

# NORTH CAROLINA GENERAL ASSEMBLY



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## HOUSE SELECT COMMITTEE ON HOMEOWNERS' ASSOCIATIONS

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### REPORT TO THE 2024 SESSION of the 2023 GENERAL ASSEMBLY OF NORTH CAROLINA

FEBRUARY 28, 2024

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# TRANSMITTAL LETTER

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February 28, 2024

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TO THE MEMBERS OF THE 2024 REGULAR SESSION  
OF THE 2023 GENERAL ASSEMBLY

The HOUSE SELECT COMMITTEE ON HOMEOWNERS' ASSOCIATIONS,  
respectfully submits the following report to the 2024 Regular Session of the 2023  
General Assembly.

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**Rep. Frank Iler (Co-Chair)**

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**Rep. Steve Tyson (Co-Chair)**

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# COMMITTEE PROCEEDINGS

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The House Select Committee on Homeowners' Associations met four times after the 2023 Regular Session. The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting, including exhibits referenced herein, are available in the Legislative Library.

## **January 11, 2024 Meeting**

The first meeting of the committee was held on Thursday, January 11, 2024, at 10:00 a.m. in Room 643 of the Legislative Office Building, with Representative Frank Iler, Co-Chair, presiding.

Rep. Iler presented the charge of the committee, after which members of the committee were recognized to introduce themselves.

The committee then heard presentations from the following speakers during the public comment period of the meeting:

- Timothy Hinds, Chairman, NC HOA Law Reform Coalition. Mr. Hinds recounted his difficulties in obtaining records and information from his association's board and expressed support for legislation to enforce the availability of association records. A copy of Mr. Hinds' prepared remarks, together with a draft of a proposed bill and other supporting materials submitted by Mr. Hinds is attached as Exhibit 1 to the minutes of this meeting.
- Jeanne Hinds, Co-Chair, NC HOA Law Reform Coalition. Ms. Hinds told the committee that surveys conducted by the Community Association Institute over several recent years showed the number of respondents favoring more government control of associations had increased 125% overall, with a 186% increase among condo unit owners responding, and a 109% increase among homeowners responding. A copy of Ms. Hinds' prepared remarks is attached as Exhibit 2 to the minutes of this meeting.
- Kevin Jefferson, a homeowner from Ocean Isle Beach, NC. Mr. Jefferson told the committee that there is a need for a consumer protection agency to enforce compliance with HOA laws, and said the approach taken in South Carolina could serve as a model. Mr. Jefferson said that in South Carolina, when someone files a complaint with the consumer protection agency, any remedies are tracked by that agency. A copy of Mr. Jefferson's prepared remarks is attached as Exhibit 3 to the minutes of this meeting.
- Sunila Chilukuri, Legislative Liaison, North Carolina Department of Justice. Ms. Chilukuri expressed the Department's support for providing more specificity with regard to the types of records that owners have a right to inspect, limiting the time

within which documents must be produced for inspection, and limiting charges for copies to the actual copying cost. She also said that the Department supports imposing a minimum dollar threshold for unpaid assessments before permitting an HOA to foreclose on a lien. A copy of her prepared remarks is attached as Exhibit 4 to the minutes of this meeting.

- Michael Farmakis, homeowner from Charlotte. Mr. Farmakis recounted disputes with his HOA involving its mispresenting to homeowners the amount of insurance coverage provided by the association's insurance policy and said there are few reasonable options available to homeowners for challenging HOA decisions. A copy of his prepared remarks is attached as Exhibit 5 to the minutes of this meeting.
- Dennis Vackanoff, a homeowner at a Dell Webb Community in Fuquay-Varina. Mr. Vackanoff recounted a number of disputes with his association board, which the association's governing documents provide will remain under the developer's control until the last lot in the subdivision has been sold. A copy of his prepared remarks is attached as Exhibit 6 to the minutes of this meeting.
- Charles de Court, NC State Government Liaison of the North Carolina Amateur Radio Relay League. Mr. de Court spoke in favor of prohibiting HOA restrictions on installation of amateur radio antennas having a height of no more than 90 feet, in the same way that similar restrictions under local government ordinances are currently prohibited by North Carolina law. A copy of his prepared remarks is attached as Exhibit 7 to the minutes of this meeting.
- Max Hopper, Amateur Radio Operator from Town of Earl, Cleveland County, and Marvin Hoffman, Amateur Radio Operator from Watauga County, also spoke in favor of making HOAs subject to existing law restricting local regulation of amateur radio antenna heights. A transcription of their remarks is included in the minutes of this meeting.
- Weldon Jones, Lobbyist for Community Association Institute (CAI), NC Chapter. Mr. Jones told the committee that CAI believes that educating homeowners and board members about the requirements under the governing documents and State laws would help in resolving some of the disputes and misunderstandings that arise in HOAs. A transcription of his remarks is included in the minutes of this meeting.



## **January 24, 2024 Meeting**

The committee held its second meeting on Wednesday, January 24, 2024, in Room 643 of the Legislative Office Building, with Representative Steve Tyson, Co-Chair, presiding.

Before introducing the first speaker, Rep. Tyson explained that virtually all real estate contracts use a form approved by the North Carolina State Bar and the North Carolina Association of Realtors. On page 8, Section C of that form it gives detailed information on HOAs and the buyers' right to get information from the HOAs themselves, including financial statements, declarations, restrictive covenants, etc. Before closing, the buyer will receive a property disclosure statement that gives detailed information on an HOA if the property is located in an HOA.

