COMMITTEE PROCEEDINGS

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The House Select Committee on Homeowners Associations met six times after the 2011 Regular Session. The Committee's Charge can be found [here](#). The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library and [online](#).

November 16, 2011

1:00 p.m. Wednesday

Legislative Office Building, Room 544

300 North Salisbury Street

Raleigh, North Carolina

Agenda

1. Introduction
Representative Jonathan Jordan, Co-Chair, Presiding
Representative Carolyn Justice, Co-Chair
2. Overview of North Carolina's Planned Community Act
Daniel Etefagh, Committee Co-Counsel
Jennifer McGinnis, Committee Co-Counsel
3. Overview of Recent Legislative Action on Homeowners Associations
Bill Patterson, Committee Co-Counsel
4. Committee Discussion
5. Adjourn

The first meeting of the House Select Committee on Homeowners Associations was held on Wednesday, November 16, 2011 at 1:00 p.m. in Room 544 of the Legislative Office Building. Representative Jonathan Jordan presided.

Ms. Jennifer McGinnis, Committee Counsel, described the Committee charge; provided an overview of the history and requirements of the Planned Community Act in North Carolina ([Chapter 47F](#)); homeowner association's (HOA) authority; and the management of planned communities.

Mr. Bill Patterson, Committee Counsel, gave a presentation on recently enacted legislation pertaining to HOAs and the former HOA Study Committee (2009-2010 Biennium), including its activities, recommendations, proposed legislation, and findings.

There was substantial Committee discussion of requirements for disclosure of HOA-related matters to potential purchasers. In addition, the Committee discussed liens for unpaid assessments, oversight of HOAs, and training of board members, among other matters.

Representative Weiss, who chaired the previous HOA study Committee, described that Committee's recommended legislation, [S.L. 2011-362 \(House Bill 165 Planned Community and Condo Act Amends\)](#), indicating that it was far more comprehensive as introduced, and edited substantially along the way due to compromise and negotiations. Representative Weiss added that a future draft should be a consensus bill with input from stakeholders comprised of interested parties.

Representative Moore commented on [House Bill 183 \(Study HOAs/Foreclosures\)](#), which he co-sponsored during the 2011 Regular Session. House Bill 183, as introduced, would limit HOA foreclosure powers. Representative Moore indicated he hoped the bill would be taken into consideration as part of the Committee's discussions.

Opportunities for public involvement in the Committee's activities, including scheduling of public hearings, were also discussed.

December 5, 2011

1:00 p.m. Monday

Legislative Office Building, Room 544
300 North Salisbury Street
Raleigh, North Carolina
Agenda

1. Call to order
Representative Carolyn Justice, Presiding
Representative Jonathan Jordan, Co-Chair
2. What HOAs do – benefits and burdens
David W. Swindell, Associate Professor/Director PhD, Public Policy,
UNC Charlotte
3. Hot topics and issues concerning HOAs for Committee consideration
 - 1) T. Lawson Newton, Esq., Wells Jenkins, Winston-Salem
 - 2) Alex C. Dale, Esq., Ward and Smith, Wilmington
4. Implementation of newly enacted disclosure provisions
Thomas R. Miller, Esq., General Counsel
Real Estate Commission
5. Committee Discussion
6. Adjourn

The second meeting of the House Select Committee on Homeowners Associations was held on Monday, December 5, 2011 at 1:00 p.m. in Room 544 of the Legislative Office Building. Representative Carolyn Justice presided.

Mr. David W. Swindell, Associate Professor/Director PhD, Public Policy, University of North Carolina Charlotte, gave an overview of the history of homeowners associations (HOAs), their purpose, data from Charlotte HOAs, perceived benefits, perceived drawbacks, and policy challenges.

There was Committee discussion on small claims lawsuits for delinquent dues in lieu of foreclosure; the number of foreclosure filings filed by HOAs; uniform dues; possible legislation requiring more training of HOA leadership; and local registration mechanisms in place for HOAs in the Charlotte-Mecklenburg area, such as the Charlotte Neighborhood Development Division (which is used for notification of zoning changes made within a certain radius of neighborhood boundaries), among other issues.

Mr. T. Lawson Newton, Attorney, Wells Jenkins Firm, Winston-Salem, gave a presentation on hot topics and issues concerning HOAs. Mr. Newton spoke on issues ranging from professionally managed versus non-professionally managed HOAs, enforcement of covenants and declarations, and the creation of a registry of HOAs with contact information for HOA officers. Mr. Newton suggested implementing regulations to address several issues, including determining the responsible party for legal fees (when a homeowner is not in compliance with a HOA covenant) and requiring HOAs to register with the local register of deeds office.

The Committee discussed a seller's obligation to disclose HOA-related matters at closing and lenders requiring audits of HOA finances, among other issues.

Mr. Alex C. Dale, Attorney, Ward and Smith, Wilmington, North Carolina, gave a presentation on how HOAs work and described [Senate Bill 373 \(Community Associations Managers Licensing Act\)](#), which was introduced during the 2011 Regular Session.

There was Committee discussion on developer/declarant obligations and control, as well as requirements for reserve funding, among other things.

Mr. Thomas R. Miller, General Counsel, Real Estate Commission, gave a presentation on the newly enacted disclosure provisions and how the Real Estate Commission has implemented [S.L. 2011-362 \(House Bill 165 Planned Community and Condo Act Amends\)](#). Effective January 1, 2012, S.L. 2011-362 requires the owner of real property to furnish a potential purchaser with a [disclosure statement](#) pertaining to HOA-related matters, which form was produced by the Real Estate Commission in consultation with stakeholders.

Mr. Miller said that [Senate Bill 373 \(Community Associations Managers Licensing Act\)](#) was created after the Real Estate Commission received an inordinate number of complaints on the subject, especially with regard to the embezzlement of funds. As more residential properties are subject to HOAs and accumulate large amounts of money, Mr. Miller indicated that there needs to be minimum standards for accounting and minimum standards for professional managers who are given that money in trust. Therefore, Mr. Miller encouraged support for legislation to require licensure of community managers and also encouraged support for the idea of creating a registry of associations.

The Committee inquired about many details of the disclosure legislation, and the form produced by the Real Estate Commission.

January 23, 2012

1:00 p.m. Monday

Legislative Building, Auditorium

16 W. Jones Street

Raleigh, North Carolina

Agenda

1. Call to order
Representative Jonathan Jordan, Presiding
Representative Carolyn Justice, Co-Chair
2. Adoption of the Committee budget
3. Approval of the minutes for the November 16, 2011 meeting of the Committee
4. Public Comment
5. Committee Discussion
6. Adjourn

The third meeting of the House Select Committee on Homeowners Associations was held on Monday, January 23, 2012 at 1:00 p.m. in the Legislative Auditorium. Representative Jonathan Jordan presided.

Representative Jordan called the public hearing to order and reminded those in attendance of the Committee's charge, which is as follows: study homeowners protection and participation in the governance of their homeowners associations (HOAs), particularly as to assessments and record-keeping, and any other issue reasonably related to the subject matter.

Representative Jordan entertained a motion to approve the Committee budget. Representative Burr moved to approve the budget and Representative Justice seconded the motion. The motion passed on a voice vote.

Representative Jordan recognized members of the public for public comment. A total of 51 people spoke before the Committee and numerous written comments were submitted for the Committee record. Speakers included homeowners, homeowner association (HOA) board members, HOA management companies, realtors, and legal counsel for HOAs. A list of speakers can be viewed on the Committee [website](#).

A variety of comments were received at the hearing including, but not limited to, coverage of the following issues: establishment of a task force (including homeowners) to study HOA matters; establishment of term limits for board members and additional measures for accountability to prevent abuses; guidelines for board member conduct; addition of protections for homeowners to the Planned Community Act (particularly additional limitations on foreclosure power to prevent foreclosure over very small delinquent sums); enactment of a homeowners' bill of rights; prohibitions on proxy voting; licensure of HOA board members; creation of a government agency for enforcement, oversight, education, and registration; disclosure problems (knowledge and/or understanding of HOA powers and homeowner rights and responsibilities at time of purchase); prohibitions on amendment to declarations; clarification of applicability of the Planned Community Act to pre-1999 communities; enactment of limits on declarant control and declarants' ability to change declarations/covenants at will; licensure of community association managers (passage of S373 (2011) "Community Association Managers Licensing Act"); enactment of provisions governing financial reserves; requirements for annual audit; and lack of remedies for aggrieved homeowners – costly lawsuit is currently the only recourse to challenge HOA (arbitration/alternative dispute resolution would be helpful).

Many comments were received in support of HOAs and their current powers. Several speakers emphasized the following matters: the majority of HOAs are well-managed; all owners living in planned communities should expect to pay their fair share; the need for HOAs to collect dues to maintain communities and provide essential services, and the need for fine, lien, and foreclosure authority as an enforcement tool in connection with delinquent dues/non-compliant homeowners; HOAs could benefit from additional tools to collect bad debt; authorize HOAs to issue stop-work orders; HOA boards consist of volunteers that do their best to serve their communities; additional regulations will only serve to drive up costs for HOAs (and may necessitate increases to dues); and status quo is sufficient – don't over-regulate.

