

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 765\***

Short Title: Planned Community Act Amendment.

(Public)

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Sponsors: Representative Culpepper.

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Referred to: Judiciary IV.

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March 17, 2005

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW ATTORNEYS' FEES TO BE AWARDED TO THE  
2 PREVAILING PARTY IN AN ACTION TO ENFORCE PROVISIONS OF THE  
3 ARTICLES OF INCORPORATION, DECLARATION, BYLAWS, OR RULES OF  
4 A PLANNED COMMUNITY CREATED PRIOR TO JANUARY 1, 1999, IF  
5 RECOVERY OF ATTORNEYS' FEES IS ALLOWED IN THE DECLARATION,  
6 AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.  
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8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 47F-1-102(c) reads as rewritten:

10 "(c) Notwithstanding the provisions of subsection (a) of this section,  
11 G.S. 47F-3-102(1) through (6) and (11) through (17) (Powers of owners' association),  
12 G.S. 47F-3-107(a), (b), and (c) (Upkeep of planned community; responsibility and  
13 assessments for damages), G.S. 47F-3-115 (Assessments for common expenses), and  
14 G.S. 47F-3-116 (Lien for assessments), apply to all planned communities created in this  
15 State before January 1, 1999, unless the articles of incorporation or the declaration  
16 expressly provides to the ~~contrary~~-contrary, and G.S. 47F-3-120 (Declaration limits on  
17 attorneys' fees) applies to all planned communities created in this State before January  
18 1, 1999. These sections apply only with respect to events and circumstances occurring  
19 on or after January 1, 1999, and do not invalidate existing provisions of the declaration,  
20 bylaws, or plats and plans of those planned communities. G.S. 47F-1-103 (Definitions)  
21 also applies to all planned communities created in this State before January 1, 1999, to  
22 the extent necessary in construing any of the preceding sections."  
23

**SECTION 2.** This act is effective when it becomes law.