



# HOUSE BILL 920: Condominium Association Changes.

This Bill Analysis reflects the contents of the bill as it was presented in committee.

2019-2020 General Assembly

<b>Committee:</b>	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	June 16, 2020
<b>Introduced by:</b>	Reps. D. Hall, K. Hall, Hardister	<b>Prepared by:</b>	Bill Patterson
<b>Analysis of:</b>	PCS to First Edition H920-CSTG-55		Committee Co-Counsel

**OVERVIEW:** *The Proposed Committee Substitute for House Bill 920 makes various changes to the Condominium Act.*

**CURRENT LAW:** Article 2 of Chapter 47C (North Carolina Condominium Act) of the General Statutes governs the Creation, alteration, and termination of condominiums.

**BILL ANALYSIS:** The PCS for House Bill 920 does the following:

**Section 1** removes duplicative language requiring a licensed architect or engineer to certify the contents of the plat/plan for the condo. The same requirement for architect/engineer certification is in this same statute (subdivision 6).

In addition, Section 1 specifies the items to be included in the architect/engineer's certification of what is depicted by the condominium plat/plan, including: 1) locations and dimensions of the horizontally limiting boundaries of each unit lying within or coinciding with the boundaries of the building in which the unit is located; 2) the location of any vertically limiting unit boundaries, with reference to established datum; and 3) an identifying number for each unit. This section also specifies the statutory requirements with which the plat must be certified to have complied by a professional land surveyor, and makes other technical corrections. In addition, Section 1 requires statutory provisions governing the creation of a condominium, and instruments recorded pursuant to them, to be liberally construed in favor of their validity.

**Section 2** amends the statutory requirements for the contents of a condo declaration to:

- 1) Clarify the manner in which the declaration may define a unit.
- 2) Provide that for development or declarant rights for the exercise of which the declaration does not provide a time limit, the rights must be exercised by the later of either 7 years from the date the declaration was recorded, or October 1, 2020.
- 3) Provide a mechanism to exercise an option provided in the declaration to extend development or special declarant rights by vote of 67% of allocated votes in the association. It would also limit that extension to no more than 10 years and require that the option be exercised within one year of the time limit expiration. This section also makes technical corrections.

**Section 3.(a)** creates a presumption in favor of valid establishment of a condominium and valid amendment of the declaration following statutory requirements, and provides that the executive board may propose an amendment to the declaration to cure defects, conform to applicable standards for loans secured by mortgages or deeds of trust on condominium units, or to comply with applicable laws or

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regulations, or to make a reasonable accommodation for persons with disabilities under applicable law, or for any other purpose permitted in the declaration or by Chapter 47C.

This section also provides that any such amendment recorded in the office of the register of deeds in the county where the condominium is located operates to correct the declaration effective as of the date the declaration was originally recorded, with the same effect as if the declaration had been correct when it was first recorded.

**Section 3.(b)** adds a new section to provide a mechanism for judicial reformation of a declaration to correct ambiguities, errors, inconsistencies in the with the clerk of superior court, provided that all of the following requirements are met:

- 1) At least three good-faith attempts were made to convene an association meeting to amend the declaration.
- 2) A declarant who still owns a unit is deemed to have joined in the complaint.
- 3) A copy of the complaint must be served on all unit owners and all beneficiaries of a deed of trust or mortgages of record for condominium units.
- 4) The complaint must notify recipients of their right to object to or dispute the petition and the time and manner in which they must do so, and that if they fail to respond the clerk can grant the relief sought.
- 5) No written response objecting to or disputing the complaint is received from an interested party within 45 days of the last to receive service.

This section would also provide that any collateral action contesting a judgment ordering reformation or correction must be commenced within one year from the date of entry of the judgment.

**Section 4** would amend the statute governing execution and recordation of a declaration to conform with changes made in Section 1 of the PCS.

**Section 5** would amend a section providing for easements for encroachments with one recognizing the actual boundaries of units, as constructed, as surveying monuments.

**Section 6** would deem title to a condominium unit marketable if no challenge to the validity of the documents establishing the condominium has been brought in the four years following recordation of the declaration, plats or plans, and deed to a unit.

**Sections 7, 8, 9, and 10** amend provisions governing executive board members and officers, notice required for association meetings, reduced quorum requirements for meetings after a meeting at which the lack of a quorum prevented business from being conducted, and assessments against a unit for common expense caused by the misconduct of an occupant of that unit, to conform these provisions with corresponding sections of the Planned Community Act.

**EFFECTIVE DATE:** This act would be effective when it becomes law.

*Tawanda Foster, counsel to House Judiciary Committee, substantially contributed to this summary.*