

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

H.B. 805  
Apr 18, 2023  
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10373-NK-82

Short Title: Prevent Abusive HOA Foreclosure Practices.

(Public)

Sponsors: Representative Longest.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE ALTERNATIVE DISPUTE RESOLUTION THROUGH  
3 MEDIATION OR ARBITRATION BEFORE A PARTY CAN BEGIN LEGAL  
4 PROCEEDINGS, INCLUDING FILING A CLAIM OF LIEN, FOR CERTAIN UNIT  
5 OWNER ASSOCIATION DISPUTES AND CERTAIN LOT OWNER ASSOCIATION  
6 DISPUTES.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 47C-3-107.1 reads as rewritten:

9 "§ 47C-3-107.1. Procedures for fines and suspension of condominium privileges or services.

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

27 (b) Unless otherwise provided for in the declaration, the parties must engage in  
28 alternative dispute resolution before instituting legal proceedings. A party choosing to challenge  
29 a decision of the executive board, including decisions made under subsection (a) of this section  
30 and G.S. 47C-3-107(d), may, no later than 10 days after receiving notice of the decision, and  
31 prior to beginning legal proceedings, request in writing to the other party that the other party  
32 submit the claim to mediation or binding arbitration. If neither party makes a timely request for  
33 mediation or arbitration, the obligation for alternative dispute resolution is satisfied.

34 (c) The following apply to claims for mediation and arbitration:

35 (1) The party making the request is responsible for the costs of the mediator or  
36 arbitrator.



- 1           (2)    If neither party requests mediation or arbitration within the 10-day period  
2           described in subsection (b) of this section or if mediation or arbitration do not  
3           result in a settlement of the claim, the claimant may begin legal proceedings.  
4           (3)    The settlement of the claim must be documented in a written agreement signed  
5           by each party.  
6           (4)    If a party fails to abide by the settlement agreement, the other party may begin  
7           legal proceedings.  
8           (5)    If a party who begins legal proceedings prevails, the party is entitled to recover  
9           from the other party court costs, attorneys' fees, and all other reasonable costs  
10          incurred in enforcing the settlement agreement."

11           **SECTION 2.** G.S. 47C-3-116 reads as rewritten:

12    "**§ 47C-3-116. Lien for sums due the association; enforcement.**

13           (a)    Any assessment attributable to a unit which remains unpaid for a period of 30 days or  
14 longer shall constitute a lien on that unit when a claim of lien is filed of record in the office of  
15 the clerk of superior court of the county in which the unit is located in the manner provided in  
16 this section. Before filing a claim of lien or otherwise beginning legal proceedings, a party must  
17 comply with the procedures under G.S. 47C-3-107.1(b). Once filed, a claim of lien secures all  
18 sums due the association through the date filed and any sums due to the association thereafter.  
19 Unless the declaration provides otherwise, fees, charges, late charges and other charges imposed  
20 pursuant to G.S. 47C-3-102, 47C-3-107, 47C-3-107.1, and 47C-3-115 are subject to the claim of  
21 lien under this section as well as any other sums due and payable to the association under the  
22 declaration, the provisions of this Chapter, or as the result of an arbitration, mediation, or judicial  
23 decision.

24           (b)    The association must make reasonable and diligent efforts to ensure that its records  
25 contain the unit owner's current mailing address. No fewer than 15 days prior to filing the lien,  
26 the association shall mail a statement of the assessment amount ~~due due~~, notifying the lot owner  
27 of the right to request mediation or arbitration pursuant to G.S. 47C-3-107.1(b), by first-class  
28 mail to the physical address of the unit and the unit owner's address of record with the association  
29 and, if different, to the address for the unit owner shown on the county tax records for the unit.  
30 If the unit owner is a corporation or limited liability company, the statement shall also be sent by  
31 first-class mail to the mailing address of the registered agent for the corporation or limited  
32 liability company. Notwithstanding anything to the contrary in this Chapter, the association is  
33 not required to mail a statement to an address known to be a vacant unit or to a unit for which  
34 there is no United States postal address.

35           ...."