The Committee requested that the Real Property Section of the North Carolina State Bar provide the Committee with information on how to possibly address the issues raised.

March 2, 2012

4:00 p.m. to 7:00 p.m. Friday
Havelock Tourist & Event Center
201 Tourist Center Drive
Havelock, North Carolina 28532
Agenda

1. Call to order
Representative Carolyn Justice, Presiding
Representative Jonathan Jordan, Co-Chair
2. Public Comment
3. Committee Discussion
4. Adjourn

The fourth meeting of the House Select Committee on Homeowners Associations was held on Friday, March 2, 2012 from 4:00 to 7:00 p.m. in the Havelock Tourist & Event Center in Havelock, North Carolina. Representative Carolyn Justice presided.

Representative Justice called the meeting to order and recognized members of the public for comment. A total of 39 people spoke before the Committee and numerous written comments were submitted for the Committee record. Written comments can be viewed on the Committee [website](#). Speakers included homeowners, homeowner association (HOA) board members, HOA management companies, and realtors.

A variety of comments were received at the hearing including, but not limited to, coverage of the following issues: applicability of the Planned Community Act to pre-1999 communities, and the ability of communities to amend their declarations under the current statute; general strengthening of laws to protect homeowners; enactment of measures to address proxy and voting abuse – either by prohibiting proxies altogether, eliminating unlimited proxies, or allowing ballots rather than proxies; enactment of provisions to address HOAs not following the law under Chapter 47F (unresponsiveness to information requests, voting/proxy abuses, inconsistent enforcement of covenants); creation of a government agency to regulate HOAs; allowing alternative dispute resolution in HOA controversies should be a priority to give additional remedy to homeowners (other than initiating costly lawsuits); need for measures to ensure board accountability; licensure of board members; clarifications to Chapter 47F to resolve ambiguities that allow boards and their attorneys to interpret for their own purposes; require open meetings; limit maximum amount of liability insurance for board members to discourage abusive behavior; and require education of board members, along with performance standards

Many comments were received in support of HOAs and their current powers. Several speakers emphasized: the rules and regulations must be enforced for the benefit of all

homeowners, and HOA authority shouldn't be further restricted; HOAs need all their current tools for enforcement, including foreclosure; HOAs are vital and help retain property values; and many HOAs rely on proxy voting because of absentee homeowners.

The Committee discussed the importance of addressing the concerns voiced at the public hearing in a deliberative and thoughtful manner. Representative Justice asked the Committee members to help continue to identify threads that run through all the Committee discussion and public hearings.

April 10, 2012

1:30 p.m. Tuesday

Legislative Office Building, Room 544

300 North Salisbury Street

Raleigh, North Carolina

Agenda

1. Call to order
Representative Jonathan Jordan, Presiding
Representative Carolyn Justice, Co-Chair
2. Approval of Minutes from the November 16, 2011, December 5, 2011, January 23, 2012, and March 2, 2012 Meetings of the Committee
3. Presentation on applicability of Chapter 47F (the Planned Community Act) and Chapter 55A (the Nonprofit Corporation Act) to homeowners associations
Ole Madsen
Holden Beach, North Carolina
4. Committee Discussion of Potential Recommendations for Legislative Action
5. Adjourn

The fifth meeting of the House Select Committee on Homeowners Associations was held on Tuesday, April 10, 2012 at 1:30 p.m. in Room 544 of the Legislative Office Building. Representative Jonathan Jordan presided.

In lieu of Mr. Ole Madsen as indicated on the meeting's agenda, Mr. Bob Simasek gave an overview of how homeowner associations (HOAs) work, and how they are governed, including discussion of:

- [The North Carolina Nonprofit Corporation Act \(Chapter 55A\);](#)
- [The Planned Community Act, Chapter 47F;](#)
- Applicability of articles of incorporation, declaration of covenants, conditions, restrictions (CC&R) and bylaws; and
- [Robert's Rules of Order Newly Revised \(11th edition\).](#)

The Committee discussed arbitration between homeowners and HOAs, a possible oversight agency with rulemaking authority, the differences between the Planned Community Act and the Nonprofit Corporation Act, and examples of conflict between the two.

With regard to potential recommendations from the Committee, the following issues were raised:

- Proxy/ballot issues;
- Additional dispute remedies in light of legal costs for homeowners;
- Preeminence of the Planned Community Act over the Non-profit Corporation Act;
- Training of HOA board members and managers and qualification of architectural review committees;
- Seller disclosures;
- Liens resulting from capricious and arbitrary fines and improperly held meetings to levy those fines;
- Lack of attorneys to aid homeowners;
- HOA foreclosure procedures;
- Requirement for conduct of annual audit of HOA finances;
- Developer/declarant control of HOAs, provisions concerning termination of declarant control; and
- Requirement for HOAs to release liens upon satisfaction, and penalties for failure to do so within a certain time frame.

With regard to issues concerning HOA foreclosure processes, Mr. Pete Powell, Legal Counsel for the Administrative Office of the Courts (AOC), addressed the Committee. Mr. Powell said that he had provided information to this Committee and had made a presentation to the previous Committee (from the 2009-2010 Biennium) on a number of deficiencies with foreclosure provisions in the Planned Community Act. For instance, with regard to foreclosure on a deed of trust under the Planned Community Act, there is no trustee, no separate party with title, and no limits on commissions and attorney's fees. Mr. Powell stated the solution could be addressed with legislation.

April 27, 2012

4:00 to 7:00 p.m. Friday

Board Room of the Watauga County Board of Commissioners

Watauga County Administration Building

814 West King Street, Boone, North Carolina

Agenda

1. Call to order
Representative Jonathan Jordan, Presiding
Representative Carolyn Justice, Co-Chair
2. Public Comment

3. Committee Discussion
4. Adjourn.

The sixth meeting of the House Select Committee on Homeowners Associations was held on Friday, April 27, 2012 from 4:00 to approximately 5:30 p.m. in the Board Room of the Watauga County Board of Commissioners, Watauga County Administration Building, 814 West King Street, Boone, North Carolina. Representative Jonathan Jordan presided.

The meeting agenda consisted of opportunity for public comment. Eleven individuals spoke, representing members of homeowners associations (HOAs), and board members and officers of HOAs. A variety of comments were received at the hearing including, but not limited to, coverage of the following issues: the need for more constraints on the foreclosure authority of HOAs; the need for more accountability of HOA boards, including conduct of annual audits of association finances; the need for intervention of the Attorney General's Office in HOA-related disputes; creation of a government agency to regulate HOAs; formation of a subcommittee of the Real Estate Commission to advise associations, receive complaints, render consistent interpretations of law, and provide education to board members as community managers; establishment of training requirements for HOA board members and certification of community managers; establishment of timeframes within which HOAs must respond to complaints and requests for information from homeowners; and general strengthening of laws to protect homeowners.

In addition, a number of comments were received in support of HOAs and their current powers. One speaker suggested that HOAs be given legal recourse so that as a junior lien-holder, an association's debts are also satisfied. Other comments included: encouragements to the Committee not to weaken lien authority of HOAs or their ability to collect on delinquent debts; not to add more burdens to HOA management; opposition to proposals to require licensure of association managers; opposition to audit requirements as they would be too costly for most associations; the need for HOAs to be able to use proxies; and emphasis on enforcement of existing laws.

May 1, 2012

1:00 p.m. Tuesday

Legislative Office Building, Room 544

300 North Salisbury Street

Raleigh, North Carolina

Agenda

1. Introduction
Representative Carolyn Justice, Co-Chair, Presiding
Representative Jonathan Jordan, Co-Chair
2. Approval of Minutes from the April 10, 2012 Meeting of the Committee
3. Owners' Association Disclosure Statement required by S.L. 2011- 362 (House Bill 165, Planned Community and Condo Act Amends)
Roger Bernholz
Vice President and General Counsel, Coldwell Banker Howard Perry & Walston of Raleigh
Member, North Carolina Association of REALTORS®
4. Committee Discussion of Recommendations for Legislative Action and the Interim Report
5. Other Matters
6. Adjourn

The final meeting of the House Select Committee on Homeowners Associations met at the Legislative Office Building in Room 544 in Raleigh on May 1, 2012. The Committee reviewed the draft report and draft legislation to the 2012 Session of the 2011 General Assembly, amended and finalized the report, and made the findings and recommendations that follow.

The Committee finds that the current laws governing community associations in Chapters 47C and 47F of the General Statutes do not offer sufficient protection for the rights of owners of property in planned communities and condominiums, and that statutory revisions are necessary in order to achieve a better balance of the interests of property owners in these communities and the associations that govern them.

As a result of its investigation, the Committee recommends the legislative proposals embodied by the two bill drafts enclosed with this report.

