GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2021

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SENATE BILL 336 PROPOSED HOUSE COMMITTEE SUBSTITUTE S336-PCS15337-TG-40

Short Title: Condo Act/Restitut'n/Market.Title Act Changes.

(Public)

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Sponsors:

Referred to: March 24, 2021 A BILL TO BE ENTITLED 1 2 AN ACT TO REQUIRE CERTAIN INFORMATION TO BE INCLUDED IN 3 DECLARATIONS FOR CONDOMINIUMS PRIOR TO RECORDATION, TO CLARIFY 4 THE APPLICABILITY OF THE NORTH CAROLINA CONDOMINIUM ACT, TO 5 REOUIRE RESTITUTION FOR SEXUAL EXPLOITATION OF A MINOR, AND TO 6 CLARIFY EXEMPTIONS FROM THE MARKETABLE TITLE ACT. 7 The General Assembly of North Carolina enacts: 8 9 PART I. INFORMATION TO BE INCLUDED IN DECLARATIONS FOR **CONDOMINIUMS PRIOR TO RECORDATION** 10 11 **SECTION 1.(a)** G.S. 47C-2-105 reads as rewritten: 12 "§ 47C-2-105. Contents of declaration. 13 The declaration for a condominium must contain all of the following: (a) 14 15 (5) A description, by reference to the plats or plans described in G.S. 47C-2-109, of the boundaries of each unit created by the declaration, including the unit's 16 identifying number. A declaration may define a unit to include all or any 17 18 portion of the airspace or subterranean space between two legally identifiable 19 elevations, to include or exclude the surface of a legally described parcel of 20 real property, to include or exclude airspace lying above and subterranean 21 space lying below such surface, and to mean any specified combination of the 22 foregoing, whether or not contiguous. A unit that is not specifically described 23 by an upper limiting boundary with reference to established datum shall be 24 deemed to include so much of the land and air above the unit as would be 25 attributed to a noncondominium parcel of land under the common or statutory law applicable to such noncondominium parcel of land. A unit that is not 26 27 specifically described by a lower limiting elevation boundary with reference to established datum shall be deemed to include so much of the land and air 28 below the unit as would be attributed to a noncondominium parcel of land 29 under the common or statutory law applicable to such noncondominium parcel 30 31 of land. 32 " 33 **SECTION 1.(b)** G.S. 47C-2-101 reads as rewritten: "§ 47C-2-101. Execution and recordation of declaration. 34



