

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 1084
PROPOSED COMMITTEE SUBSTITUTE H1084-PCS80391-TJ-25

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



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1 reasonable attorneys' fees and court costs incurred if, after the expiration of the period specified
2 in subsection (a) of this section, both of the following occur:

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

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

11 **"§ 47F-3-118. Association records.**

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

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

29 **"§ 47F-3-118A. Financial review or audit requirements.**

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

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

- 37 (1) The declaration, bylaws, or other governing documents expressly require
38 conduct of an annual financial audit.
39 (2) The association has annual revenues or expenditures of at least four hundred
40 thousand dollars (\$400,000).
41 (3) An audit is requested by a vote of a majority of the board or by a vote of a
42 majority of the lot owners present and voting in person or by proxy at any
43 annual meeting or any special meeting duly called for that purpose."

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

45 **"§ 47F-3-108. Meetings.**

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

1 designated in writing by the lot owner, or sent by electronic means, including by electronic
2 mail over the Internet, to an electronic mailing address designated in writing by the lot owner.
3 The notice of any meeting shall state the time and place of the meeting and the items on the
4 agenda, including the general nature of any proposed amendment to the declaration or bylaws,
5 any budget changes, ~~and any proposal to remove a director or officer-officer, and any material~~
6 matter for which a vote is to be taken.

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

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

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

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

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

22 **"§ 47F-3-110A. Voting; proxies; ballots.**

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

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

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

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

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

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

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

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

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

1 (g) The declaration may provide that, on specified issues, only a defined subgroup of lot
2 owners may vote, provided both of the following apply:

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

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

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

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

13 **"§ 47F-3-120.1. Alternative dispute resolution allowed.**

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

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

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

24 **"§ 47C-3-116.1. Associations with claim of lien to file notice of satisfaction with clerk of**
25 **court upon full payment; liability for failure.**

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

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

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

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

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

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

48 **"§ 47C-3-118. Association records.**

49 (a) The association shall keep financial records sufficiently detailed to enable the
50 association to comply with this chapter. All financial and other records, including records of
51

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

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

16 "**§ 47C-3-103A. Financial review or audit requirements.**

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

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

- 23 (1) The declaration, bylaws, or other governing documents expressly require
24 conduct of an annual financial audit.
25 (2) The association has annual revenues or expenditures of at least four hundred
26 thousand dollars (\$400,000).
27 (3) An audit is requested by a vote of a majority of the board or by a vote of a
28 majority of the unit owners present and voting in person or by proxy at any
29 annual meeting or any special meeting duly called for that purpose."

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

31 "**§ 47C-3-108. Meetings.**

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

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

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

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

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

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

10 **"§ 47C-3-110A. Voting; proxies; ballots.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **"§ 47C-3-120. Alternative dispute resolution allowed.**

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

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

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

13 **"§ 105-277.8. Taxation of property of nonprofit homeowners' association.**

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

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

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

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

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

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

45
46 **PART IV. EFFECTIVE DATE**

47 **SECTION 12.** Except as otherwise provided, this act becomes effective July 1,
48 2012.