



# SENATE BILL 378: HOA Revisions.

2025-2026 General Assembly

<b>Committee:</b>	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	May 5, 2025
<b>Introduced by:</b>	Sens. Sawrey, Johnson, Sawyer	<b>Prepared by:</b>	Bill Patterson
<b>Analysis of:</b>	First Edition		Committee Co-Counsel

## OVERVIEW: *Senate Bill 378 would:*

- *Limit the power of a condominium unit owners' association or planned community lot owners' association to:*
  - *Contract with managing agents.*
  - *Regulate parking on public streets.*
  - *Impose a fine for offering lessons to fewer than five people on the member's property.*
  - *Charge a fee for preparing documents related to title transfers.*
  - *Charge members for copies of association records.*
- *Require owners' associations to provide fair procedures for deciding on architectural modification requests and to issue a decision within 90 days.*
- *Modify procedures for imposing fines and enforcing liens for delinquencies.*
- *Give members the right to inspect and copy any contracts entered into by an owners' association.*
- *Require owners' associations to maintain and make available to its members records relating to the use of automatic license plate reader systems.*
- *Require prelitigation mediation of certain disputes between owners' associations and members unless all parties to the dispute waive this requirement.*
- *Require the Department of Justice to receive complaint relating to owners' association disputes and report annually to the House and Senate Commerce Committees and Fiscal Research Division on the issues underlying the complaints received.*
- *Place conditions on an association's use of an automated license plate reader system.*

## CURRENT LAW AND BILL ANALYSIS:

### General Association Powers

Under North Carolina Condominium Act, Chapter 47C of the General Statutes, and the North Carolina Planned Community Act, Chapter 47F of the General Statutes, the association is empowered, among other things, to do the following unless its governing declaration expressly provides to the contrary:

- Hire and terminate managing agents.
- Regulate the use of common elements.

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- Levy fines for violations of the declaration, bylaws, and rules and regulations of the association.
- Impose reasonable charges in connection with the preparation of statements of unpaid assessments, not to exceed \$200 per statement or request, and an additional expedite fee not to exceed \$100 for requests made within 48 hours of closing.

Currently, neither Chapter 47C nor Chapter 47F regulate the amount an association can charge to provide copies of records requested by a member. For associations organized as nonprofit corporations, the North Carolina Nonprofit Corporation Act permits a reasonable charge for producing any records provided to the member, not to exceed the estimated cost of production or reproduction covering the costs of labor and material.

**Sections 1 and 5** of Senate Bill 378 would amend the law governing the powers of associations to:

- Prohibit an association from entering into a contract with a managing agent with a term of more than two years or with an automatic renewal provision requiring notice of nonrenewal more than 60 days before the contract anniversary date.
- Provide that any management contract that is automatically renewed is terminable by the association for any reason upon 90 days' notice.
- Prohibit a managing agent from being compensated based on the amount of fines it collects on behalf of the association.
- Prohibit association regulation of parking of a personal vehicle on a public street, public road, or public right of way for which the North Carolina Department of Transportation (NCDOT) or a local government has assumed responsibility for maintenance and repairs, unless such regulation is expressly authorized in the declaration or has been expressly delegated to the association by the NCDOT or local government.
- Prohibit an association from imposing a fine for violation of a provision prohibiting tutoring, educational lessons, academic lessons, or music lessons provided on the owner's property to no more than five people at any one time, regardless of whether compensation is received for the lessons.
- Prohibit associations from imposing upon an owner or prospective purchaser any charge in connection with the transfer of title other than those expressly authorized by statute, unless the charge is authorized in the declaration and not otherwise prohibited by law. Imposing a prohibited charge would be an unfair and deceptive trade practice under G.S. 75-1.1.
- Authorize associations to impose a reasonable charge for providing copies of records requested by a member, not to exceed the actual cost of photocopying the records, including the cost of materials and any required shipping.
- Require an association to provide a fair, reasonable and expeditious procedure for deciding on an owner's proposed property alteration. An association would have to issue a written decision no later than 90 days after the proposal is submitted and if disapproved, explain why it was disapproved and how to request reconsideration by the executive board.

## **Association Fines and Liens**

Under current law any assessment that is at least 30 days delinquent constitutes a lien on the member's property upon the filing of a claim of lien with the clerk's office in the county where the property is located. Once filed, the claim of lien secures all sums due at the time of filing as well as any sums becoming due thereafter. Unless the declaration provides otherwise, the claim of lien also secures all fees and other

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charges due and payable under the declaration, applicable law, or as the result of an arbitration, mediation, or judicial decision.

An association must make reasonable efforts to ensure that its records have the current mailing address of the property owner. No less than 15 days before filing the lien, the association must mail a statement of the assessment amount due by first class mail to the physical address of the unit or lot and the owner's address of record with the association and, if different, to the address on the county tax records. If the owner is a corporation or limited liability company, the statement must also be sent by first class mail to the mailing address of the registered agent for the corporation or limited liability company.

An association may foreclose a claim of lien in the same manner as a mortgage or deed of trust on real estate under a power of sale, provided that the assessment has remained unpaid for at least 90 days. For a claim of lien securing a debt consisting solely of unpaid fines, interest on unpaid fines, or attorneys' fees incurred solely associated with fines imposed by the association, may only be enforced by judicial foreclosure.