The first bill draft requires associations to timely file a notice of satisfaction of liens for which the association has been fully paid, requires annual audits or financial reviews

of associations, amends the law governing voting to permit absentee ballots and to restrict the use of proxies, authorizes the use of alternative dispute resolution for disputes involving Chapters 47C or 47F or arising under the documents creating or governing planned communities and condominiums.

The second bill draft requires licensure and training of community association managers.

In addition to these legislative proposals, the Committee also recommends the establishment of a task force to further study the need for further legislation relating to the protection of homeowners, particularly as to foreclosures to enforce liens securing the payment of past-due obligations of homeowners, as well as any other matters reasonably related to these issues, in the discretion of the Committee.

The Committee recommends that the task force comprise nine members appointed by the Speaker, to include five members of the North Carolina House, two persons representing the interests of homeowners, and two persons representing the interests of community associations. The following members of the Committee have volunteered to be appointed to the task force: Jonathan C. Jordan, Darrell G. McCormick, Bill McGee, Rodney Moore, Jennifer Weiss, and Winkie Wilkins.

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LEGISLATIVE PROPOSALS

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

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BILL DRAFT 2011-RIz-31 [v.13] (04/10)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/1/2012 8:21:07 PM

Short Title: HOAs/Planned Community Act Amends. (Public)

Sponsors: Representative.

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO: (1) REQUIRE ASSOCIATIONS TO RELEASE LIENS UPON
3 PAYMENT IN FULL; (2) REQUIRE ALL ASSOCIATIONS TO CONDUCT
4 FINANCIAL REVIEWS OR FINANCIAL AUDITS; (3) ALLOW USE OF
5 ALTERNATIVE DISPUTE RESOLUTION FOR CONFLICTS ARISING
6 UNDER THE PLANNED COMMUNITY ACT OR CONDOMINIUM ACT;
7 AND (4) SIMPLIFY THE COLLECTION OF PROPERTY TAXES THAT
8 ARE DUE ON PROPERTY OWNED BY CERTAIN NONPROFIT
9 HOMEOWNERS' ASSOCIATIONS, AS RECOMMENDED BY THE
10 HOUSE SELECT COMMITTEE ON HOMEOWNERS ASSOCIATIONS.

11 The General Assembly of North Carolina enacts:

12
13
14 **PART I. AMENDMENTS TO PLANNED COMMUNITY ACT**

15
16 **SECTION 1.** Article 3 of Chapter 47F of the General Statutes is
17 amended by adding a new section to read:

18 "**§ 47F-3-116.1. Associations with claim of lien to file notice of satisfaction**
19 **with clerk of court upon full payment; liability for failure.**

20 (a) An association that has filed a claim of lien pursuant to G.S. 47F-3-116
21 shall acknowledge satisfaction of the claim of lien securing the debt within 30
22 days after the association receives full payment or performance of the debt, as

1 provided in this section. The association shall file with the clerk of court a notice
2 of satisfaction of lien signed by the association's agent or attorney, whereupon the
3 clerk of superior court shall forthwith make upon the record of the claim of lien on
4 real property an entry of acknowledgment of satisfaction.

5 (b) An association that fails to acknowledge satisfaction of a claim of lien
6 pursuant to this section by the end of the period specified in subsection (a) of this
7 section is liable to the lot owner for any actual damages caused by the failure, but
8 not punitive damages.

9 (c) An association that is required to acknowledge satisfaction of a claim of
10 lien pursuant to this section and does not do so by the end of the period specified
11 in subsection (a) of this section is also liable to the lot owner for one thousand
12 dollars (\$1,000) and any reasonable attorneys' fees and court costs incurred if,
13 after the expiration of the period specified in subsection (a) of this section, both of
14 the following occur:

15 (1) The lot owner gives the association a notification, by certified
16 mail and first-class mail, that provides proof the association has
17 received full payment, demanding that the association
18 acknowledge satisfaction with the clerk of superior court.

19 (2) The association does not acknowledge satisfaction with the clerk
20 of superior court within 30 days after the association's receipt of
21 the notification from the lot owner."

22 **SECTION 2.(a)** G.S. 47F-3-118(a) reads as rewritten:

23 **"§ 47F-3-118. Association records.**

24 (a) The association shall keep financial records sufficiently detailed to
25 enable the association to comply with this Chapter. All financial and other records,
26 including records of meetings of the association and executive board, shall be
27 made reasonably available for examination by any lot owner and the lot owner's
28 authorized agents as required in the bylaws and Chapter 55A of the General
29 Statutes. If the bylaws do not specify particular records to be maintained, the
30 association shall keep accurate records of all cash receipts and expenditures and all
31 assets and liabilities. In addition to any specific information that is required by the
32 bylaws to be assembled and reported to the lot owners at specified times, the
33 association shall make an annual income and expense statement and balance sheet
34 available to all lot owners at no charge and within 75 days after the close of the
35 fiscal year to which the information relates. ~~Notwithstanding the bylaws, a more~~
36 ~~extensive compilation, review, or audit of the association's books and records for~~
37 ~~the current or immediately preceding fiscal year may be required by a vote of the~~
38 ~~majority of the executive board or by the affirmative vote of a majority of the lot~~
39 ~~owners present and voting in person or by proxy at any annual meeting or any~~
40 ~~special meeting duly called for that purpose."~~

41 **SECTION 2.(b)** Article 3 of Chapter 47F of the General Statutes is
42 amended by adding a new section to read:

43 **"§ 47F-3-118A. Financial review or audit requirements.**

1 (a) Except as provided in subsection (b) of this section, the board of
2 directors shall provide for an annual independent financial review of the
3 association. The review shall be completed no later than ninety days after the end
4 of the association's fiscal year and shall be made available upon request to the lot
5 owners within thirty days after its completion.

6 (b) The board of directors shall provide for an annual independent financial
7 audit of the association, in lieu of an annual independent financial review, if any of
8 the following conditions are met:

9 (1) The declaration, bylaws, or other governing documents expressly
10 require conduct of an annual financial audit.

11 (2) The association has annual revenues or expenditures of at least
12 four hundred thousand dollars (\$400,000).

13 (3) An audit is requested by a vote of a majority of the board or by a
14 vote of a majority of the lot owners present and voting in person
15 or by proxy at any annual meeting or any special meeting duly
16 called for that purpose."

17 **SECTION 3.** G.S. 47F-3-108(a) reads as rewritten:

18 **"§ 47F-3-108. Meetings.**

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

33 **SECTION 4.(a)** G.S. 47F-3-110 is repealed.

34 **SECTION 4.(b)** Article 3 of Chapter 47F of the General Statutes is
35 amended by adding a new section to read:

36 **"§ 47F-3-110A. Voting; proxies; ballots.**

37 (a) Unless prohibited or limited by the declaration or bylaws, lot owners
38 may vote at a meeting in person, by absentee ballot pursuant to subsection (b)(4),
39 by a proxy pursuant to subsection (c), or, when a vote is conducted without a
40 meeting, by electronic or paper ballot pursuant to subsection (d).

41 (b) At a meeting of lot owners, the following requirements apply:

42 (1) Lot owners who are present in person may vote by voice vote,
43 show of hands, standing, or any other method for accurately

determining the votes of lot owners, as designated by the person presiding at the meeting.

(2) If only one of several owners of a lot is present, that owner is entitled to cast all the votes allocated to that lot. If more than one of the owners are present, the votes allocated to that lot may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners casts the votes allocated to the lot without protest being made promptly to the person presiding over the meeting by any of the other owners of the lot.

(3) Unless a greater number or fraction of the votes in the association is required for a particular matter to be voted on by this Chapter or the declaration, a majority of the votes cast determines the outcome of any action of the association.

(4) Subject to subsection (a), a lot owner may vote by absentee ballot without being present at the meeting. The association promptly shall deliver an absentee ballot to an owner that requests it if the request is made at least seven days before the scheduled meeting. Votes cast by absentee ballot must be included in the tally of a vote taken at that meeting.

(5) When a lot owner votes by absentee ballot, the association must be able to verify that the ballot is cast by the lot owner having the right to do so.

(c) Except as otherwise provided in the declaration or bylaws, the following requirements apply with respect to proxy voting:

(1) Votes allocated to a lot may be cast pursuant to a directed or undirected proxy duly executed by a lot owner.

(2) If a lot is owned by more than one person, each owner of the lot may vote or register protest to the casting of votes by the other owners of the lot through a duly executed proxy.

(3) A lot owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.

(4) A proxy is void if it is not dated, if it purports to be revocable without notice, or if it is given in favor of a board member.

(5) A proxy is valid only for the meeting at which it is cast and any recessed session of that meeting.

(6) A proxy may be used to achieve the required quorum at a meeting.

(7) A proxy is valid only if the nature of the matter for which the vote is to be taken is stated in the notice as required by G.S. 47F-3-108(a).

1 (8) A person may not cast proxies representing more than fifteen
2 percent (15%) of the votes in the association.

3 (d) Unless prohibited or limited by the declaration or bylaws, an association
4 may conduct a vote without a meeting. In that event, the following requirements
5 apply:

6 (1) The association shall notify the lot owners that the vote will be
7 taken by ballot.

