

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE DRS15141-LKz-110A* (3/8)

Short Title: Planned Community Act Amendment. (Public)

Sponsors: Senator Hartsell.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW ATTORNEYS' FEES TO BE AWARDED TO THE
PREVAILING PARTY IN AN ACTION TO ENFORCE PROVISIONS OF THE
ARTICLES OF INCORPORATION, DECLARATION, BYLAWS, OR RULES OF
A PLANNED COMMUNITY CREATED PRIOR TO JANUARY 1, 1999, IF
RECOVERY OF ATTORNEYS' FEES IS ALLOWED IN THE DECLARATION,
AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

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

"(c) Notwithstanding the provisions of subsection (a) of this section, G.S. 47F-3-102(1) through (6) and (11) through (17) (Powers of owners' association), G.S. 47F-3-107(a), (b), and (c) (Upkeep of planned community; responsibility and assessments for damages), G.S. 47F-3-115 (Assessments for common expenses), and G.S. 47F-3-116 (Lien for assessments), apply to all planned communities created in this State before January 1, 1999, unless the articles of incorporation or the declaration expressly provides to the ~~contrary~~-contrary, and G.S. 47F-3-120 (Declaration limits on attorneys' fees) applies to all planned communities created in this State before January 1, 1999. These sections apply only with respect to events and circumstances occurring on or after January 1, 1999, and do not invalidate existing provisions of the declaration, bylaws, or plats and plans of those planned communities. G.S. 47F-1-103 (Definitions) also applies to all planned communities created in this State before January 1, 1999, to the extent necessary in construing any of the preceding sections."

SECTION 2. This act is effective when it becomes law.