The committee then received presentations from the following persons:

- Keith Marine, North Carolina Branch Manager, and Lee Greenwood, Director of Regulatory Affairs, for Associa, told the committee that Associa manages 1,700 associations with 200,000 homes in North Carolina, out of a total of 14,000 associations in this State with 1.2 million homes. They told the committee that they looked forward to partnering with the committee to find common sense solutions to the issues being addressed. A transcription of their remarks is included in the minutes of this meeting.
- Harmony Taylor, Chair of the CAI Legislative Action Committee. Ms. Taylor told the committee that by statute it requires a minimum of 67% of all votes in an association to amend the declaration, unless the declaration requires a higher percentage. She explained that this high percentage requirement protects the interests of owners who bought their property in reliance on the restrictions contained in the declaration. Ms. Taylor also said that CAI supports having association documents more accessible by being available on the association's website, and told the committee that associations sometimes receive requests for records going back further in time than associations are required to keep them, resulting in unnecessary expense. Ms. Taylor told the committee about the dispute resolution procedures offered to HOAs and their members by CAI. A copy of Ms. Taylor's prepared remarks is attached as Exhibit 1 to the minutes of this meeting.
- Carr McLamb, Legislative Counsel, Administrative Office of the Courts. Mr. McLamb explained the limitations on the ability of AOC's information technology systems to track matters involving HOA disputes. Mr. McLamb also explained that most foreclosures by HOAs are handled before the clerks as special proceedings, and that clerks do not have statutory authority to refer those foreclosures to mediation. An outline of Mr. McLamb's prepared remarks is attached as Exhibit 2 to the minutes of this meeting.
- Tara L. Kozlowski, Executive Director, Dispute Resolution Commission (DRC). Ms. Kozlowski explained the Commission's statutory responsibility for mediations in North Carolina courts and explained that the DRC has no

jurisdiction over prelitigation mediation of HOA disputes. An outline of Ms. Kozlowski's prepared remarks is attached as Exhibit 3 to the minutes of this meeting.

- Janice Almond, Governing Board President, Mediation Network of North Carolina. Ms. Almond explained the role that community mediation centers play in mediating disputes and provided statistics from several centers on the number of HOA mediations conducted by those centers. A copy of Ms. Almond's PowerPoint presentation is attached as Exhibit 4 to the minutes of this meeting.
- Daniel Mosteller, Deputy General Counsel, North Carolina Department of Justice. Mr. Mosteller told the committee that the Department supports stronger and more specific transparency requirements for HOAs and additional safeguards for HOA foreclosures. He said that changes such as these should be pursued before giving oversight responsibility to any State agency, which he said would be costly to provide. Mr. Mosteller provided information culled from a manual review of 357 HOA complaints received by the Department in the three years since January 1, 2021. He said that a new DOJ database is in development that will permit the Department to track HOA complaints by type, such as those involving records/transparency, assessments, fines, collections, liens, and foreclosures. Mr. Mosteller also mentioned that there is a webpage with information about HOAs on the Department's "Protecting Consumers" section of its website. A copy of Mr. Mosteller's prepared remarks is attached as Exhibit 5 to the minutes of this meeting.
- Janet Thoren, Legal Counsel for the North Carolina Real Estate Commission, provided written comments, which are attached as Exhibit 6 to the minutes of this meeting.
- Miriam Baer, Executive Director of the Real Estate Commission. Ms. Baer explained that the Commission is an occupational licensing board that regulates real estate brokers and has no jurisdiction over an HOA manager unless the manager happens to be licensed as a real estate broker. Ms. Baer also told the committee that the Commission has published two brochures to educate homeowners about planned communities and about condominiums and townhomes. A transcription of her remarks is included in the minutes of this meeting.

Following these presentations, the following members of the public in attendance were recognized to speak:

- Dawn Schildhorn, a homeowner. A copy of Ms. Schildhorn's remarks is attached as Exhibit 7 to the minutes of this meeting.
- Yolanda White, a resident of the Lennox Square condominium in Jamestown. A transcription of Ms. White's remarks is included in the minutes of this meeting.

- William Keller, a resident of a Dell Webb community developed by Pulte Construction. A copy of Mr. Keller's remarks is attached as Exhibit 8 to the minutes of this meeting.
- Sue Hodgin, a resident of the Cottage Point community in Southport. A copy of Ms. Hodgin's remarks is attached as Exhibit 9 to the minutes of this meeting.
- Gene Vasile, president of the Brunswick County Property Owners Associations (BCPOA). A copy of Mr. Vasile's remarks is attached as Exhibit 10 to the minutes of this meeting.
- Timothy Hinds, Chairman of the NC HOA Law Reform Coalition. A copy of Mr. Hind's remarks, together with a copy of his proposed legislation and a California law referenced in his remarks are attached as Exhibit 11 to the minutes of this meeting.
- Pennie von Bergen Wessels, a member of NC Citizens for HOA Reform. A copy of Ms. von Bergen Wessels' remarks is attached as Exhibit 12 to the minutes of this meeting.

In addition, the committee received the following communications from members of the public who did not make presentations:

- Steve Horvath, with HOA United, sent an email dated January 24, 2024, which is attached as Exhibit 13 to the minutes of this meeting.
- Charles Williams provided written comments on behalf of Citizens for HOA Reform, which are attached as Exhibit 14 to the minutes of this meeting.
- J. Grant Mastin sent a letter dated January 25, 2024, which is attached as Exhibit 15 to the minutes of this meeting.