8 (2) The association shall deliver a paper or electronic ballot to every
9 lot owner entitled to vote on the matter.

10 (3) The ballot must set forth each proposed action and provide an
11 opportunity to vote for or against the action.

12 (4) When the association delivers the ballots, it shall provide all of
13 the following information:

14 a. Indicate the number of responses needed to meet the
15 quorum requirements.

16 b. State the percent of votes necessary to approve each
17 matter other than election of directors.

18 c. Specify the time and date, not fewer seven days after the
19 date the association delivers the ballot, by which a ballot
20 must be delivered to the association to be counted.

21 d. Describe the time, date, and manner by which lot owners
22 wishing to deliver information to all lot owners regarding
23 the subject of the vote may do so.

24 (5) Except as otherwise provided in the declaration or bylaws, a
25 ballot is not revoked after delivery to the association by death or
26 disability or attempted revocation by the person that cast that
27 vote.

28 (6) Approval by ballot pursuant to this subsection is valid only if the
29 number of votes cast by ballot equals or exceeds the quorum
30 required to be present at a meeting authorizing the action.

31 (e) If the declaration requires that votes on specified matters affecting the
32 planned community be cast by lessees rather than lot owners of leased lots: (i) the
33 provisions of this section apply to lessees as if they were lot owners; (ii) lot
34 owners who have leased their lots to other persons may not cast votes on those
35 specified matters; and (iii) lessees are entitled to notice of meetings, access to
36 records, and other rights respecting those matters as if they were lot owners. Lot
37 owners shall also be given notice, in the manner provided in G.S. 47F-3-108, of all
38 meetings at which lessees may be entitled to vote.

39 (f) No votes allocated to a lot owned by the association may be cast.

40 (g) The declaration may provide that on specified issues only a defined
41 subgroup of lot owners may vote provided:

42 (1) The issue being voted is of special interest solely to the members
43 of the subgroup; and

1 (2) All except de minimis cost that will be incurred based on the vote
2 taken will be assessed solely against those lot owners entitled to
3 vote.

4 (h) For purposes of subdivision (g)(1) above, an issue to be voted on is not
5 a special interest solely to a subgroup if it substantially affects the overall
6 appearance of the planned community or substantially affects living conditions of
7 lot owners not included in the voting subgroup."

8 **SECTION 5.** Article 3 of Chapter 47F of the General Statutes is
9 amended by adding a new section to read:

10 **"§ 47F-3-120.1. Alternative dispute resolution allowed.**

11 Parties to a dispute arising under this Chapter, an association's declaration,
12 bylaws, or rules and regulations may agree to resolve the dispute by any form of
13 binding or nonbinding alternative dispute resolution, except that a declarant may
14 agree with the association to do so only after the period of declarant control has
15 expired. Parties electing to use alternative dispute resolution for disputes arising
16 under this Chapter shall use only mediators certified by the Dispute Resolution
17 Commission. An agreement to submit to any form of binding alternative dispute
18 resolution must be in a record authenticated by the parties."

19
20
21 **PART II. AMENDMENTS TO CONDOMINIUM ACT**

22
23 **SECTION 6.** Article 3 of Chapter 47C of the General Statutes is
24 amended by adding a new section to read:

25 **"§ 47C-3-116.1. Associations with claim of lien to file notice of satisfaction**
26 **with clerk of court upon full payment; liability for failure.**

27 (a) An association that has filed a claim of lien pursuant to G.S. 47C-3-116
28 shall acknowledge satisfaction of the claim of lien securing the debt within 30
29 days after the association receives full payment or performance of the debt, as
30 provided in this section. The association shall file with the clerk of court a notice
31 of satisfaction of lien signed by the association's agent or attorney, whereupon the
32 clerk of superior court shall forthwith make upon the record of the claim of lien on
33 real property an entry of acknowledgment of satisfaction.

34 (b) An association that fails to acknowledge satisfaction of a claim of lien
35 pursuant to this section by the end of the period specified in subsection (a) of this
36 section is liable to the unit owner for any actual damages caused by the failure, but
37 not punitive damages.

38 (c) An association that is required to acknowledge satisfaction of a claim of
39 lien pursuant to this section and does not do so by the end of the period specified
40 in subsection (a) of this section is also liable to the lot owner for one thousand
41 dollars (\$1,000) and any reasonable attorneys' fees and court costs incurred if,
42 after the expiration of the period specified in subsection (a) of this section, both of
43 the following occur:

- 1 (1) The lot owner gives the association a notification, by certified
2 mail and first-class mail, that provides proof the association has
3 received full payment, demanding that the association
4 acknowledge satisfaction with the clerk of superior court.
5 (2) The association does not acknowledge satisfaction with the clerk
6 of superior court within 30 days after the association's receipt of
7 the notification from the lot owner."

8 **SECTION 7.(a)** G.S. 47C-3-118(a) reads as rewritten:

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

10 (a) The association shall keep financial records sufficiently detailed to
11 enable the association to comply with this chapter. All financial and other records,
12 including records of meetings of the association and executive board, shall be
13 made reasonably available for examination by any unit owner and the unit owner's
14 authorized 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
17 all cash receipts and expenditures and all assets and liabilities. In addition to any
18 specific information that is required by the bylaws to be assembled and reported to
19 the unit owners at specified times, the association shall make an annual income
20 and expense statement and balance sheet available to all unit owners at no charge
21 and within 75 days after the close of the fiscal year to which the information
22 relates. ~~Notwithstanding the bylaws, a more extensive compilation, review, or~~
23 ~~audit of the association's books and records for the current or immediately~~
24 ~~preceding fiscal year may be required by a vote of the majority of the executive~~
25 ~~board or by the affirmative vote of a majority of the unit owners present and~~
26 ~~voting in person or by proxy at any annual meeting or any special meeting duly~~
27 ~~called for that purpose."~~

28 **SECTION 7.(b)** Article 3 of Chapter 47C of the General Statutes is
29 amended by adding a new section to read:

30 "**§ 47C-3-103A. Budgets; financial review or audit requirements.**

31 (a) Except as provided in subsection (b) of this section, the board of
32 directors shall provide for an annual independent financial review of the
33 association. The review shall be completed no later than ninety days after the end
34 of the association's fiscal year and shall be made available upon request to the unit
35 owners within thirty days after its completion.

36 (b) The board of directors shall provide for an annual financial audit of the
37 association, in lieu of an annual independent financial review, if any of the
38 following conditions are met:

- 39 (1) The declaration, bylaws, or other governing documents expressly
40 require conduct of an annual financial audit.
41 (2) The association has annual revenues or expenditures of at least
42 four hundred thousand dollars (\$400,000).

1 (3) An audit is requested by a vote of a majority of the board or by a
2 vote of a majority of the unit owners present and voting in person
3 or by proxy at any annual meeting or any special meeting duly
4 called for that purpose."

5 **SECTION 8.** G.S. 47C-3-108(a) reads as rewritten:

6 **"§ 47C-3-108. Meetings.**

7 (a) A meeting of the association shall be held at least once each year.
8 Special meetings of the association may be called by the president, a majority of
9 the executive board, or by unit owners having twenty percent (20%) or any lower
10 percentage specified in the bylaws of the votes in the association. Not less than 10
11 nor more than 50 days in advance of any meeting, the secretary or other officer
12 specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by
13 United States mail to the mailing address of each unit or to any other mailing
14 address designated in writing by the unit owner, or sent by electronic means,
15 including by electronic mail over the Internet, to an electronic mailing address
16 designated in writing by the unit owner. The notice of any meeting must state the
17 time and place of the meeting and the items on the agenda, including the general
18 nature of any proposed amendment to the declaration or bylaws, any budget
19 changes, ~~and any proposal to remove a director or officer.~~ officer, and any material
20 matter for which a vote is to be taken."

21 **SECTION 9.(a)** G.S. 47C-3-110 is repealed.

22 **SECTION 9.(b)** Article 3 of Chapter 47C of the General Statutes is
23 amended by adding a new section to read:

24 **"§ 47C-3-110A. Voting; proxies; ballots.**

25 (a) Unless prohibited or limited by the declaration or bylaws, unit owners
26 may vote at a meeting in person, by absentee ballot pursuant to subsection (b)(4),
27 by a proxy pursuant to subsection (c), or, when a vote is conducted without a
28 meeting, by electronic or paper ballot pursuant to subsection (d).

29 (b) At a meeting of unit owners, all of the following requirements apply:

30 (1) Unit owners who are present in person may vote by voice vote,
31 show of hands, standing, or any other method for accurately
32 determining the votes of unit owners, as designated by the person
33 presiding at the meeting.

34 (2) If only one of several owners of a unit is present, that owner is
35 entitled to cast all the votes allocated to that unit. If more than
36 one of the owners are present, the votes allocated to that unit may
37 be cast only in accordance with the agreement of a majority in
38 interest of the owners, unless the declaration expressly provides
39 otherwise. There is majority agreement if any one of the owners
40 casts the votes allocated to the unit without protest being made
41 promptly to the person presiding over the meeting by any of the
42 other owners of the unit.