General Assembly Of North Carolina Session 2021 A declaration or an amendment to a declaration adding units to a condominium must 1 (b) 2 contain a certificate executed by may not be recorded unless all structural components and mechanical systems of all buildings containing or comprising any units thereby created are 3 4 substantially completed in accordance with building design plans of an architect licensed under 5 the provisions of Chapter 83A of the General Statutes or an engineer registered under the 6 provisions of Chapter 89C of the General Statutes stating that the plans for such building or 7 buildings fully and accurately depict the structural components and mechanical systems of all 8 buildings containing or comprising any units thereby created; Statutes, as evidenced by a 9 recorded certificate of completion executed by the architect or engineer; provided, however, that 10 (i) such requirement shall not apply to any unit or portion of a unit, the boundaries of which comprise solely surface space, airspace, subterranean space, or any specified combination 11 thereof, as provided in G.S. 47C-2-105(a)(5).G.S. 47C-2-105(a)(5) and (ii) nothing in this 12 subsection shall require that the structural components and mechanical systems of buildings be 13 14 depicted on the plats or plans described in G.S. 47C-2-109(b)(6)." 15 **SECTION 1.(c)** This section is effective when it becomes law and applies to declarations executed and recorded on or after that date. 16 17 18 PART II. CONDOMINIUM ACT APPLICABILITY 19 SECTION 2.(a) G.S. 47C-1-102(a) reads as rewritten: 20 "(a) This Chapter applies to all condominiums created within this State after October 1, 21 1986. In addition, the following sections apply to all condominiums created in this State on or before October 1, 1986, notwithstanding any conflicting provisions in the articles of 22 incorporation, the declaration, or the bylaws and notwithstanding any references in those 23 24 documents to Chapter 47A of the General Statutes: G.S. 47C-1-105 (Separate Titles and 25 Taxation), 47C-1-106 (Applicability of Local Ordinances, Regulations, and Building Codes), 26 47C-1-107 (Eminent Domain), 47C-2-103 (Construction and Validity of Declaration and 27 Bylaws), 47C-2-104 (Description of Units), 47C-2-121 (Merger or Consolidation of 28 Condominiums), 47C-3-102(a)(1) through (6) and (11) through (16)(Powers of Unit Owners' 29 Association), 47C-3-103 (Executive board members and officers), 47C-3-107.1 (Procedures for 30 fines and suspension of condominium privileges or services), 47C-3-108 (Meetings), 47C-3-111 31 (Tort and Contract Liability), 47C-3-112 (Conveyance or Encumbrance of Common Elements), 32 47C-3-116 (Lien for Assessments), 47C-3-118 (Association Records), 47C-3-121 (American and 33 State flags and political sign displays), and 47C-4-117 (Effect of Violation on Rights of Action; 34 Attorney's Fees), and G.S. 47C-1-103 (Definitions), to the extent necessary in construing any of 35 those sections, apply to all condominiums created in this State on or before October 1, 1986, 36 unless the declaration expressly provides to the contrary. Those Fees). These sections apply only 37 with respect to events and circumstances occurring after October 1, 1986, and do not invalidate 38 existing provisions of the declarations, bylaws, or plats or plans of those condominiums.1986. 39 G.S. 47C-1-103 (Definitions) also applies to all condominiums created in this State on or before 40 October 1, 1986, to the extent necessary in construing any of the sections referenced in this 41 subsection." 42 **SECTION 2.(b)** G.S. 47A-2 reads as rewritten: 43 "§ 47A-2. Declaration creating unit ownership; recordation. 44 Unit ownership may be created by an owner or the co-owners of a building by an express 45 declaration of their intention to submit such property to the provisions of the Article, which 46 declaration shall be recorded in the office of the register of deeds of the county in which the 47 property is situated. Notwithstanding the formation of a condominium by a declaration pursuant to this section and specifically referencing this Chapter, those provisions of Chapter 47C of the 48 49 General Statutes that are made applicable to condominiums formed on or before October 1, 1986, 50 pursuant to G.S. 47C-1-102 shall apply and are not in conflict with this Chapter."

PART III. RESTITUTION FOR SEXUAL EXPLOITATION OF A MINOR SECTION 3.(a) Article 26 of Chapter 14 of the General Statutes is amended by adding a new section to read: "§14-190.17B. Restitution for sexual exploitation of a minor. (a) In addition to any other civil or criminal penalty authorized by law, the court shall order restitution of a violation of G.S. 14-190.17, or 14-190.17A, as required by Article 81C of Chapter 15A of the General Statutes and this section. Any defendant who viewed child pornography and has been convicted of G.S. 14-190.16, 14-190.17, or 14-190.17A shall be ordered to make restitution, as determined in accordance with this section. (b) The court shall determine the full amount of the victim's losses for costs incurred as a proximate result of the offense. For the purposes of this section, the term "full amount of the victim's losses" includes, in addition to any applicable injuries and damages described in G.S. 15A-1340.35, the following: (1) Medical services relating to physical, psychiatric, or psychological care. (2) Physical and occupational therapy or rehabilitation. (3) Transportation, temporary housing, and child care expenses. (7) (4) Loss of income. (6) Any or other relevant losses incurred by the victim. (7) If more than one defendant contributed to the losses of the victim, the court shall aggregate recovery shall not exceed the full amount of the victim's losses, as determined by the court. A defendant may petition the court to amend a restitution or a showing that the victim has received restitution in the full amount of the victim's losses, as determined by the court. A defendant may petition the court shall agg		General Assembly Of North Carolina Session 2021
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A7 A condominium greated under Chanter A7A or A7C of the Constant		
 47 <u>a.</u> <u>A condominium created under Chapter 47A or 47C of the General</u> 48 Statutes of North Carolina. 		
	49 50	
SU c A planned community other than a planned community in which all		
50 <u>c.</u> <u>A planned community, other than a planned community in which all</u>	51	lots are restricted exclusively to nonresidential purposes, whenever

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1	created, to which any of the provisions of Chapter 47F of the General
2	Statutes of North Carolina apply; provided, however, that if such
3	planned community was created prior to January 1, 1999, this
4	exemption shall not apply unless it is governed by an owners'
5	association in existence as of November 1, 2021."
6	SECTION 4.(b) This section becomes effective November 1, 2021.
7	
8	PART V. EFFECTIVE DATE
9	SECTION 5. Except as otherwise provided, this act is effective when it becomes
10	law.