**Sections 3 and 7** of the bill would make the following changes to the laws governing enforcement of claims of lien for sums due to owners' associations:

- The association would be required to make reasonable efforts to ensure it has the current email address and current telephone number of the owner.
- The association would be required to provide proper notice of delinquent assessments to the owner before filing a claim of lien. New requirements would include:
  - Sending a statement of the assessment due and a copy of any filed claim of lien and its certificate of service via electronic email if the owner has designated an email address as provided for in the Nonprofit Corporation Act.
  - Attempting to notify the owner by telephone of the delinquent assessments and the delivery details of the statement of the assessment amount due, if the owner has provided a telephone number to be used by the association for communicating with the owner.
- If an association's lien secures a debt consisting solely of fines or related interest or attorneys' fees, these sections would remove the association's current authority to enforce the lien through judicial foreclosure. To enforce such a lien, the association would be required to:
  - File the claim of lien within 90 days after the date the fine was imposed and separately from any claim of lien securing other sums owed.
  - Commence a civil action seeking a judgment within one year after the filing of the claim of lien.
- Provide that it is within the court's discretion to allow the association to recover the reasonable attorneys' fees and costs incurred in collecting any sums due.
- An association would be permitted to use judicial foreclosure only to enforce a lien securing a debt other than unpaid fines and related interest and attorneys' fees.
- Require an association to file a civil action seeking a judgment to enforce a lien consisting of sums due for fines or fine-related charges.

## **Association Records**

Under the North Carolina Condominium Act (Chapter 47C of the General Statutes) and the North Carolina Planned Community Act (Chapter 47F of the General Statutes), owners' associations must make all

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association records reasonably available for examination by an owner and the owner's authorized agent as required by the association bylaws and as required by the North Carolina Nonprofit Corporation Act (Chapter 55A of the General Statutes) if the association is a nonprofit corporation.

Under the Nonprofit Corporation Act, a member is entitled to inspect and copy any of the following corporate records if the member gives the corporation written notice of the member's demand at least five business days before the date on which the member wishes to inspect and copy:

- Its articles of incorporation and bylaws and all amendments to them currently in effect.
- Resolutions relating to number or classification of directors or to the characteristics, qualifications, rights, limitations, and obligations of members of any class or category of members.
- Minutes of all membership meetings and records of all actions taken by members without a meeting within the past three years.
- All written communications to members generally within the past three years.
- The financial statements, if any, that have been furnished or would have been required to be furnished to a member upon demand during the past three years.
- A list of the names and business or home addresses of its current directors and officers.
- The following records, but only if the demand to inspect is made in good faith and for a proper purpose, the member describes with reasonable particularity the purpose and the records the member desires to inspect, and the records are directly connected with this purpose:
  - Excerpts from minutes of all meetings of the board of directors.
  - Excerpts from a record of all actions taken by the directors without a meeting or by committees of the board in place of the board without a meeting.
  - Accounting records of the corporation.
  - The membership list of the corporation.

Under current law associations can charge a fee of up to \$200 to provide a statement of unpaid assessments, and if the request is made within 48 hours of closing, an additional fee not to exceed \$100.

**Sections 4 and 8** would:

- Require associations to make available for examination by a member or the member's agent any contract entered by the association upon written request provided at least five days before the date the member wishes to inspect and copy, as long as the request was made in good faith and for a proper purpose, described with reasonable particularity the purpose and the contract to be inspected. The association would have the burden of proving that a request was not made in good faith and for a proper purpose.
- Authorize an association to charge an additional expedited fee of up to \$100 to furnish a statement of unpaid assessments if the statement is requested to be furnished less than ten days after the association receives the request.
- Require an association to keep written records of any policy regarding the use of automatic license plate reader systems and make the records available for examination by any member or the member's authorized agent.

## **Prelitigation Mediation**

Under current law, a dispute between an association and its members can be mediated before commencement of a civil action only if all parties agree to the mediation.

**Section 9** would require a dispute between an association and its members to be submitted to mediation before a civil action is commenced unless all parties agree to waive this requirement. This requirement

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would not apply to disputes solely related to a member's failure to timely pay an assessment or any fines or fees associated with levying or collecting an assessment.

## **Department of Justice to Receive Owners' Association Complaints**

**Section 10** would require the Department of Justice to:

- Receive complaints concerning disputes between associations and their members and forward a copy of the complaint to the other parties to the dispute.
- Summarize information about the issues giving rise to disputes collected from the complaints in an annual report to the House Commerce and Economic Development Committee, the Senate Commerce and Insurance Committee, and the Fiscal Research Division, and publish the report on the Department's website.
- Provide information on its website to educate associations and their members about their rights and obligations under applicable laws, and to provide instructions for submitting complaints to the Department.

## **Association Use of Automatic License Plate Reader Systems**

**Section 11** would prohibit an association from operating an automatic license plate reader system without first:

- Providing all lot or unit owners and a local law enforcement agency with notice of its intent to begin using the system.
- Providing a local law enforcement agency with ongoing access to the system.
- Adopting a written policy governing the system's use, addressing factors such as data retention, training of system operators, supervisory oversight of the system's use, auditing of the system at least annually, annual or more frequent owner notifications of continued operation of system.

Data obtained from operation of the system could be used only to assist law enforcement agencies in connection with enforcing laws other than enforcement of traffic violations.

**EFFECTIVE DATE:** Sections 3 and 7 of this act (enforcement of liens) would become effective December 1, 2025, and apply to claims of lien filed and instruments presented for registration on or after that date.

Section 9 of this act (prelitigation mediation) would become effective October 1, 2026, and apply to actions filed on or after that date.

Section 10 of this act (Department of Justice) would become effective July 1, 2025.

Section 11 of this act (automatic license plate reader systems) would become effective October 1, 2025.

The remainder of this act would be effective when it becomes law, and the provisions in Sections 1 and 5 relating to managing agent compensation would apply to contracts entered into on or after January 1, 2026.