1 (3) Unless a greater number or fraction of the votes in the association
2 is required for a particular matter to be voted on by this Chapter
3 or the declaration, a majority of the votes cast determines the
4 outcome of any action of the association.

5 (4) Subject to subsection (a), a unit owner may vote by absentee
6 ballot without being present at the meeting. The association
7 promptly shall deliver an absentee ballot to an owner that
8 requests it if the request is made at least seven days before the
9 scheduled meeting. Votes cast by absentee ballot must be
10 included in the tally of a vote taken at that meeting.

11 (5) When a unit owner votes by absentee ballot, the association must
12 be able to verify that the ballot is cast by the unit owner having
13 the right to do so.

14 (c) Except as otherwise provided in the declaration or bylaws, the following
15 requirements apply with respect to proxy voting:

16 (1) Votes allocated to a unit may be cast pursuant to a directed or
17 undirected proxy duly executed by a unit owner.

18 (2) If a unit is owned by more than one person, each owner of the
19 unit may vote or register protest to the casting of votes by the
20 other owners of the unit through a duly executed proxy.

21 (3) A unit owner may revoke a proxy given pursuant to this section
22 only by actual notice of revocation to the person presiding over a
23 meeting of the association.

24 (4) A proxy is void if it is not dated, if it purports to be revocable
25 without notice, or if it is given in favor of a board member.

26 (5) A proxy is valid only for the meeting at which it is cast and any
27 recessed session of that meeting.

28 (6) A proxy may be used to achieve the required quorum at a
29 meeting.

30 (7) A proxy is valid only if the nature of the matter for which the
31 vote is to be taken is stated in the notice as required by
32 G.S. 47F-3-108(a).

33 (8) A person may not cast proxies representing more than fifteen
34 percent (15%) of the votes in the association.

35 (d) Unless prohibited or limited by the declaration or bylaws, an association
36 may conduct a vote without a meeting. In that event, the following requirements
37 apply:

38 (1) The association shall notify the unit owners that the vote will be
39 taken by ballot.

40 (2) The association shall deliver a paper or electronic ballot to every
41 unit owner entitled to vote on the matter.

42 (3) The ballot must set forth each proposed action and provide an
43 opportunity to vote for or against the action.

1 (4) When the association delivers the ballots, it shall provide all of
2 the following information:

3 a. Indicate the number of responses needed to meet the
4 quorum requirements.

5 b. State the percent of votes necessary to approve each
6 matter other than election of directors.

7 c. Specify a time and date, not fewer than seven days after
8 the date the association delivers the ballot, by which a
9 ballot must be delivered to the association to be counted.

10 d. Describe the time, date, and manner by which unit owners
11 wishing to deliver information to all unit owners regarding
12 the subject of the vote may do so.

13 (5) Except as otherwise provided in the declaration or bylaws, a
14 ballot is not revoked after delivery to the association by death or
15 disability or attempted revocation by the person that cast that
16 vote.

17 (6) Approval by ballot pursuant to this subsection is valid only if the
18 number of votes cast by ballot equals or exceeds the quorum
19 required to be present at a meeting authorizing the action.

20 (e) If the declaration requires that votes on specified matters affecting the
21 condominium be cast by lessees rather than unit owners of leased units: (i) the
22 provisions this section apply to lessees as if they were unit owners; (ii) unit owners
23 who have leased their units to other persons may not cast votes on those specified
24 matters; and (iii) lessees are entitled to notice of meetings, access to records, and
25 other rights respecting those matters as if they were unit owners. Unit owners must
26 also be given notice, in the manner provided in G.S. 47C-3-108, of all meetings at
27 which lessees may be entitled to vote.

28 (f) No votes allocated to a unit owned by the association may be cast.

29 (g) The declaration may provide that on specified issues only a defined
30 subgroup of unit owners may vote provided:

31 (1) The issue being voted on is of special interest solely to members
32 of the subgroup; and

33 (2) All except de minimis costs that will be incurred based on the
34 vote taken will be assessed solely against those unit owners
35 entitled to vote.

36 (h) For purposes of subdivision (g)(1) above an issue to be voted on is not
37 of special interest solely to a subgroup if it substantially affects the overall
38 appearance of the condominium or substantially affects living conditions of unit
39 owners not included in the voting subgroup."

40 **SECTION 10.** Article 3 of Chapter 47C of the General Statutes is
41 amended by adding a new section to read:

42 **"§ 47C-3-120. Alternative dispute resolution allowed.**

1 Parties to a dispute arising under this Chapter, an association's declaration,
2 bylaws, or rules and regulations, may agree to resolve the dispute by any form of
3 binding or nonbinding alternative dispute resolution, except that a declarant may
4 agree with the association to do so only after the period of declarant control has
5 expired. Parties electing to use alternative dispute resolution for disputes arising
6 under this Chapter shall only use mediators certified by the Dispute Resolution
7 Commission. An agreement to submit to any form of binding alternative dispute
8 resolution must be in a record authenticated by the parties."

9
10
11 **PART III. AMENDMENTS TO TAXATION OF PROPERTY OWNED BY**
12 **ASSOCIATIONS**

13
14 **SECTION 11.(a)** G.S. 105-277.8 reads as rewritten:

15 **"§ 105-277.8. Taxation of property of nonprofit homeowners' association.**

16 (a) The~~Except as provided in subsection (a1) of this section,~~ the value of
17 real and personal property owned by a nonprofit homeowners' association shall be
18 included in the appraisals of property owned by members of the association and
19 shall not be assessed against the association ~~if~~if each of the following
20 requirements are met:

- 21 (1) All property owned by the association is held for the use, benefit,
22 and enjoyment of all members of the association ~~equally;~~equally.
23 (2) Each member of the association has an irrevocable right to use
24 and enjoy, on an equal basis, all property owned by the
25 association, subject to any restrictions imposed by the
26 instruments conveying the right or the rules, regulations, or
27 bylaws of the ~~association;~~ and association.
28 (3) Each irrevocable right to use and enjoy all property owned by the
29 association is appurtenant to taxable real property owned by a
30 member of the association.

31 The assessor may allocate the value of the association's property among the
32 property of the association's members on any fair and reasonable basis.

33 (a1) The value of real property owned by a nonprofit homeowners'
34 association that (i) meets the requirements of subdivisions (1) through (3) of
35 subsection (a) of this section and (ii) is entirely contained within a taxing
36 jurisdiction that is different from all taxable real property owned by any member
37 of the association to which the rights to use and enjoy the association property is
38 appurtenant shall be subject to taxation only in the jurisdiction in which it is
39 entirely contained and only in the amount of the local tax of the jurisdiction in
40 which it is entirely contained. The value of any property taxed pursuant to this
41 subsection shall not be included in the appraisals of property owned by members
42 of the association that are referenced in subsection (a) or otherwise subject to
43 taxation. The assessor for the jurisdiction that imposes a tax pursuant to this

1 subsection shall provide notice of the property, the value, and any other
2 information to the assessor of any other jurisdiction so that the real properties
3 owned by the members of the association are not subject to taxation for that value.

4 (b) As used in this section, "nonprofit homeowners' association" means a
5 homeowners' association as defined in § 528(c) of the Internal Revenue Code."

6 **SECTION 11.(b)** This section is effective for taxes imposed for
7 taxable years beginning on or after July 1, 2012.

8 **SECTION 12.** Except as otherwise provided, this act becomes
9 effective July 1, 2012.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

BILL DRAFT 2011-RIz-32 [v.3] (05/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/1/2012 8:31:02 PM

Short Title: Community Association Mgrs. Licensing Act. (Public)

Sponsors: Representative.

Referred to:

1
2 A BILL TO BE ENTITLED
3 AN ACT ESTABLISHING THE COMMUNITY ASSOCIATION MANAGERS
4 LICENSURE ACT, AS RECOMMENDED BY THE HOUSE SELECT
5 COMMITTEE ON HOMEOWNERS ASSOCIATIONS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Chapter 93A of the General Statutes is amended by
8 adding the following new Article to read:

9 "Article 6.

10 "Community Association Managers Licensure Act.

11 "**§ 93A-85. Short title.**

12 This Article shall be known as the 'North Carolina Community Association
13 Managers Licensure Act.'

14 "**§ 93A-86. Purpose.**

15 The General Assembly finds that persons who provide community association
16 management in North Carolina affect the public health, safety, and welfare, and
17 that the mandatory licensure of persons who provide community association
18 management for compensation is necessary to ensure minimum standards of
19 competency. It is the purpose and intent of this Article to protect the public from
20 persons unqualified to provide community association management and from
21 unprofessional conduct by persons licensed pursuant to this Article.

