

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 228

Short Title: HOAs/Limited Common Elements. (Public)

Sponsors: Senators Cook and Rabin (Primary Sponsors).

Referred to: Commerce.

March 11, 2013

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT A UNIT OWNER IN A CONDOMINIUM AND A LOT OWNER IN A PLANNED COMMUNITY SHALL AFFORD ACCESS THROUGH THE LIMITED COMMON ELEMENT ASSIGNED OR ALLOCATED TO THE OWNER'S UNIT OR LOT TO THE ASSOCIATION AND, WHEN NECESSARY, TO OTHER UNIT OR LOT OWNERS FOR THE PURPOSE OF CONDUCTING MAINTENANCE, REPAIR, OR REPLACEMENT ACTIVITIES AND PROVIDING THAT A UNIT OR LOT OWNER IS LEGALLY RESPONSIBLE FOR DAMAGE TO A LIMITED COMMON ELEMENT CAUSED BY THE UNIT OR LOT OWNER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47C-3-107 reads as rewritten:

"§ 47C-3-107. Upkeep; damages; assessments for damages, fines.

(a) Except as provided in G.S. 47C-3-113(h), the association is responsible for causing the common elements to be maintained, repaired, and replaced when necessary and to assess the unit owners as necessary to recover the costs of such maintenance, repair, or replacement except that the cost of maintenance, repair or replacement of a limited common element shall be assessed as provided in G.S. 47C-3-115(b). Each unit owner is responsible for maintenance, repair and replacement of his unit. Each unit owner shall afford to the association and when necessary to another unit owner access through his unit or the limited common element assigned to his unit reasonably necessary for any such maintenance, repair or replacement activity.

(b) If damage, for which a unit owner is legally responsible and which is not covered by insurance provided by the association pursuant to G.S. 47C-3-113 is inflicted on any common ~~element, element or limited common element~~, the association may direct such unit owner to repair such damage or the association may itself cause the repairs to be made and recover the costs thereof from the responsible unit owner.

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SECTION 2. G.S. 47F-3-107 reads as rewritten:

"§ 47F-3-107. Upkeep of planned community; responsibility and assessments for damages.

(a) Except as otherwise provided in the declaration, G.S. 47F-3-113(h) or subsection (b) of this section, the association is responsible for causing the common elements to be maintained, repaired, and replaced when necessary and to assess the lot owners as necessary to recover the costs of such maintenance, repair, or replacement except that the costs of maintenance, repair, or replacement of a limited common element shall be assessed as provided in G.S. 47F-3-115(c)(1). Except as otherwise provided in the declaration, each lot owner is



1 responsible for the maintenance and repair of his lot and any improvements thereon. Each lot
2 owner shall afford to the association and when necessary to another lot owner access through
3 the lot owner's lot or the limited common element allocated to the lot owner's lot reasonably
4 necessary for any such maintenance, repair, or replacement activity.

5 (b) If a lot owner is legally responsible for damage inflicted on any common ~~element,~~
6 element or limited common element, the association may direct such lot owner to repair such
7 damage, or the association may itself cause the repairs to be made and recover damages from
8 the responsible lot owner.

9"

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