### **February 13, 2024 Meeting**

The committee held its third meeting on Tuesday, February 13, 2024, at 1:00 p.m. in Room 643 of the Legislative Office Building, with Representative Frank Iler, Co-Chair, presiding.

Committee members received copies of Bill Draft 2023-NKz-85 [v.18] and a draft of committee recommendations, after which committee staff presented an explanation of these materials and responded to committee questions.

## **February 28, 2024 Meeting**

The committee held its final meeting on Wednesday, February 28, 2024, at 1:00 p.m. in Room 643 of the Legislative Office Building, with Representative Steve Tyson, Co-Chair, presiding.

At this meeting the committee voted to approve the findings and recommendations contained in this final report, including the proposed legislation set forth in Draft Bill 2023-NKz-85 [v.18], attached hereto as Appendix C.

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## FINDINGS AND RECOMMENDATIONS

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1. The Committee finds that members of owners' associations have reported unreasonable delays in receiving a response to their requests to examine association records, and that associations have reported incurring expenses resulting from overly broad requests by members for outdated financial records, which increase the common expense liabilities paid by members through their assessments.

The Committee recommends that G.S. 47C-3-118 and G.S. 47F-3-118 be amended as set forth in Section 1 of Bill Draft 2023-NKz-85 [v.18] to:

- Require associations to make records requested by a member reasonably available for inspection within 30 days after receiving the member's request.
- Provide that in responding to a member's request for financial records, an association is required to produce only records created no sooner than three years preceding the member's request.

2. The Committee finds that assessments due for common expense liabilities can be significantly increased without the approval of a majority of all of the owners, either when the annual budget is ratified, or by actions taken by the association's executive board after budget ratification that result in an increase in the budgeted common expense liability for that fiscal year.

The Committee recommends the amendment of G.S. 47C-3-103 and G.S.47F-3-103, as set forth in Section 2 of Bill Draft 2023-NKz-85 [v.18] to require approval by a majority of all owners for:

- Any proposed budget that would increase the amount of the previous year's assessments by more than 10%. unless that increase is expressly authorized by the declaration.
- Any executive board action taken after ratification of the annual budget that would increase the amount of the association's budgeted common expense liability by more than 5%.

3. The Committee finds that some homeowners have lost their homes because of nonjudicial foreclosures by associations to collect relatively small amounts of past-due assessments, and without offering the owner a reasonable opportunity to cure the default by making payments under an installment schedule.

The Committee recommends that G.S. 47C-3-116 and G.S. 47F-3-116 be amended as set forth in Section 3 of Bill Draft 2023-NKz-85 [v.18] to prohibit the use of nonjudicial foreclosure to enforce a lien for unpaid assessments unless all of the following conditions are met:

- The amount of the lien is equal to or greater than six months of assessments or \$2,500, whichever is less.
- The association offered the owner a reasonable opportunity to cure the default by making payments under an installment schedule.
- The owner either failed to accept the offered repayment plan or failed to make payments as required under the plan.

4. The Committee finds that under current law, procedures for prelitigation mediation of disputes are underutilized because of the refusal of the non-requesting party to agree to the other party's request to participate in mediation.

The Committee recommends that G.S. 7A-38.3F be amended as set forth in Section 4 of Bill Draft 2023-NKz-85 [v.18] to require mediation of disputes between owners' associations and their members before filing a civil action unless all parties to the dispute agree to waive this requirement.

5. The Committee finds that providing more educational resources about the respective rights and obligations of owners' associations and their members would assist in avoiding disputes as well as in resolving disputes that occur. The Committee also finds that the Department of Justice is well-qualified to provide these resources and to collect information from parties to disputes to identify areas that may require further legislative attention.

The Committee recommends that Chapter 114 (Department of Justice) of the General Statutes be amended as set forth in Section 5 of Bill Draft 2023-NKz-85 [v.18] to require the Department of Justice to:

- Provide educational information on its website to educate associations and their members about their rights and obligations and to provide instructions for submitting complaints to the Department.
- Receive complaints from owners' associations or their members and forward a copy of the complaint to the other parties to the dispute.
- Collect information about the issues giving rise to disputes as reflected in these complaints.
- Summarize the information compiled from these complaints in an annual report to be submitted to the House and Senate Commerce Committees and to the Fiscal Research Division, and also to be published on the Department's website.

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## COMMITTEE MEMBERSHIP

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2023-2024

**Speaker of the House of Representatives**

**Appointments:**

Rep. Frank Iler (Co-Chair)  
Rep. Steve Tyson (Co-Chair)  
Rep. Ya Liu (Vice-Chair)  
Rep. Allen Buansi  
Rep. Laura Budd  
Rep. Carla D. Cunningham  
Rep. Grey Mills  
Rep. Jason Saine  
Rep. Donna McDowell White

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# COMMITTEE CHARGE/STATUTORY AUTHORITY

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GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

H

Simple  
Resolution  
Adopted

HOUSE RESOLUTION 311  
Committee Substitute Favorable 5/2/23  
Adopted 5/2/23

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Sponsors:

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Referred to:

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March 9, 2023

A HOUSE RESOLUTION TO ESTABLISH A HOUSE SELECT COMMITTEE ON  
HOMEOWNERS' ASSOCIATIONS.

