

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 1084  
Committee Substitute Favorable 6/13/12

Short Title: HOAs/Planned Community Act Amends.

(Public)

Sponsors:

Referred to:

May 24, 2012

A BILL TO BE ENTITLED

AN ACT TO (1) REQUIRE ASSOCIATIONS TO RELEASE LIENS UPON PAYMENT IN FULL; (2) REQUIRE ALL ASSOCIATIONS TO CONDUCT FINANCIAL REVIEWS OR FINANCIAL AUDITS; (3) REQUIRE THAT NOTICE OF ASSOCIATION MEETINGS DESCRIBE THE GENERAL NATURE OF ANY MATERIAL MATTER FOR WHICH A VOTE IS TO BE TAKEN, AND VOID ACTIONS TAKEN AT MEETINGS HELD IN VIOLATION OF REQUIREMENTS OF THE PLANNED COMMUNITY ACT OR THE CONDOMINIUM ACT, AS APPLICABLE, OR AN ASSOCIATIONS DECLARATION OR BYLAWS; (4) AMEND VOTING PROVISIONS AS THEY APPLY TO USE OF PROXIES AND BALLOTS; (5) ALLOW USE OF ALTERNATIVE DISPUTE RESOLUTION FOR CONFLICTS ARISING UNDER THE PLANNED COMMUNITY ACT OR CONDOMINIUM ACT; AND (6) SIMPLIFY THE COLLECTION OF PROPERTY TAXES THAT ARE DUE ON PROPERTY OWNED BY CERTAIN NONPROFIT HOMEOWNERS ASSOCIATIONS.

The General Assembly of North Carolina enacts:

**PART I. AMENDMENTS TO PLANNED COMMUNITY ACT**

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

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

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

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

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



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

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

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

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

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

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

27          "**§ 47F-3-118A. Financial review or audit requirements.**

28          (a)   Except as provided in subsection (b) of this section, the board of directors shall  
29          provide for an annual independent financial review of the association. The review shall be  
30          completed no later than 90 days after the end of the association's fiscal year and shall be made  
31          available upon request to the lot owners within 30 days after its completion.

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

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

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

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

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

43          "**§ 47F-3-108. Meetings.**

44          (a)   A meeting of the association shall be held at least once each year. Special meetings  
45          of the association may be called by the president, a majority of the executive board, or by lot  
46          owners having ten percent (10%), or any lower percentage specified in the bylaws, of the votes  
47          in the association. Not less than 10 nor more than 60 days in advance of any meeting, the  
48          secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent  
49          prepaid by United States mail to the mailing address of each lot or to any other mailing address  
50          designated in writing by the lot owner, or sent by electronic means, including by electronic  
51          mail over the Internet, to an electronic mailing address designated in writing by the lot owner.

1 The notice of any meeting shall state the time and place of the meeting and the items on the  
2 agenda, including the general nature of any proposed amendment to the declaration or bylaws,  
3 any budget changes, ~~and~~ any proposal to remove a director or ~~officer-officer~~, and any material  
4 matter for which a vote is to be taken.

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

11 (c) Except as otherwise provided in the bylaws, meetings of the association and the  
12 executive board shall be conducted in accordance with the most recent edition of Robert's Rules  
13 of Order Newly Revised.

14 (d) Actions taken at a meeting held in violation of the association's bylaws or any  
15 provision of this Chapter shall be null and void, and no members of the association shall be  
16 bound by any decision or ruling made in that meeting."

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

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

20 "**§ 47F-3-110A. Voting; proxies; ballots.**

21 (a) Unless prohibited or limited by the declaration or bylaws, lot owners may vote at a  
22 meeting in person, by absentee ballot pursuant to subdivision (4) of subsection (b) of this  
23 section, by a proxy pursuant to subsection (c) of the section, or, when a vote is conducted  
24 without a meeting, by electronic or paper ballot pursuant to subsection (d) of this section.

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

26 (1) Lot owners who are present in person may vote by voice vote, show of  
27 hands, standing, or any other method for accurately determining the votes of  
28 lot owners, as designated by the person presiding at the meeting.