22 "**§ 93A-87. Definitions.**

23 The following definitions apply in this Article:

- 24 (1) Board. – The North Carolina Licensure Board for Community
25 Association Managers.
26 (2) Compensation. – A fee or anything else of value or the promise
27 thereof.
28 (3) Community association. – An association or organization of the
29 owners of residential condominiums, time-shares, townhouses,

1 apartments, or lots in a planned community or subdivision that is
2 subject to a uniform scheme of restrictive covenants, in which
3 owner membership is made mandatory by covenant, contract, or
4 deed, and is authorized to collect dues, assessments, or other
5 payments from owner members.

6 (4) Community association manager. – Any person who, for
7 compensation or the expectation thereof, performs two or more
8 of the following acts or services for a community association:

9 a. Acts with the authority of a community association in its
10 business, legal, financial, or other transactions with
11 association members and nonmembers.

12 b. Executes the resolutions and decisions of the government
13 of a community association or, with the authority of the
14 association, enforces the rights of the association secured
15 by statute, contract, covenant, rule, or bylaw.

16 c. Collects, disburses, or otherwise exercises dominion or
17 control over money or other property belonging to a
18 community association.

19 d. Prepares budgets, financial statements, or other financial
20 reports for a community association.

21 e. Negotiates contracts or otherwise coordinates or arranges
22 for services or the purchase of property and goods for or
23 on behalf of a community association.

24 f. Offers or solicits to perform any of the acts or services in
25 sub-subdivisions a. through e. of this subdivision on
26 behalf of a community association.

27 (5) License. – A certificate issued by the Board recognizing the
28 person named therein as having met the requirements to provide
29 community association management services as defined in this
30 Article.

31 (6) Licensee. – A person who has been issued a license under this
32 Article.

33 **"§ 93A-88. License required.**

34 (a) It shall be unlawful for any person in this State to act as a community
35 association manager, directly or indirectly engage in the business of community
36 association management, hold himself or herself out to be a community
37 association manager, or use the title 'Licensed Community Association Manager'
38 or 'Community Association Manager' without first obtaining a license from the
39 Board, as provided in this Article.

40 (b) The Board may issue a license to provide community association
41 management to an individual. The Board shall not issue a license to provide
42 community association management to a partnership, association, corporation,
43 limited liability company, or other business entity. However, a licensed

1 community association manager may perform community association
2 management for or on behalf of a partnership, association, corporation, limited
3 liability company, or other business entity, conduct business as a business entity,
4 or enter into and enforce contracts as a business entity.

5 **"§ 93A-89. Exemptions.**

6 The provisions of this Article shall not apply to the following:

- 7 (1) An officer or member of a community association who, for no
8 compensation or expectation thereof, performs the acts or
9 services of a community association manager.
- 10 (2) The acts or services of an attorney-at-law who is engaged to
11 represent a community association or community association
12 manager in any business that constitutes the practice of law.
- 13 (3) The acts or services of a real estate broker hired by a community
14 association to sell or rent real property belonging to the
15 association.
- 16 (4) A trustee in bankruptcy, court-appointed receiver, or any other
17 person acting under the express authority of an order issued by a
18 court of competent jurisdiction.
- 19 (5) The acts or services of a certified public accountant acting solely
20 in the capacity of a certified public accountant.
- 21 (6) A person who is the regular, salaried employee of a licensed
22 community association manager or an entity lawfully engaged in
23 community association management while performing clerical or
24 ministerial functions under the direction and control of a licensed
25 community association manager.
- 26 (7) A person who is the regular, salaried employee of a licensed
27 community association manager or an entity lawfully engaged in
28 community association management who performs any of the
29 acts or services described in G.S. 93A-87(4)a. through e., under
30 the direct supervision and control of a licensed community
31 association manager.
- 32 (8) The person, including a governmental agency, redevelopment
33 authority, or redevelopment commission, who undertook the
34 development and who has a legal or equitable interest in the
35 property developed and who provides community association
36 management until not more than 30 days after conveyance of all
37 of the units or lots (including units or lots which may be created
38 pursuant to special declarant rights) to unit or lot owners other
39 than the declarant.

40 **"§ 93A-90. North Carolina Licensure Board for Community Association**
41 **Managers.**

42 (a) Membership. – The North Carolina Licensure Board for Community
43 Association Managers is established. The Board shall consist of seven members,

1 who are citizens of the United States and residents of this State, appointed as
2 follows:

- 3 (1) Four community association managers, two of whom shall be
4 appointed by the General Assembly, upon the recommendation
5 of the President Pro Tempore of the Senate, one of whom shall
6 be appointed by the General Assembly, upon the
7 recommendation of the Speaker of the House of Representatives,
8 and one of whom shall be appointed by the Governor.
- 9 (2) A home builder appointed by the Governor, upon the
10 recommendation of the North Carolina Home Builders
11 Association.
- 12 (3) A licensed real estate broker appointed by the Governor, upon
13 the recommendation of the North Carolina Association of
14 Realtors.
- 15 (4) A public member who is not a professional in any of the
16 categories in subdivisions (1) through (3) of this subsection,
17 appointed by the General Assembly, upon the recommendation
18 of the Speaker of the House of Representatives.

19 (b) Terms. – Members of the Board shall be appointed for four-year
20 staggered terms. Each Board member shall hold office until July 1 of the year in
21 which the Board member's respective term expires and until his or her successor is
22 appointed and qualified. No member may serve more than two consecutive full
23 terms. Appointments made by the General Assembly shall be made in accordance
24 with G.S. 120-121.

25 The initial Board members shall be appointed before October 1, 2011. Of the
26 members initially appointed, the community association manager appointed by the
27 Governor shall serve a one-year term. The community association manager
28 appointed by the General Assembly, upon the recommendation of the Speaker of
29 the House of Representatives, and the licensed real estate broker shall serve
30 two-year terms. One community association manager appointed by the General
31 Assembly, upon the recommendation of the President Pro Tempore of the Senate,
32 and the home builder shall serve three-year terms. The remaining community
33 association manager appointed by the General Assembly, upon the
34 recommendation of the President Pro Tempore of the Senate, and the public
35 member shall serve four-year terms.

36 Upon the expiration of the terms of the initial Board members, members shall
37 be appointed by the appointing authorities designated in subdivisions (1) through
38 (4) of subsection (a) of this section for a term of four years and shall serve until a
39 successor is appointed.

40 (c) Vacancies. – Any vacancy shall be filled by the authority originally
41 filling that position. Appointees to fill vacancies shall serve the remainder of the
42 unexpired term and until their successors have been duly appointed and qualified.

1 (d) Removal. – The Board may remove any of its members for neglect of
2 duty, incompetence, or unprofessional conduct. A member subject to disciplinary
3 proceedings in his or her capacity as a licensed community association manager
4 shall be disqualified from participating in the official business of the Board until
5 the charges have been resolved.

6 (e) Compensation. – Each member of the Board shall receive per diem and
7 reimbursement for travel and subsistence as provided in G.S. 93B-5.

8 (f) Officers. – The officers of the Board shall be a chair, a vice-chair, and
9 other officers deemed necessary by the Board to carry out the purposes of this
10 Article. All officers shall be elected annually by the Board for one-year terms and
11 shall serve until their successors are elected and qualified. The chair of the Board
12 shall be a licensed community association manager.

13 (g) Meetings. – The Board shall hold its first meeting within 30 days after
14 the appointment of its members and shall hold at least two meetings each year to
15 conduct business and to review the standards and rules previously adopted by the
16 Board. The Board shall establish the procedures for calling, holding, and
17 conducting regular and special meetings. A majority of Board members constitutes
18 a quorum.

19 **"§ 93A-91. Powers and duties of the Board.**

20 The Board has the following powers and duties:

- 21 (1) Administer this Article.
- 22 (2) Issue interpretations of this Article.
- 23 (3) Adopt rules as may be necessary to carry out the provisions of
24 this Article.
- 25 (4) Determine the qualifications and fitness of applicants for
26 licensure and license renewal.
- 27 (5) Establish an examination and approve educational curricula for
28 persons seeking licensure under this Article.
- 29 (6) Adopt and publish rules governing the ethics and standards of
30 practice for persons licensed as community association managers
31 and create educational programs, books, and materials for
32 licensees and the general public concerning community
33 associations, their organization and proper management, and the
34 rights of members.
- 35 (7) Issue, renew, deny, suspend, and revoke licenses and investigate
36 and discipline licensees as provided by this Article.
- 37 (8) Conduct investigations, subpoena individuals and records, and do
38 all other things necessary and proper to enforce this Article and
39 discipline persons licensed under this Article.
- 40 (9) Employ and discharge an executive director and other
41 professional, clerical, investigative, and special personnel and to
42 set the compensation and benefits for those persons.

- 1 (10) Purchase or rent office space, equipment, and supplies necessary
2 to carry out the provisions of this Article.
- 3 (11) Adopt a seal by which it shall authenticate its proceedings,
4 official documents, and licenses.
- 5 (12) Conduct administrative hearings in accordance with Article 3A
6 of Chapter 150B of the General Statutes.
- 7 (13) Establish fees as allowed by the Article.
- 8 (14) Publish and make available upon request the licensure standards
9 prescribed under this Article and all rules adopted by the Board.
- 10 (15) Request and receive the assistance of State educational
11 institutions or other State agencies.
- 12 (16) Establish continuing education requirements for persons licensed
13 under this Article.
- 14 (17) Call upon the Attorney General to provide legal counsel and
15 representation to the Board or, upon the approval of the Attorney
16 General, hire another attorney to represent the Board, provided
17 that the cost of legal representation is borne by the Board.