Be it resolved by the House of Representatives:

**SECTION 1.** There is created the House Select Committee on Homeowners' Associations (Select Committee).

**SECTION 2.** The Select Committee shall consist of nine members of the House of Representatives appointed upon the recommendation of the Speaker of the House of Representatives, with one of those members designated as chair.

**SECTION 3.** The Select Committee shall study the following with regards to homeowners' associations (HOAs), including unit owners' associations governed by Chapter 47C of the General Statutes and owners' associations governed by Chapter 47F of the General Statutes:

- (1) Current laws applicable to HOAs.
- (2) Existing remedies for HOA violations of their obligations under the law and recommended additional remedies for such violations.
- (3) Executive agencies that are best positioned to assist homeowners in resolving complaints against HOAs for violations of law.
- (4) Any other relevant issue the Select Committee deems appropriate.

**SECTION 4.** The Select Committee shall meet upon the call of the chair. A quorum of the Select Committee is a majority of its members. No action may be taken except by majority vote at a meeting at which a quorum is present. The Select Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Select Committee may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02. If the Select Committee hires a consultant, the consultant shall not be a State employee or a

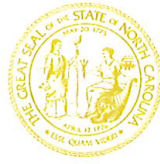


person currently under contract with the State to provide services. Members of the Select Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The expenses of the Select Committee shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operation.

**SECTION 5.** The Legislative Services Office shall assign professional and clerical staff to assist the Select Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support to the Select Committee.

**SECTION 6.** The Select Committee shall submit a final report on the results of its study, including any proposed legislation, to the General Assembly on or before March 1, 2024, by filing a copy of the report with the Office of the Speaker of the House of Representatives and the Legislative Library. The Select Committee shall terminate on March 1, 2024, or upon the filing of its final report, whichever occurs first.

**SECTION 7.** This resolution is effective upon adoption.



Office of the Speaker  
North Carolina House of Representatives

TIM MOORE  
SPEAKER OF THE HOUSE

HOUSE SELECT COMMITTEE ON HOMEOWNERS' ASSOCIATIONS TO THE  
HONORABLE MEMBERS OF THE NORTH CAROLINA HOUSE OF REPRESENTATIVES

**Section 1.** The House Select Committee on Homeowners' Associations (hereinafter "Committee") is established by the Speaker of the House of Representatives pursuant to Rule 26(a) of the Rules of the House of Representatives of the 2023 General Assembly.

**Section 2.** The Committee consists of nine appointed by the Speaker of the House of Representatives. The membership of the Committee shall include legislators as specified below. Members serve at the pleasure of the Speaker of the House of Representatives. The Speaker of the House of Representatives may dissolve the Committee at any time. Vacancies are filled by the Speaker of the House of Representatives. A Chair, Vice Chair, or other member of the Committee continues to serve until a successor is appointed.

Co-Chair Frank Iler	Representative Grey Mills
Co-Chair Steve Tyson	Representative Jason Saine
Representative Ya Liu (Vice Chair)	
Representative Allen Buansi	
Representative Laura Budd	
Representative Carla D. Cunningham	
Representative Donna McDowell White	

**Section 3.** The Committee shall meet upon the call of the Chair. A quorum of the Committee shall be a majority of its members. No action may be taken except by majority vote at a meeting at which a quorum is present.

**Section 4.** The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Committee may contract for professional, clerical, or consultant services, as provided by G.S. 120 -32.02.

**Section 5.** Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1

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**Section 6.** The expenses of the Committee including per diem, subsistence, travel allowances for Committee members, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations.

**Section 7.** The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Committee..

**Section 8.** The Committee may meet at various locations around the State in order to promote greater public participation in its deliberations.

**Section 9.** The Committee shall submit report on the results of its study, including any proposed legislation, to the members of the General Assembly on or before March 1, 2024, by filing a copy of the report to the Office of the Speaker of the House of Representatives and the Legislative Library. The Select Committee shall terminate on March 1<sup>st</sup>, 2024, by filing its final report, or by dissolution by the Speaker of the House of Representatives, whichever occurs first.

Effective this 24th day of November, 2023.



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Tim Moore  
Speaker

# LEGISLATIVE PROPOSALS

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GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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BILL DRAFT 2023-NKz-85 [v.18]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)  
02/09/2024 02:42:04 PM