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

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

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

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

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

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

- 1           (2)    If a lot is owned by more than one person, each owner of the lot may vote or  
2           register protest to the casting of votes by the other owners of the lot through  
3           a duly executed proxy.
- 4           (3)    A lot owner may revoke a proxy given pursuant to this section only by actual  
5           notice of revocation to the person presiding over a meeting of the  
6           association.
- 7           (4)    A proxy is void if it is not dated, if it purports to be revocable without notice,  
8           or if it is given in favor of a board member.
- 9           (5)    A proxy is valid only for the meeting at which it is cast and any recessed  
10          session of that meeting.
- 11          (6)    A proxy may be used to achieve the required quorum at a meeting.
- 12          (7)    A proxy is valid only if the nature of the matter for which the vote is to be  
13          taken is stated in the notice as required by G.S. 47F-3-108(a).
- 14          (8)    A person may not cast proxies representing more than fifteen percent (15%)  
15          of the votes in the association.
- 16          (d)    Unless prohibited or limited by the declaration or bylaws, an association may  
17          conduct a vote without a meeting. In that event, the following requirements apply:
- 18               (1)    The association shall notify the lot owners that the vote will be taken by  
19               ballot.
- 20               (2)    The association shall deliver a paper or electronic ballot to every lot owner  
21               entitled to vote on the matter.
- 22               (3)    The ballot must set forth each proposed action and provide an opportunity to  
23               vote for or against the action.
- 24               (4)    When the association delivers the ballots, the association shall do all of the  
25               following:
- 26                   a.    Indicate the number of responses needed to meet the quorum  
27                   requirements.
- 28                   b.    State the percentage of votes necessary to approve each matter other  
29                   than election of directors.
- 30                   c.    Specify the time and date, not fewer than seven days after the date  
31                   the association delivers the ballot, by which a ballot must be  
32                   delivered to the association to be counted.
- 33                   d.    Describe the time, date, and manner by which lot owners wishing to  
34                   deliver information to all lot owners regarding the subject of the vote  
35                   may do so.
- 36               (5)    Except as otherwise provided in the declaration or bylaws, a ballot is not  
37               revoked after delivery to the association by death or disability or attempted  
38               revocation by the person that cast that vote.
- 39               (6)    Approval by ballot pursuant to this subsection is valid only if the number of  
40               votes cast by ballot equals or exceeds the quorum required to be present at a  
41               meeting authorizing the action.
- 42          (e)    If the declaration requires that votes on specified matters affecting the planned  
43          community be cast by lessees rather than lot owners of leased lots, (i) the provisions of this  
44          section apply to lessees as if they were lot owners; (ii) lot owners who have leased their lots to  
45          other persons may not cast votes on those specified matters; and (iii) lessees are entitled to  
46          notice of meetings, access to records, and other rights respecting those matters as if they were  
47          lot owners. Lot owners shall also be given notice, in the manner provided in G.S. 47F-3-108, of  
48          all meetings at which lessees may be entitled to vote.
- 49          (f)    No votes allocated to a lot owned by the association may be cast.
- 50          (g)    The declaration may provide that, on specified issues, only a defined subgroup of lot  
51          owners may vote, provided both of the following apply:

1           (1) The issue being voted on is of special interest solely to the members of the  
2           subgroup.

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

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

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

11          "**§ 47F-3-120.1. Alternative dispute resolution allowed.**

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

## 19          **PART II. AMENDMENTS TO CONDOMINIUM ACT**

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

22          "**§ 47C-3-116.1. Associations with claim of lien to file notice of satisfaction with clerk of**  
23          **court upon full payment; liability for failure.**

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

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

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

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

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

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

46          "**§ 47C-3-118. Association records.**

47          (a) The association shall keep financial records sufficiently detailed to enable the  
48          association to comply with this chapter. All financial and other records, including records of  
49          meetings of the association and executive board, shall be made reasonably available for  
50          examination by any unit owner and the unit owner's authorized agents as required by the  
51

1 bylaws and by Chapter 55A of the General Statutes if the association is a nonprofit corporation.  
2 If the bylaws do not specify particular records to be maintained, the association shall keep  
3 accurate records of all cash receipts and expenditures and all assets and liabilities. In addition to  
4 any specific information that is required by the bylaws to be assembled and reported to the unit  
5 owners at specified times, the association shall make an annual income and expense statement  
6 and balance sheet available to all unit owners at no charge and within 75 days after the close of  
7 the fiscal year to which the information relates. ~~Notwithstanding the bylaws, a more extensive~~  
8 ~~compilation, review, or audit of the association's books and records for the current or~~  
9 ~~immediately preceding fiscal year may be required by a vote of the majority of the executive~~  
10 ~~board or by the affirmative vote of a majority of the unit owners present and voting in person or~~  
11 ~~by proxy at any annual meeting or any special meeting duly called for that purpose."~~

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

14 **"§ 47C-3-103A. Financial review or audit requirements.**

15 (a) Except as provided in subsection (b) of this section, the board of directors shall  
16 provide for an annual independent financial review of the association. The review shall be  
17 completed no later than 90 days after the end of the association's fiscal year and shall be made  
18 available upon request to the unit owners within 30 days after its completion.

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

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

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

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

28 **SECTION 8.** G.S. 47C-3-108 reads as rewritten:

29 **"§ 47C-3-108. Meetings.**

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

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

48 (c) Except as otherwise provided for in the bylaws, meetings of the association and  
49 executive board shall be conducted in accordance with the most recent edition of Robert's Rules  
50 of Order Newly Revised.

1        (d) Actions taken at a meeting held in violation of the association's bylaws or any  
2 provision of this Chapter shall be null and void, and no members of the association shall be  
3 bound by any decision or ruling made in that meeting."

