



HOUSE BILL 594: HOAs- Leased Properties.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	May 6, 2019
Introduced by:	Reps. K. Hall, Howard, D. Hall, Richardson	Prepared by:	Brad Krehely
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *House Bill 594 would provide that an amendment to any declaration of covenants or bylaws prohibiting the lease of a lot within a planned community for a term greater than 30 days will not be effective against a lot in a planned community. The act would become effective October 1, 2019, and would apply to planned communities established on or after the effective date of this act if the declaration of covenants or bylaws contain no restrictions or limitations upon the ability of a lot owner to lease a lot within the planned community.*

CURRENT LAW: Chapter 47F of the General Statutes is the North Carolina Planned Community Act.

A declaration means any instruments, however denominated, that create a planned community and any amendments to those instruments. G.S. 47F-1-103(10). A declaration creating a planned community must be executed in the same manner as a deed and must be recorded in every county in which the planned community is located. G.S. 47F-2-101.

In general, the declaration may be amended only by affirmative vote or written agreement signed by lot owners of lots to which at least 67% of the votes in the association are allocated, or any larger majority the declaration specifies or by the declarant if necessary for the exercise of any development right. The declaration may specify a smaller number only if all of the lots are restricted exclusively to nonresidential use. G.S. 47F-2-117.

The declaration, bylaws, and articles of incorporation are generally enforceable by their terms. G.S. 47F-1-104 (a). Unless the articles of incorporation or the declaration expressly provides to the contrary, the association may adopt and amend bylaws and rules and regulations. G.S. 47F-3-102. The bylaws of the association must provide for the method of amending the bylaws. G.S. 47F-3-106(a)(6).

BILL ANALYSIS: House Bill 594 would provide that an amendment to any declaration of covenants or bylaws prohibiting the lease of a lot within a planned community for a term greater than 30 days will not be effective against a lot in a planned community.

EFFECTIVE DATE: The act would become effective October 1, 2019, and would apply to planned communities established on or after the effective date of this act if the declaration of covenants or bylaws contain no restrictions or limitations upon the ability of a lot owner to lease a lot within the planned community.

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