Short Title: Various Changes to Homeowners' Assoc. Laws. (Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES TO THE NORTH CAROLINA CONDOMINIUM  
3 ACT AND THE NORTH CAROLINA PLANNED COMMUNITY ACT, TO MANDATE  
4 PRELITIGATION MEDIATION OF DISPUTES BETWEEN OWNERS' ASSOCIATIONS  
5 AND THEIR MEMBERS, AND TO REQUIRE THE DEPARTMENT OF JUSTICE TO  
6 COLLECT AND REPORT ON COMPLAINTS SUBMITTED TO IT INVOLVING SUCH  
7 DISPUTES, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON  
8 HOMEOWNERS' ASSOCIATIONS.  
9 The General Assembly of North Carolina enacts:  
10  
11 **PART I. ASSOCIATION RECORDS**  
12 **SECTION 1.(a)** G.S. 47C-3-118 reads as rewritten:  
13 "**§ 47C-3-118. Association records.**  
14 (a) The association shall keep financial records sufficiently detailed to enable the  
15 association to comply with this chapter. All financial and other records, including records of  
16 meetings of the association and executive board, shall be made reasonably available for  
17 examination by any unit owner and the unit owner's authorized agents as required by the bylaws  
18 and by Chapter 55A of the General Statutes if the association is a nonprofit corporation. If the  
19 bylaws do not specify a shorter time, the association shall make the requested records reasonably  
20 available for examination within 30 days of receiving the unit owner's written request. Except as  
21 otherwise provided in the bylaws, the association is not required to make available for  
22 examination financial records created more than three years before the date on which the  
23 association receives the unit owner's written request. If the bylaws do not specify particular  
24 records to be maintained, the association shall keep accurate records of all cash receipts and  
25 expenditures and all assets and liabilities. In addition to any specific information that is required  
26 by the bylaws to be assembled and reported to the unit owners at specified times, the association  
27 shall make an annual income and expense statement and balance sheet available to all unit owners  
28 at no charge and within 75 days after the close of the fiscal year to which the information relates.  
29 Notwithstanding the bylaws, a more extensive compilation, review, or audit of the association's  
30 books and records for the current or immediately preceding fiscal year may be required by a vote  
31 of the majority of the executive board or by the affirmative vote of a majority of the unit owners  
32 present and voting in person or by proxy at any annual meeting or any special meeting duly called  
33 for that purpose.  
34 ...."



1                   **SECTION 1.(b)** G.S. 47F-3-118 reads as rewritten:

2   "**§ 47F-3-118. Association records.**

3       (a) The association shall keep financial records sufficiently detailed to enable the  
4 association to comply with this Chapter. All financial and other records, including records of  
5 meetings of the association and executive board, shall be made reasonably available for  
6 examination by any lot owner and the lot owner's authorized agents as required in the bylaws and  
7 Chapter 55A of the General Statutes. If the bylaws do not specify a shorter time, the association  
8 shall make records reasonably available for examination within 30 days of receiving the lot  
9 owner's written request. Except as otherwise provided in the bylaws, the association is not  
10 required to make available for examination financial records created more than three years before  
11 the date on which the association receives the lot owner's written request. If the bylaws do not  
12 specify particular records to be maintained, the association shall keep accurate records of all cash  
13 receipts and expenditures and all assets and liabilities. In addition to any specific information  
14 that is required by the bylaws to be assembled and reported to the lot owners at specified times,  
15 the association shall make an annual income and expense statement and balance sheet available  
16 to all lot owners at no charge and within 75 days after the close of the fiscal year to which the  
17 information relates. Notwithstanding the bylaws, a more extensive compilation, review, or audit  
18 of the association's books and records for the current or immediately preceding fiscal year may  
19 be required by a vote of the majority of the executive board or by the affirmative vote of a  
20 majority of the lot owners present and voting in person or by proxy at any annual meeting or any  
21 special meeting duly called for that purpose.

22       ...."

23

## 24   **PART II. COMMON EXPENSE LIABILITY**

25                   **SECTION 2.(a)** G.S. 47C-3-103 reads as rewritten:

26   "**§ 47C-3-103. Executive board members and officers.**

27       ...

28       (c) Within 30 days after adoption of any proposed budget for the condominium, the  
29 executive board shall provide a summary of the budget to all the unit owners, and shall set a date  
30 for a meeting of the unit owners to consider ratification of the budget not less than 10 nor more  
31 than 60 days after mailing of the summary. There shall be no requirement that a quorum be  
32 present at the meeting. Except as otherwise provided in subsection (c1) of this section, the  
33 budget is ratified unless at that meeting a majority of all the unit owners or any larger vote  
34 specified in the declaration rejects the budget. In the event the proposed budget is rejected, the  
35 periodic budget last ratified shall be continued until such time as the unit owners ratify a  
36 subsequent budget proposed by the executive board.

37       (c1) Ratification of a proposed budget that would increase the previous year's common  
38 expense liability by more than ten percent (10%) requires the approval of a majority of all the  
39 unit owners or any larger vote specified in the declaration, unless the amount of the increase is  
40 expressly authorized in the declaration. After ratification of the budget, no action may be taken  
41 by the executive board that would increase the budgeted common expense liability for that fiscal  
42 year by more than five percent (5%) without the approval of a majority of all the unit owners or  
43 any larger vote specified in the declaration.

44       ...."

45                   **SECTION 2.(b)** G.S. 47F-3-103 reads as rewritten:

46   "**§ 47F-3-103. Executive board members and officers.**

47       ...

48       (c) Within 30 days after adoption of any proposed budget for the planned community,  
49 the executive board shall provide to all the lot owners a summary of the budget and a notice of  
50 the meeting to consider ratification of the budget, including a statement that the budget may be  
51 ratified without a quorum. The executive board shall set a date for a meeting of the lot owners to

1 consider ratification of the budget, such meeting to be held not less than 10 nor more than 60  
2 days after mailing of the summary and notice. There shall be no requirement that a quorum be  
3 present at the meeting. Except as otherwise provided in subsection (c1) of this section, ~~the~~  
4 budget is ratified unless at that meeting a majority of all the lot owners in the association or any  
5 larger vote specified in the declaration rejects the budget. In the event the proposed budget is  
6 rejected, the periodic budget last ratified by the lot owners shall be continued until such time as  
7 the lot owners ratify a subsequent budget proposed by the executive board.