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

37    "**§ 47F-3-107.1. Procedures for fines and suspension of planned community privileges or**  
38           **services.**

39           (a)    Unless a specific procedure for the imposition of fines or suspension of planned  
40 community privileges or services is provided for in the declaration, a hearing shall be held before  
41 the executive board or an adjudicatory panel appointed by the executive board to determine if  
42 any lot owner should be fined or if planned community privileges or services should be  
43 suspended pursuant to the powers granted to the association in G.S. 47F-3-102(11) and (12). Any  
44 adjudicatory panel appointed by the executive board shall be composed of members of the  
45 association who are not officers of the association or members of the executive board. The lot  
46 owner charged shall be given notice of the charge, opportunity to be heard and to present  
47 evidence, and notice of the decision. If it is decided that a fine should be imposed, a fine not to  
48 exceed one hundred dollars (\$100.00) may be imposed for the violation and without further  
49 hearing, for each day more than five days after the decision that the violation occurs. Such fines  
50 shall be assessments secured by liens under G.S. 47F-3-116. If it is decided that a suspension of  
51 planned community privileges or services should be imposed, the suspension may be continued

1 without further hearing until the violation or delinquency is cured. The lot owner may appeal the  
2 decision of an adjudicatory panel to the full executive board by delivering written notice of appeal  
3 to the executive board within 15 days after the date of the decision. The executive board may  
4 affirm, vacate, or modify the prior decision of the adjudicatory body.

5 (b) Unless otherwise provided for in the declaration, the parties must engage in  
6 alternative dispute resolution before instituting legal proceedings. A party choosing to challenge  
7 a decision of the executive board, including decisions made under subsection (a) of this section  
8 and G.S. 47F-3-107(d), may, no later than 10 days after receiving notice of the decision, and  
9 prior to beginning legal proceedings, request in writing to the other party that the other party  
10 submit the claim to mediation or binding arbitration. If neither party makes a timely request for  
11 mediation or arbitration, the obligation for alternative dispute resolution is satisfied.

12 (c) The following apply to claims for mediation and arbitration:

- 13 (1) The party making the request is responsible for the costs of the mediator or  
14 arbitrator.  
15 (2) If neither party requests mediation or arbitration within the 10-day period  
16 described in subsection (b) of this section or if mediation or arbitration do not  
17 result in a settlement of the claim, the claimant may begin legal proceedings.  
18 (3) The settlement of the claim must be documented in a written agreement signed  
19 by each party.  
20 (4) If a party fails to abide by the settlement agreement, the other party may begin  
21 legal proceedings.  
22 (5) If a party who begins legal proceedings prevails, the party is entitled to recover  
23 from the other party court costs, attorneys' fees, and all other reasonable costs  
24 incurred in enforcing the settlement agreement."

25 **SECTION 4.** G.S. 47F-3-116 reads as rewritten:

26 **"§ 47F-3-116. Lien for sums due the association; enforcement.**

27 (a) Any assessment attributable to a lot which remains unpaid for a period of 30 days or  
28 longer shall constitute a lien on that lot when a claim of lien is filed of record in the office of the  
29 clerk of superior court of the county in which the lot is located in the manner provided in this  
30 section. Before filing a claim of lien or otherwise beginning legal proceedings, a party must  
31 comply with the procedures under G.S. 47F-3-107.1(b). Once filed, a claim of lien secures all  
32 sums due the association through the date filed and any sums due to the association thereafter.  
33 Unless the declaration provides otherwise, fees, charges, late charges, and other charges imposed  
34 pursuant to G.S. 47F-3-102, 47F-3-107, 47F-3-107.1, and 47F-3-115 are subject to the claim of  
35 lien under this section as well as any other sums due and payable to the association under the  
36 declaration, the provisions of this Chapter, or as the result of an arbitration, mediation, or judicial  
37 decision.

38 (b) The association must make reasonable and diligent efforts to ensure that its records  
39 contain the lot owner's current mailing address. No fewer than 15 days prior to filing the lien, the  
40 association shall mail a statement of the assessment amount ~~due due~~, notifying the lot owner of  
41 the right to request mediation or arbitration pursuant to subsection (b) of G.S. 47F-3-107.1, by  
42 first-class mail to the physical address of the lot and the lot owner's address of record with the  
43 association and, if different, to the address for the lot owner shown on the county tax records for  
44 the lot. If the lot owner is a corporation or limited liability company, the statement shall also be  
45 sent by first-class mail to the mailing address of the registered agent for the corporation or limited  
46 liability company. Notwithstanding anything to the contrary in this Chapter, the association is  
47 not required to mail a statement to an address known to be a vacant lot on which no dwelling has  
48 been constructed or to a lot for which there is no United States postal address.

49 ...."

50 **SECTION 5.** This act is effective when it becomes law and applies to actions taken  
51 by the executive board on or after that date.