



HOUSE BILL 920: Condominium Association Changes.

2019-2020 General Assembly

Committee:	House Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 2, 2019
Introduced by:	Reps. D. Hall, K. Hall, Hardister	Prepared by:	Tawanda N. Foster
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *House Bill 920 makes various changes to the statutes governing Condominium Associations.*

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: This Bill 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, clarifying changes were made to specify what the architect/engineer is certifying in the plat/plan requiring the plat/plan depict: 1) locations and dimensions of the vertical boundaries of each unit, to the extent those boundaries lie within or coincide with the boundaries of the building in which the unit is located; 2) the location of any horizontal unit boundaries, with reference to established datum; and 3) an identifying number for each unit. This section also makes technical corrections.

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

- 1) A limit of 7 years from the date the declaration was recorded on the right of the declarant to exercise development or special declarant rights if no limit is provided in the declaration.
- 2) Provides a mechanism to exercise an option provided in the declaration to extend development or special declarant rights by 67% of allocated votes in the association. It would also limit that extension to no more than 10 years, and requires that the option be exercised within one year of the time limit expiration. This section also makes technical corrections.

Section 3(a) establishes a presumption in favor of valid establishment of a condominium and allows the executive board to take action to amend the declaration to cure defects, conform the lender rights, or comply with laws or regulations. This section also provides any such amendment recorded in the office of the register of deeds in the county where the condominium is located operate as a correction of the declaration and is effective as of the date the declaration being corrected was originally recorded with the same effect as if the declaration were correct when it was first recorded.

Section 3(b) adds a new section to provide a mechanism for judicial reformation of a declaration with the clerk of superior court, including several conditions that must be met for a clerk to reform the declaration including:

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- 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 petition.
- 3) Notice must be given to interested parties at least 30 days prior to filing a petition.
- 4) Petition provides adequate notice and right to dispute or object.
- 5) No written objection/dispute from an interested party within 45 days of the last to receive service.

EFFECTIVE DATE: This act is effective when it becomes law.