8 (c1) Ratification of a proposed budget that would increase the previous year's common  
9 expense liability by more than ten percent (10%) requires the approval of a majority of all the lot  
10 owners or any larger vote specified in the declaration, unless the amount of the increase is  
11 expressly authorized in the declaration. After ratification of the budget, no action may be taken  
12 by the executive board that would increase the budgeted common expense liability for that fiscal  
13 year by more than five percent (5%) without the approval of a majority of all the lot owners or  
14 any larger vote specified in the declaration.

15 ...."

16

17 **PART III. NONJUDICIAL FORECLOSURE**

18 **SECTION 3.(a)** G.S. 47C-3-116 reads as rewritten:

19 "**§ 47C-3-116. Lien for sums due the association; enforcement.**

20 ...

21 (f) Except as provided in subsection (h) of this section, the association, acting through  
22 the executive board, may foreclose a claim of lien in like manner as a mortgage or deed of trust  
23 on real estate under power of sale, as provided in Article 2A of Chapter 45 of the General Statutes,  
24 if the assessment remains unpaid for 90 days or more. The association shall not foreclose the  
25 claim of lien unless all the following conditions are met:

26 (1) ~~the~~The executive board votes to commence the proceeding against the specific  
27 unit.

28 (2) The amount of the lien is equal to or greater than six months of assessments  
29 or equal to or greater than two thousand five hundred dollars (\$2,500.00),  
30 whichever is less.

31 (3) The association offered the unit owner a reasonable opportunity to cure the  
32 default by making payments under an installment schedule as authorized  
33 under subsection (i) of this section, and the unit owner either did not accept  
34 the offer or defaulted on payments required under the agreed installment  
35 schedule.

36 (f1) The following provisions and procedures shall be applicable to and complied with in  
37 every nonjudicial power of sale foreclosure of a claim of lien, and these provisions and  
38 procedures shall control to the extent they are inconsistent or in conflict with the provisions of  
39 Article 2A of Chapter 45 of the General Statutes:

40 ...

41 ...."

42 **SECTION 3.(b)** G.S. 47F-3-116 reads as rewritten:

43 "**§ 47F-3-116. Lien for sums due the association; enforcement.**

44 ...

45 (f) Except as provided in subsection (h) of this section, the association, acting through  
46 the executive board, may foreclose a claim of lien in like manner as a mortgage or deed of trust  
47 on real estate under power of sale, as provided in Article 2A of Chapter 45 of the General Statutes,  
48 if the assessment remains unpaid for 90 days or more. The association shall not foreclose the  
49 claim of lien unless all the following conditions are met:

50 (1) ~~the~~The executive board votes to commence the proceeding against the specific  
51 lot.

- 1           (2)    The amount of the lien is equal to or greater than six months of assessments  
 2           or equal to or greater than two thousand five hundred dollars (\$2,500.00),  
 3           whichever is less.
- 4           (3)    The association offered the lot owner a reasonable opportunity to cure the  
 5           default by making payments under an installment schedule as authorized  
 6           under subsection (i) of this section, and the lot owner either did not accept the  
 7           offer or defaulted on payments required under the agreed installment schedule.
- 8           (f1)    The following provisions and procedures shall be applicable to and complied with in  
 9 every nonjudicial power of sale foreclosure of a claim of lien, and these provisions and  
 10 procedures shall control to the extent they are inconsistent or in conflict with the provisions of  
 11 Article 2A of Chapter 45 of the General Statutes:

12           ...  
 13           ...."

#### 15 PART IV. PRE-LITIGATION MEDIATION

16           **SECTION 4.(a)** G.S. 7A-38.3F reads as rewritten:

#### 17 "**§ 7A-38.3F. Prelitigation mediation of condominium and homeowners' association** 18 **disputes.**

- 19           (a)    Definitions. – The following definitions apply in this section:
- 20           (1)    Association. – An association of unit or lot owners organized as allowed under  
 21 North Carolina law, including G.S. 47C-3-101 and G.S. 47F-3-101.
- 22           (2)    Dispute. – Any matter relating to real estate under the jurisdiction of an  
 23 association about which the member and association cannot agree. The term  
 24 "dispute" does not include matters expressly exempted in subsection (b) of  
 25 this section.
- 26           (3)    Executive board. – The body, regardless of name, designated in the  
 27 declaration to act on behalf of an association.
- 28           (4)    Mediator. – A neutral person who acts to encourage and facilitate a resolution  
 29 of a dispute between an association and a member.
- 30           (5)    Member. – A person who is a member of an association of unit or lot owners  
 31 organized as allowed under North Carolina law, including G.S. 47C-3-101  
 32 and G.S. 47F-3-101.
- 33           (6)    Party or parties. – An association or member who is involved in a dispute, as  
 34 that term is defined in subdivision (2) of this subsection.
- 35           (a1)   Disputes related solely to a member's failure to timely pay an association assessment  
 36 or any fines or fees associated with the levying or collection of an association assessment are not  
 37 covered under this section.
- 38           (b)    ~~Voluntary Prelitigation-Mediation. – Prior to filing a civil action, the~~The parties to a  
 39 dispute arising under Chapter 47C of the General Statutes (North Carolina Condominium Act),  
 40 Chapter 47F of the General Statutes (North Carolina Planned Community Act), or an  
 41 association's declaration, bylaws, or rules and regulations ~~are encouraged to initiate mediation~~  
 42 ~~pursuant to this section. may agree at any time to mediation of the dispute pursuant to this section.~~  
 43 ~~However, disputes related solely to a member's failure to timely pay an association assessment~~  
 44 ~~or any fines or fees associated with the levying or collection of an association assessment are not~~  
 45 ~~covered under this section.~~
- 46           (b1)   Mandatory Prelitigation Mediation. – Prior to filing a civil action arising under  
 47 Chapter 47C of the General Statutes (North Carolina Condominium Act), Chapter 47F of the  
 48 General Statutes (North Carolina Planned Community Act), or an association's declaration,  
 49 bylaws, or rules and regulations, a party shall initiate mediation pursuant to this section. If an  
 50 action is initiated, it shall, upon the motion of any party prior to trial, be dismissed without  
 51 prejudice by the court unless any one or more of the following apply:

