



summary | North Carolina  
**HOUSE BILL 1541**

Changes to the  
Condominium Act  
and the Planned Community Act

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Note:

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# NC House Bill 1541

House Bill 1541  
was ratified by the  
N.C. General Assembly on  
August 23, 2005, and becomes  
effective on  
January 1, 2006.

This bill contains some minor and some major changes to both the Condominium Act and the Planned Community Act, which will affect some of the day-to-day functions of Associations, their Boards of Directors, and their property managers.

*What follows is a "plain English" summary of the bill.*

For the most part, the changes described below apply to both the Condominium Act and the Planned Community Act.

## 1. Late Charges:

Late charges are now limited to \$20 or 10% of the unpaid assessment, whichever is greater.

## 2. Identification of Officers and Directors:

Associations must now "publish" (e.g., provide notice to all members) of the names and addresses of all officers and directors of the Association within thirty days of their election.

## 3. Procedures for Fines or the Suspension of Privileges or Services:

In this case, the Condominium Act was revised to match the language in the Planned Community Act, with several changes thrown in:

- a. Under the revised sections, hearings prior to the levying of fines (for violations of the CCR's, by-laws, rules or regulations) may be heard before the Board or before an adjudicatory panel appointed by the Board. However, if the Association utilizes an adjudicatory panel, it must be composed of members who are not officers or Board members.
- b. The maximum fine (whether one-time or a daily fine) has been reduced from \$150 to \$100.
- c. Daily fines for "continuing" violations may not begin to accrue until five days after the hearing date. In other words, the owner has five days from the date of the hearing to abate the violation, and thereby avoid daily fines. However, even if the owner abates the violation within the five days, the board may still impose a one-time \$100 fine for the violation.
- d. If the hearing is held before an adjudicatory panel (as opposed to the board), the homeowner may appeal the decision of the panel to the board by giving written notice of appeal within fifteen days of the panel's decision.

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### 4. Board Meetings:

- a. At regular intervals, the Board must now provide owners with an opportunity to attend a portion of board meetings to present or discuss issues of concern to them. The Board may please reasonable limitations on the number of persons allowed to speak on each side of an issue, and impose reasonable time restrictions on those who speak.
- b. Meetings of the Board and the Association must now be conducted in accordance with Roberts Rules of Order, unless otherwise provided by the Bylaws.

### 5. Enforcement of Liens for Assessments and Other Debts:

- a. Prior to the filing of a lien or foreclosure, owners must now be given written notice of a 15-day "grace period" to pay the debt before the Association can recover attorneys fees.

*This notice must also:*

- i. Advise the owner that the Association intends to seek recovery of its attorneys fees if the debt is not paid within fifteen days;
  - ii. Advise the owner that they have the opportunity to contact a representative of the Association to discuss a payment schedule, and
  - iii. Provide a name and telephone number of an Association representative.
- b. There are no changes to the actual *procedures* for enforcement of liens for unpaid assessments. The filing of a Claim of Lien, followed by a foreclosure of that lien, remains the statutorily-approved procedure.
  - c. The Association may no longer foreclose liens, through "power of sale", if the underlying debt consists *solely* of fines; interest on the fines; attorneys fees solely associated with the fines imposed; late fees, collection or "administrative" charges, service fees, or similar charges.

However, the Association may foreclose such liens through a "judicial foreclosure", which requires the filing of a lawsuit seeking a court order allowing a foreclosure.

- d. Associations may not levy any "service, collection, consulting or administration fee" from an owner unless it is expressly allowed in the Declaration.

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- e. Attorneys fees that the Association may recover for *uncontested* lien foreclosures are now capped at \$1,200. If the owner contests the amount of the debt or the validity of the foreclosure process, this cap does not apply.
- f. The Association, through its Board, is now expressly authorized by the statute to allow payment of past-due balances in installments. However, the Board is not *required* to offer or accept any such installment plan.

## 6. Financial Records:

- a. The Association must keep accurate records of all cash receipts, expenses, assets and liabilities, in addition to any other records as required by the Bylaws or Declaration.
- b. An annual income statement and balance sheet must be prepared and provided to all owners within 75 days of the end of each fiscal year.
- c. All records (*including records of meetings*) must be made reasonably available for inspection/examination by owners and/or their agents.
- d. The Board, and/or a majority of the owners at an annual or special meeting, may authorize a more extensive compilation, review or audit of the Association's books and records.
- e. If an owner requests (*in writing*) a statement of his/her account, it must be provided within ten days of the request. This statement will be binding on the Association, so make sure it's correct.
- f. No compensation (*either cash or goods/services*) may be paid to any officer or director, or to a business, business associate, or relative of an officer or director, unless explicitly authorized by the Bylaws.

Officers and directors may be reimbursed for expenses paid for on behalf of the Association, if Board approval is obtained in advance.

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## 7. Flags and Political Signs:

The intent of these sections is to protect the right of homeowners to fly the N.C. and U.S. flags, and display political signs, with reasonable limitations.

- a. Associations may continue to prohibit or limit the display of flags and signs on common areas, easements, and rights-of-way. REAL ESTATE SIGNS
- b. Any provision in a Declaration or regulation in effect as of October 1, 2005, may *not* prohibit or limit the display of the N.C. or U.S. flag, or political signs, unless the provision or regulation *specifically* makes reference to the N.C. or U.S. flags.  

Existing prohibitions against flags or banners in general, will *not* be applicable to the N.C. or U.S. flags. Such restrictions may be enforced, however, to limit the size of N.C. or U.S. flags to no more than 4'x6'.
- c. In order to impose restrictions on flags or signs after October 1, 2005, the document setting forth the restriction must have language in **ALL CAPS AND BOLD FACE TYPE**, on the first page, stating that the document regulates or prohibits the display of the N.C. or U.S. flags and/or political signs.
- d. Associations may continue to regulate the display of political signs more than 45 days before, or 7 days after, an election; and may regulate the size and number of political signs, as long as the regs are no more restrictive than local ordinances.

If there are no local ordinances, the Association may limit the display to one sign no larger than 24"x24".

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