18 **"§ 93A-92. Requirements for licensure; denial of licensure.**

19 (a) To be licensed as a community association manager, an applicant shall
20 do all of the following:

- 21 (1) Submit a completed application to the Board on a form provided
22 by the Board.
- 23 (2) Pass a licensing examination prescribed by the Board or present
24 evidence of at least one of the following:
 - 25 a. Successful completion of the Professional Community
26 Association Manager or the Association Management
27 Specialist designation administered by the Community
28 Associations Institute.
 - 29 b. Successful completion of the Certified Manager of
30 Community Association Certification Program
31 administered by the National Board of Certification for
32 Community Association Managers.
 - 33 c. Attainment of the Certified Property Manager designation
34 of the Institute of Real Estate Management Division, an
35 affiliate of the National Association of Realtors.
 - 36 d. Successful completion of any other program of education
37 which, in the discretion of the Board, is equivalent to the
38 programs described in sub-subdivisions a. through c. of
39 this subdivision.
 - 40 e. Possession of a valid license issued by another state or any
41 political territory or jurisdiction acceptable to the Board if
42 in the Board's opinion the requirements for that licensure

1 are substantially the same as the requirements for
2 licensure under this Article.

3 (3) Produce evidence of coverage by a fidelity bond in accordance
4 with G.S. 93A-93.

5 (4) Demonstrate to the Board that the applicant possesses good
6 moral character and the honesty, truthfulness, and integrity
7 necessary to protect the interests of the public and promote
8 public confidence in licensed community association managers.

9 (5) Pay the applicable fees.

10 (b) If the Board finds that an applicant has not demonstrated that the
11 applicant possesses the character and fitness for licensure, the Board shall defer
12 action on the applicant's application and shall notify the applicant in writing by
13 first-class mail directed to the address provided by the applicant in the application.
14 Within 60 days following the mailing of the notice, the applicant may request a
15 hearing before the Board. Proceedings before the Board shall be governed by
16 Article 3A of Chapter 150B of the General Statutes. At the hearing, the applicant
17 shall have the burden of demonstrating the applicant's good character and fitness
18 for licensure. If the applicant does not make a timely request for a hearing, the
19 application shall be deemed denied.

20 **"§ 93A-93. Fidelity bonds; segregation of accounts.**

21 (a) Every community association manager engaged in community
22 association management shall at all times be covered by a fidelity bond or an
23 insurance policy complying with the provisions of this section.

24 (b) A fidelity bond required by this section shall be in an amount of at least
25 twenty thousand dollars (\$20,000) and shall comply with the following:

26 (1) Be written by an insurance company authorized to write fidelity
27 bonds in this State.

28 (2) Cover the community association manager and all or a portion of
29 the employees and protect all or a portion of the community
30 association funds in the custody of the community association
31 manager or community association employees acting under the
32 community association manager's supervision.

33 (3) Provide that the insurance company issuing the bond may not
34 cancel, substantially modify, or refuse to renew the bond without
35 giving 30 days' prior written notice to the Board, except in the
36 case of nonpayment of premiums, in which case 10 days' prior
37 written notice shall be given to the Board.

38 (4) Contain any other provisions as may be required by the Board.

39 (c) A licensee shall furnish the Board proof of required bond coverage
40 before engaging in community association management activities and upon license
41 renewal if the licensee continues to engage in community association management
42 activities.

1 (d) The fidelity bond may be issued to an individual licensee naming the
2 licensee as the insured party or may be issued to a community association
3 management firm naming the firm, all affiliated licensees, and others as insured
4 parties.

5 (e) A community association manager with custody, dominion, or control
6 of money belonging to a community association or money belonging to a member
7 of a community association shall comply with all the following:

- 8 (1) Safeguard and account for the money promptly and accurately.
- 9 (2) Promptly deposit the money into federally insured accounts in a
10 bank, savings institution, or credit union lawfully doing business
11 in North Carolina that consents to the jurisdiction of the Board
12 for the examination of its records necessary to enforce this
13 Article.
- 14 (3) Segregate the money in an account or accounts used exclusively
15 for the deposit and maintenance of funds belonging only to one
16 association and not commingle the money belonging to one
17 association with money belonging to another association, the
18 manager, or another person or entity.
- 19 (4) Obtain written authorization if any interest or other income
20 earned by the money is to be paid to any person or party other
21 than the association or member to whom the money belongs.
- 22 (5) Create and maintain books and records sufficient to demonstrate
23 compliance with the provisions of this section and rules adopted
24 by the Board.
- 25 (6) Upon depositing the money as provided in this subsection,
26 expend, remit, or invest the money as directed by the association
27 to whom the money belongs and provide an accurate account of
28 any expenditure, remittance, or investment.

29 **"§ 93A-94. Fees; subsequent application.**

30 (a) The Board may impose the following fees, not to exceed the following
31 amounts:

- 32 (1) Application for community association manager license \$25.00
- 33 (2) Community association manager examination 75.00
- 34 (3) Issuance of license..... 150.00
- 35 (4) License renewal..... 100.00
- 36 (5) Late renewal 25.00
- 37 (6) Application for course approval 150.00
- 38 (7) Course approval renewal 75.00
- 39 (8) Course fee, per credit hour per licensee 5.00
- 40 (9) Credit for unapproved continuing education course 50.00
- 41 (10) Registration of community association 50.00
- 42 (11) Copies of Board rules or licensure standards shall be the cost of
43 printing and mailing.

1 **(b) An individual who applied for a license as a community association**
2 **manager and failed the community association manager examination is not**
3 **required to pay an additional application fee if the individual submits another**
4 **application for a license as a community association manager within six months**
5 **following the submission of the individual's first application; however, the**
6 **individual shall pay the examination fee to be eligible to take the examination**
7 **again.**

8 **"§ 93A-95. License renewal; inactive license; lapsed license.**

9 **(a) Renewal. – A license issued under this Article expires on September 30**
10 **of each year. A license may be renewed by filing an application for renewal**
11 **according to procedures established by the Board and paying the required renewal**
12 **fee. The Board shall renew the license of a person who files an application for**
13 **renewal, pays the required renewal fee, and has fulfilled the continuing education**
14 **requirements set by the Board. If the Board imposes a continuing education**
15 **requirement as a condition of renewing a license, the Board shall reasonably**
16 **ensure that the courses needed to fulfill the requirement are available.**

17 **(b) Late Renewal. – The Board may provide for the late renewal of a**
18 **license upon the payment of a late fee. However, late renewal of a license may not**
19 **be granted more than five years after the license expires.**

20 **(c) Inactive License. – A licensed community association manager may**
21 **apply to the Board to be placed on inactive status. An applicant for inactive status**
22 **shall follow the procedure established by the Board. A licensed community**
23 **association manager who is granted inactive status is not subject to the license**
24 **renewal requirements during the period the license holder remains on inactive**
25 **status. A community association manager on inactive status may apply to the**
26 **Board to be reinstated to active status at any time. The Board may set conditions**
27 **for reinstatement to active status. A community association manager on inactive**
28 **status shall not perform any act or service for which licensure is required.**

29 **"§ 93A-96. Continuing education.**

30 **(a) Requirements. – The Board may establish programs of continuing**
31 **education for licensees under this Article. A licensee subject to a program under**
32 **this section shall present evidence to the Board upon renewing the license, and**
33 **every renewal thereafter, that during the 12 months preceding the annual license**
34 **expiration date, the licensee has completed the required number of classroom**
35 **hours of instruction in courses approved by the Board. The Board shall determine**
36 **the number of hours of continuing education a licensee is required to complete**
37 **annually. However, the total number of credit hours shall not exceed eight credit**
38 **hours. No member of the Board shall provide or sponsor a continuing education**
39 **course under this section while that person is serving on the Board.**

40 **(b) Fees. – The Board may establish a nonrefundable course application fee**
41 **to be charged to a course sponsor for the review and approval of a proposed**
42 **continuing education course. Approval of a continuing education course shall be**
43 **renewed annually. The Board may also require a course sponsor to pay a fee for**

1 each licensee completing an approved continuing education course conducted by
2 the sponsor.

3 (c) Credit for Unapproved Course. – The Board may award continuing
4 education credit for an unapproved course or related educational activity. The
5 Board may prescribe procedures for a licensee to submit information on an
6 unapproved course or related educational activity for continuing education credit.
7 The Board may charge a fee to the licensee for each unapproved course or activity
8 submitted.

9 (d) Extension of Time. – The Board may, for good cause shown, grant
10 extensions of time to licensees to comply with the requirements of this section.
11 Any licensee who, after obtaining an extension under this subsection, offers
12 evidence satisfactory to the Board that the licensee has satisfactorily completed the
13 required continuing education courses, is in compliance with this section.