- 1           (1)    The nonmoving party has satisfied the requirements of this section, and this  
2           fact is indicated in the mediator's certification issued under subsection (g) of  
3           this section.
- 4           (2)    The court finds that a mediator failed to issue a mediator's certification under  
5           subsection (g) of this section indicating that the nonmoving party satisfied the  
6           requirements of this section.
- 7           (3)    The court finds good cause for a failure to attempt mediation. Good cause  
8           includes a determination that the time delay required for mediation would  
9           likely result in irreparable harm or that injunctive relief is otherwise  
10          warranted.
- 11          (c)    Initiation of Mediation. – Either an association or a member may contact the North  
12          Carolina Dispute Resolution Commission or the Mediation Network of North Carolina for the  
13          name of a mediator or community mediation center. Upon contacting a mediator, either the  
14          association or member may supply to the mediator the physical address of the other party, or the  
15          party's representative, and the party's telephone number and e-mail address, if known. The  
16          mediator shall contact the party, or the party's representative, to notify ~~him or her~~ the party of the  
17          request to mediate. ~~If the parties agree to mediate, they~~ Unless the mediation is waived pursuant  
18          to subsection (e) of this section, the parties shall request in writing that the mediator schedule the  
19          mediation. The mediator shall then notify the parties in writing of the date, time, and location of  
20          the mediation, which shall be scheduled not later than 25 days after the mediator receives the  
21          written request from the parties.
- 22          (d)    Mediation Procedure. – The following procedures shall apply to mediation under this  
23          section:
- 24               (1)    Attendance. – The mediator shall determine who may attend mediation. The  
25               mediator may require the executive board or a large group of members to  
26               designate one or more persons to serve as their representatives in the  
27               mediation.
- 28               (2)    All parties are expected to attend mediation. The mediator may allow a party  
29               to participate in mediation by telephone or other electronic means if the  
30               mediator determines that the party has a compelling reason to do so.
- 31               (3)    If the parties cannot reach a final agreement in mediation because to do so  
32               would require the approval of the full executive board or the approval of a  
33               majority or some other percentage of the members of the association, the  
34               mediator may recess the mediation meeting to allow the executive board or  
35               members to review and vote on the agreement.
- 36          (e)    ~~Decline Mediation. — Either party to a dispute may decline mediation under this~~  
37          ~~section. If either party declines mediation after mediation has been initiated under subsection (e)~~  
38          ~~of this section but mediation has not been held, the party declining mediation shall inform the~~  
39          ~~mediator and the other party in writing of his or her decision to decline mediation. No costs shall~~  
40          ~~be assessed to any party if either party declines mediation prior to the occurrence of an initial~~  
41          ~~mediation meeting. Waiver of Mediation. – The parties to a dispute may agree to waive mediation~~  
42          ~~required by this section by informing the mediator of the waiver in writing.~~
- 43          (f)    Costs of Mediation. – The costs of mediation, including the mediator's fees, shall be  
44          shared equally by the parties unless otherwise agreed to by the parties. Fees shall be due and  
45          payable at the end of each mediation meeting. A mediator may charge a reasonable fee, as  
46          applicable, to prepare a mediator's certification required under subsection (g) when parties to a  
47          dispute agree to waive mediation pursuant to subsection (e) of this section or when one or more  
48          parties failed or refused without good cause to attend the mediation meetings or otherwise  
49          participate in the mediation. When an attorney represents a party to the mediation, that party shall  
50          pay his or her the attorneys' fees.



1 (g) Certification That Mediation Concluded. – Upon a waiver of the mediation under  
 2 subsection (e) of this section or upon the conclusion of mediation, the mediator shall prepare a  
 3 certification stating the date on which the mediation was concluded and a statement of the general  
 4 results of the mediation, including, as applicable, that the parties waived the mediation, that an  
 5 agreement was reached or reached, that mediation was attempted but an agreement was not  
 6 reached, reached, or that one or more parties failed or refused without good cause to attend the  
 7 mediation meetings or otherwise participate in the mediation. If both parties participate in  
 8 mediation and a cause of action involving the dispute mediated is later filed, either party may file  
 9 the certificate with the clerk of court, and the parties shall not be required to mediate again under  
 10 any provision of law. The Supreme Court may adopt additional rules and standards to implement  
 11 this section, including an exemption from the provisions of G.S. 7A-38.1 for cases in which  
 12 mediation was attempted under this section. The sanctions in G.S. 7A-38.1(g) do not apply to  
 13 prelitigation mediation conducted under this section.

14 ...