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

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

7 **"§ 47C-3-110A. Voting; proxies; ballots.**

8        (a) Unless prohibited or limited by the declaration or bylaws, unit owners may vote at a  
9 meeting in person, by absentee ballot pursuant to subdivision (4) of subsection (b) of this  
10 section, by a proxy pursuant to subsection (c) of this section, or, when a vote is conducted  
11 without a meeting, by electronic or paper ballot pursuant to subsection (d) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

50            (7) A proxy is valid only if the nature of the matter for which the vote is to be  
51 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 percent (15%)  
2           of the votes in the association.
- 3       (d) Unless prohibited or limited by the declaration or bylaws, an association may  
4 conduct a vote without a meeting. In that event, the following requirements apply:
- 5           (1) The association shall notify the unit owners that the vote will be taken by  
6           ballot.
- 7           (2) The association shall deliver a paper or electronic ballot to every unit owner  
8           entitled to vote on the matter.
- 9           (3) The ballot must set forth each proposed action and provide an opportunity to  
10           vote for or against the action.
- 11           (4) When the association delivers the ballots, the association shall do all of the  
12           following:
- 13           a. Indicate the number of responses needed to meet the quorum  
14           requirements.
- 15           b. State the percentage of votes necessary to approve each matter other  
16           than election of directors.
- 17           c. Specify a time and date, not fewer than seven days after the date the  
18           association delivers the ballot, by which a ballot must be delivered to  
19           the association to be counted.
- 20           d. Describe the time, date, and manner by which unit owners wishing to  
21           deliver information to all unit owners regarding the subject of the  
22           vote may do so.
- 23           (5) Except as otherwise provided in the declaration or bylaws, a ballot is not  
24           revoked after delivery to the association by death or disability or attempted  
25           revocation by the person that cast that vote.
- 26           (6) Approval by ballot pursuant to this subsection is valid only if the number of  
27           votes cast by ballot equals or exceeds the quorum required to be present at a  
28           meeting authorizing the action.
- 29       (e) If the declaration requires that votes on specified matters affecting the condominium  
30 be cast by lessees rather than unit owners of leased units, (i) the provisions of this section apply  
31 to lessees as if they were unit owners; (ii) unit owners who have leased their units to other  
32 persons may not cast votes on those specified matters; and (iii) lessees are entitled to notice of  
33 meetings, access to records, and other rights respecting those matters as if they were unit  
34 owners. Unit owners must also be given notice, in the manner provided in G.S. 47C-3-108, of  
35 all meetings at which lessees may be entitled to vote.
- 36       (f) No votes allocated to a unit owned by the association may be cast.
- 37       (g) The declaration may provide that, on specified issues, only a defined subgroup of  
38 unit owners may vote, provided both of the following apply:
- 39           (1) The issue being voted on is of special interest solely to members of the  
40           subgroup.
- 41           (2) All except de minimis costs that will be incurred based on the vote taken will  
42           be assessed solely against those unit owners entitled to vote.
- 43       (h) For purposes of subdivision (1) of subsection (g) of this section, an issue to be voted  
44 on is not of special interest solely to a subgroup if it substantially affects the overall appearance  
45 of the condominium or substantially affects living conditions of unit owners not included in the  
46 voting subgroup."

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

49 **"§ 47C-3-120. Alternative dispute resolution allowed.**

50           Parties to a dispute arising under this Chapter or an association's declaration, bylaws, or  
51 rules and regulations may agree to resolve the dispute by any form of binding or nonbinding



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

### 7 **PART III. AMENDMENTS TO TAXATION OF PROPERTY OWNED BY** 8 **ASSOCIATIONS**

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

10 **"§ 105-277.8. Taxation of property of nonprofit homeowners' association.**

11 (a) ~~The~~ Except as provided in subsection (a1) of this section, the value of real and  
12 personal property owned by a nonprofit homeowners' association shall be included in the  
13 appraisals of property owned by members of the association and shall not be assessed against  
14 the association if:if each of the following requirements is met:

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

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

26 (a1) The value of real property owned by a nonprofit homeowners association that (i)  
27 meets the requirements of subdivisions (1) through (3) of subsection (a) of this section and (ii)  
28 is entirely contained within a taxing jurisdiction that is different from all taxable real property  
29 owned by any member of the association to which the rights to use and enjoy the association  
30 property is appurtenant shall be subject to taxation only in the jurisdiction in which it is entirely  
31 contained and only in the amount of the local tax of the jurisdiction in which it is entirely  
32 contained. The value of any property taxed pursuant to this subsection shall not be included in  
33 the appraisals of property owned by members of the association that are referenced in  
34 subsection (a) of this section or otherwise subject to taxation. The assessor for the jurisdiction  
35 that imposes a tax pursuant to this subsection shall provide notice of the property, the value,  
36 and any other information to the assessor of any other jurisdiction so that the real properties  
37 owned by the members of the association are not subject to taxation for that value.

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

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

### 43 **PART IV. EFFECTIVE DATE**

44 **SECTION 12.** Except as otherwise provided, this act becomes effective July 1,  
45 2012.