14 (e) Rules. – The Board may adopt rules regarding continuing education
15 requirements, including rules that govern the following:

- 16 (1) The content and subject matter of continuing education courses.
- 17 (2) The criteria, standards, and procedures for the approval of
18 courses, course sponsors, and course instructors.
- 19 (3) The methods of instruction.
- 20 (4) The computation of course credit.
- 21 (5) The ability to carry forward course credit from one year to
22 another.
- 23 (6) The waiver of or variance from the continuing education
24 requirement for hardship or other reasons.
- 25 (7) The procedures for compliance and sanctions for noncompliance.

26 **"§ 93A-97. Registration of community associations.**

27 (a) On or before January 1 of each year, every community association who
28 employs a community association manager licensed pursuant to this Article and
29 whose membership includes the owners of 20 or more residential condominiums,
30 townhouses, apartments, or lots, or any combination thereof shall register the
31 association with the Board and shall provide the Board with the following
32 information about the association:

- 33 (1) The name and address of the association.
- 34 (2) The county where the property is located.
- 35 (3) The name and address of the community association's manager.
- 36 (4) Any other information the Board may require pursuant to rules
37 adopted by the Board.

38 (b) On or before January 1 of each year, any other community association
39 of residential condominiums, townhouses, apartments, or lots may register the
40 association with the Board and shall provide the Board with the information
41 required under subdivisions (a)(1) through (a)(4) of this section.

42 (c) The Board may charge each affected association an annual registration
43 fee not to exceed fifty dollars (\$50.00).

1 (d) In the event an association required to register fails to register, the
2 association shall not sue in court or otherwise pursue any legal remedy available to
3 it until the association has registered with the Board, including the payment of any
4 delinquent registration fees. The Board shall publish a directory of registered
5 community associations and registration fees. The Board shall use the fees for the
6 administration and enforcement of this Article only.

7 **"§ 93A-98. Disciplinary action by the Board.**

8 (a) The Board shall have the authority to take disciplinary action. Upon its
9 own initiative or upon the complaint of any person, the Board may investigate the
10 conduct of a licensed community association manager or any other person who
11 acts or presumes to act in the capacity of a licensed community association
12 manager. The Board may suspend or revoke a license issued under this Article or
13 reprimand a licensee if, following a hearing, the Board finds that the licensee has
14 done any of the following:

- 15 (1) Obtained a license by means of fraud, deceit, or
16 misrepresentation.
- 17 (2) Engaged in gross negligence or gross incompetence as a
18 community association manager.
- 19 (3) Engaged in any act or service for which a license is required with
20 a lapsed or inactive license.
- 21 (4) Made a willful misrepresentation of material fact.
- 22 (5) Failed within a reasonable time to account for or remit money
23 belonging to a community association or another person coming
24 into the community association manager's possession in his or
25 her capacity as a community association manager.
- 26 (6) Commingled money belonging to a community association with
27 the community association manager's own money or failed to
28 deposit, maintain, or safeguard the money of a community
29 association as required by G.S. 93A-93(e).
- 30 (7) Been adjudged legally incompetent.
- 31 (8) Paid or offered to pay a valuable consideration to any person for
32 acts or services performed in violation of this Article.
- 33 (9) Failed to reasonably supervise an employee under
34 G.S. 93A-89(6) or (7) to prevent a violation of this Article.
- 35 (10) Engaged in any other conduct that is fraudulent.
- 36 (11) Violated any rule adopted by the Board or any provision of this
37 Article.

38 (b) The Board may also suspend or revoke the license issued to a
39 community association manager when the licensee has been convicted in any court
40 of competent jurisdiction in this State, another state, or the United States of the
41 offenses of fraud, embezzlement, larceny, false pretenses, forgery, conspiracy, or
42 any other offense involving dishonesty, breach of trust, or moral turpitude.

1 (c) In any case in which the Board may take disciplinary action authorized
2 by this section, the Board may also impose reasonable conditions, restrictions,
3 limitations, and probation upon the licensee.

4 (d) Hearings held pursuant to this section shall be governed by the
5 provisions of Article 3A of Chapter 150B of the General Statutes.

6 (e) The Board shall have authority to issue subpoenas in aid of its authority
7 to compel the testimony of witnesses and to require any person or entity to
8 produce documents for examination and copying by the Board's representatives.
9 Subpoenas shall be signed by the Board Chair, Executive Director, or legal
10 counsel. Upon written request, the Board Chair shall revoke a subpoena upon a
11 showing that the subpoena does not describe the evidence sought with reasonable
12 particularity, the evidence sought by the subpoena does not relate to a matter
13 within the authority of the Board, or compliance with the subpoena is
14 unreasonably burdensome. If any person should fail to comply with a subpoena
15 issued by the Board, the Board may apply to the Superior Court of Wake County
16 or any county where the subpoenaed person resides or does business for an order
17 to compel the person to comply with a subpoena or to show cause why the
18 subpoenaed person should not be held in contempt. The court may impose
19 punishment for failure to comply with the Board's subpoena in the same manner as
20 if the subpoena had been issued under the court's own authority. When the
21 subpoena seeks the production of records of money belonging to a community
22 association or association member held by a financial institution, the Board may
23 obtain access to the records in accordance with G.S. 53B-5.

24 **"§ 93A-99. License is property of the Board; display of license; report**
25 **address change.**

26 (a) A license issued by the Board is the property of the Board. If the Board
27 suspends or revokes a license issued by the Board, the community association
28 manager to whom the license is issued shall return the license to the Board upon
29 demand.

30 (b) A community association manager licensed by the Board shall display
31 the license in a manner prescribed by the Board. A licensed community
32 association whose address changes shall report the change to the Board.

33 **"§ 93A-100. Records.**

34 All persons licensed under this Article shall maintain full and accurate records
35 of business the licensees have engaged in pursuant to their licenses. Records shall
36 include the written, signed contract, and the written report required by the
37 standards of practice established by the Board. Licensees shall retain records no
38 less than three years. Licensees shall furnish their records to the Board on demand
39 without prior notice.

40 **"§ 93A-101. Violation a misdemeanor.**

41 A person who violates any provision of this Article is guilty of a Class 2
42 misdemeanor. Each unlawful act or practice constitutes a distinct and separate
43 offense.

1 **"§ 93A-102. Injunctions.**

2 The Board may apply to any appropriate court for an order enjoining violations
3 of this Article. Upon a showing by the Board that any person has violated or is
4 about to violate this Article, the court may grant an injunction or a restraining
5 order or take other appropriate action."

6 **SECTION 2.** G.S. 93A-6(a)(12) reads as rewritten:

7 "(a) The Commission has power to take disciplinary action. Upon its own
8 initiative, or on the complaint of any person, the Commission may investigate the
9 actions of any person or entity licensed under this Chapter or any other person or
10 entity who shall assume to act in such capacity. If the Commission finds probable
11 cause that a licensee has violated any of the provisions of this Chapter, the
12 Commission may hold a hearing on the allegations of misconduct.

13 The Commission has power to suspend or revoke at any time a license issued
14 under the provisions of this Chapter, or to reprimand or censure any licensee, if,
15 following a hearing, the Commission adjudges the licensee to be guilty of:

- 16 ...
- 17 (12) Commingling the money or other property of his or her
18 principals with his or her own or failure to maintain and deposit
19 in a trust or escrow account in an insured bank or savings and
20 loan association in North Carolina all money received by him or
21 her as a real estate licensee acting in that capacity, or an escrow
22 agent, or the custodian or manager of the funds of another person
23 or entity which relate to or concern that person's or entity's
24 interest or investment in real property, provided, these accounts
25 shall not bear interest unless the principals authorize in writing
26 the deposit be made in an interest bearing account and also
27 provide for the disbursement of the interest accrued. However, a
28 real estate broker who is also a licensed community association
29 manager shall not be subject to disciplinary action by the
30 Commission for handling and accounting for money belonging to
31 a community association in compliance with Article 6 of this
32 Chapter.

33"

34 **SECTION 3.** Any person who submits proof to the Board that the
35 person has been actively engaged in business as a community association manager
36 for compensation in this State for at least three consecutive years before the
37 effective date of this act and pays the required fee for the issuance of a license
38 shall be licensed without having to satisfy the requirements of G.S. 93A-92(a)(1)
39 and (2), as enacted by Section 1 of this act. Proof of active engagement as a
40 community association manager may be shown by evidence of the regular
41 performance, over three or more years, of two or more of the acts or services
42 enumerated in G.S. 93A-87. All persons who do not make application to the Board
43 within one year of the effective date of this act shall be required to complete all

1 requirements prescribed by the Board and to otherwise comply with the provisions
2 of G.S. 93A-92.

3 **SECTION 4.** G.S. 93A-88 and G.S. 93A-93, as enacted by Section 1
4 of this act, becomes effective October 1, 2012, and applies to offenses committed
5 on or after that date. The remainder of this act is effective when it becomes law.