15 (j) Association Duty to Notify. – Each association shall, in writing, shall notify the  
 16 members of the association annually in writing each year that they may initiate mediation under  
 17 this section to try to resolve a dispute with the association. The association shall publish the  
 18 notice required in this subsection on the association's website or Web site; but if the association  
 19 does not have a Web site, the association it shall publish the notice at the same time and in the  
 20 same manner as the names and addresses of all officers and board members of the association  
 21 are published as provided in G.S. 47C-3-103 and G.S. 47F-3-103."

22 **SECTION 4.(b)** This section becomes effective October 1, 2024, and applies to  
 23 actions filed on or after that date.

24  
 25 **PART V. DEPARTMENT OF JUSTICE TO COLLECT AND REPORT ON OWNERS'**  
 26 **ASSOCIATION COMPLAINTS**

27 **SECTION 5.(a)** Article 1 of Chapter 114 of the General Statutes is amended by  
 28 adding a new section to read:

29 **"§ 114-8.8. Collection and Report of Owners' Association Complaint Data.**

30 (a) The Department of Justice shall receive and record data from all complaints  
 31 concerning disputes between associations of unit owners or lot owners and their members as  
 32 required by this section. The Department of Justice shall publish a complaint form providing for  
 33 electronic submission of those complaints on its website. When the Department receives a  
 34 complaint via phone, mail, or online submission, it shall collect the following information from  
 35 the complainant:

- 36 (1) The name and contact information of the complainant.
- 37 (2) Whether the complainant is an association of unit owners or lot owners, or is  
 38 a unit owner or lot owner belonging to those associations.
- 39 (3) The name and contact information of the other party or parties to the dispute  
 40 giving rise to the complaint.
- 41 (4) The name, address, and contact information of the association management  
 42 company, if any, involved in the dispute.
- 43 (5) Details on whether the association member involved in the dispute (i) was  
 44 informed of the requirement of membership in the association as a condition  
 45 of unit or lot ownership, and if so informed, when and by whom; (ii) received  
 46 a copy of the governing documents of the association before obtaining title to  
 47 the property; (iii) was denied access to the association's governing documents;  
 48 and (iv) understood the rights and obligations of owners and the association  
 49 under the governing documents.
- 50 (6) The nature of the complaint.

- 1           (7)    The background information regarding the dispute including whether the  
2                    member and association communicated about the dispute and whether all  
3                    other remedies available under the association's governing documents were  
4                    exhausted before the complaint was made.
- 5           (8)    The complainant's understanding of the rights and obligations under the  
6                    association's governing documents as they relate to the dispute.
- 7           (9)    The complainant's desired remedy regarding the dispute.
- 8        (b)    Upon receiving the complaint, the Department shall provide a copy of the complaint  
9        to the party complained against informing the party of the complaint made against it and allowing  
10       for the party to respond.
- 11       (c)    The Department shall publish the following information on its website:
- 12           (1)    Information on the process to submit complaints pursuant to this section.
- 13           (2)    Information about the laws and documents governing associations of unit  
14                    owners and lot owners in North Carolina.
- 15           (3)    General information about roles, rights, and responsibilities of associations of  
16                    unit owners and lot owners, their members, and other related parties.
- 17           (4)    Any other information the Department deems relevant to understanding the  
18                    rights and obligations of associations of unit owners and lot owners and  
19                    members of such associations.
- 20        (d)    The Department is prohibited from promulgating regulations or issuing guidelines  
21        concerning the administration, governance, or governing documents of associations of unit  
22        owners or lot owners. The Department shall not serve as an arbiter in disputes between an  
23        association of unit owners or lot owners and its members.
- 24        (e)    By July 1 of each year, the Department shall submit a report to the House Standing  
25        Committee on Commerce, the Senate Standing Committee on Commerce and Insurance, and the  
26        Fiscal Research Division and shall also publish the report on its website. The report shall include,  
27        at a minimum, a summary of all of the following:
- 28           (1)    The total number of complaints received pursuant to this section.
- 29           (2)    The number of those complaints submitted by unit owners or lot owners.
- 30           (3)    The number of those complaints submitted by associations of unit owners or  
31                    lot owners.
- 32           (4)    The number of complaints originating in each county of this State.
- 33           (5)    The number of complaints that involved association management companies.
- 34           (6)    The nature of the disputes reflected in the complaints including:
- 35                    a.    Access to association records.
- 36                    b.    Access to executive board meetings.
- 37                    c.    Assessments.
- 38                    d.    Executive board transparency.
- 39                    e.    Fines.
- 40                    f.    Collections of delinquent accounts.
- 41                    g.    Liens.
- 42                    h.    Foreclosures.
- 43                    i.    Content of restrictive covenants.
- 44                    j.    Enforcement of restrictive covenants.
- 45           (7)    A ranking of the top five disputes based on the nature of the dispute reflected  
46                    in the complaints.
- 47           (8)    The number of responses to the complaints received by the Department.
- 48        The information summarized in the report must be categorized, filterable, and searchable. The  
49        Department must redact any personal or private information from the report, such as names,  
50        addresses, and telephone numbers of individuals. This redaction requirement does not apply to

1 information concerning a homeowners' association or a homeowners' association management  
2 company."

3           **SECTION 5.(b)** This section becomes effective July 1, 2024.

4

5 **PART VI. EFFECTIVE DATE**

6           **SECTION 6.** Except as otherwise provided, this act is effective when it becomes  
7 law.