

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2002-112
SENATE BILL 1154**

AN ACT TO EXPAND THE LIST OF SECTIONS OF THE NORTH CAROLINA CONDOMINIUM ACT THAT APPLY TO CONDOMINIUMS CREATED ON OR BEFORE OCTOBER 1, 1986, AND TO CODIFY AN APPLICABILITY PROVISION RELATING TO THE NORTH CAROLINA PLANNED COMMUNITY ACT, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47C-1-102(a) reads as rewritten:

"(a) This ~~chapter~~ Chapter applies to all condominiums created within this State after October 1, 1986. ~~Sections~~ G.S. 47C-1-105 (Separate Titles and Taxation), 47C-1-106 (Applicability of Local Ordinances, Regulations, and Building Codes), 47C-1-107 (Eminent Domain), 47C-2-103 (Construction and Validity of Declaration and Bylaws), 47C-2-104 (Description of Units), 47C-2-121 (Merger or Consolidation of Condominiums), 47C-3-102(a)(1) through (6) and (11) through (16) (Powers of Unit Owners' Association), 47C-3-107A (Charges for Late Payment, Fines), 47C-3-111 (Tort and Contract Liability), 47C-3-112 (Conveyance or Encumbrance of Common Elements), 47C-3-116 (Lien for Assessments), 47C-3-118 (Association Records), and 47C-4-117 (Effect of Violation on Rights of Action; Attorney's Fees), and G.S. 47C-1-103 (Definitions), to the extent necessary in construing any of those sections, apply to all condominiums created in this State on or before October 1, 1986; but those sections apply only with respect to events and circumstances occurring after October 1, ~~1986-1986~~, and do not invalidate existing provisions of the declarations, bylaws, or plats or plans of those condominiums."

SECTION 2. G.S. 47F-1-102 reads as rewritten:

"§ 47F-1-102. Applicability.

(a) This Chapter applies to all planned communities ~~within this State except as provided in subsection (b) of this section~~ created within this State on or after January 1, 1999, except as otherwise provided in this section.

(b) This Chapter does not apply to a planned community created within this ~~State~~ State on or after January 1, 1999:

- (1) Which contains no more than 20 lots (including all lots which may be added or created by the exercise of development rights) unless the declaration provides or is amended to provide that this Chapter does apply to that planned community; or
- (2) In which all lots are restricted exclusively to nonresidential purposes, unless the declaration provides or is amended to provide that this Chapter does apply to that planned community.

(c) ~~This Chapter does not apply to planned communities or lots located outside this State.~~ Notwithstanding the provisions of subsection (a) of this section, G.S. 47F-3-102(1) through (6) and (11) through (17) (Powers of owners' association), G.S. 47F-3-107(a), (b), and (c) (Upkeep of planned community; responsibility and assessments for damages), G.S. 47F-3-115 (Assessments for common expenses), and G.S. 47F-3-116 (Lien for assessments), apply to all planned communities created in this State before January 1, 1999. These sections apply only with respect to events and

circumstances occurring on or after January 1, 1999, and do not invalidate existing provisions of the declaration, bylaws, or plats and plans of those planned communities. G.S. 47F-1-103 (Definitions) also applies to all planned communities created in this State before January 1, 1999, to the extent necessary in construing any of the preceding sections.

(d) Any Notwithstanding the provisions of subsections (a) and (c) of this section, any planned community created prior to the effective date of this Chapter January 1, 1999, may elect to make the provisions of this Chapter applicable to it by amending its declaration to provide that this Chapter shall apply to that planned community. The amendment may be made by affirmative vote or written agreement signed by lot owners of lots to which at least sixty-seven percent (67%) ~~percent~~ of the votes in the association are allocated or any smaller majority the declaration specifies. To the extent the procedures and requirements for amendment in the declaration conflict with the provisions of this subsection, this subsection shall control with respect to any amendment to provide that this Chapter applies to that planned community.

(e) This Chapter does not apply to planned communities or lots located outside this State."

SECTION 3. Section 3 of S.L. 1998-199 reads as rewritten:

"Section 3. This act becomes effective January 1, 1999, ~~and applies to planned communities created on or after that date. G.S. 47E 3 102(1) through (6) and (11) through (17), G.S. 47E 3 107(a),(b), and (c), G.S. 47E 3 115, and G.S. 47E 3 116 as enacted by Section 1 of this act apply to planned communities created prior to the effective date, except that the provisions of G.S. 47E 3 116(e) as enacted by Section 1 of this act, apply to actions arising on or after the effective date. 1999."~~

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of August, 2002.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 4:58 p.m. this 6th day of September, 2002