

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 877
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10529-MQ-119

Short Title: HOA and Condo Declaration Amendments. (Public)

Sponsors: Representative Iler.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW FOR THE AMENDMENT OF A DECLARATION OF A PLANNED
3 COMMUNITY OR A CONDOMINIUM BY MORE THAN FIFTY PERCENT OF THE
4 VOTES ALLOCATED.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 47F-2-117 reads as rewritten:

7 "§ 47F-2-117. Amendment of declaration.

8 (a) Except in cases of amendments that may be executed by a declarant under the terms
9 of the declaration or by certain lot owners under G.S. 47F-2-118(b), the declaration may be
10 amended only by affirmative vote or written agreement signed by lot owners of lots to which ~~at~~
11 ~~least sixty-seven more than fifty percent (67%) (50%)~~ of the votes in the association are allocated,
12 or any larger majority the declaration specifies or by the declarant if necessary for the exercise
13 of any development right. The declaration may specify a smaller number only if all of the lots
14 are restricted exclusively to nonresidential use.

15 (b) No action to challenge the validity of an amendment adopted pursuant to this section
16 may be brought more than one year after the amendment is recorded.

17 (c) Every amendment to the declaration shall be recorded in every county in which any
18 portion of the planned community is located and is effective only upon recordation.

19 (d) Any amendment passed pursuant to the provisions of this section or the procedures
20 provided for in the declaration are presumed valid and enforceable.

21 (e) Amendments to the declaration required by this Chapter to be recorded by the
22 association shall be prepared, executed, recorded, and certified in accordance with G.S. 47-41."

23 SECTION 2. G.S. 47C-2-117 reads as rewritten:

24 "§ 47C-2-117. Amendment of declaration.

25 (a) Except in cases of amendments that may be executed by a declarant under
26 G.S. 47C-2-109(d) or 47C-2-110, the association under G.S. 47C-1-107, 47C-1-106(d),
27 47C-2-112(a), or 47C-2-113, or certain unit owners under G.S. 47C-2-108(b), 47C-2-112(a),
28 47C-2-113(b), or 47C-2-118(b), and except as limited by subsection (d), the declaration may be
29 amended only by affirmative vote of or a written agreement signed by, unit owners of units to
30 which ~~at least sixty-seven more than fifty percent (67%) (50%)~~ of the votes in the association are
31 allocated or any larger majority the declaration specifies. The declaration may specify a smaller
32 number only if all of the units are restricted exclusively to nonresidential use.

33 (b) No action to challenge the validity of an amendment adopted by the association
34 pursuant to this section may be brought more than one year after the amendment is recorded.

35 (c) Every amendment to the declaration must be recorded in every county in which any
36 portion of the condominium is located and is effective only upon recordation. An amendment



1 shall be indexed in the Grantee's index in the name of the condominium and the association and
2 in the Grantor's index in the name of the parties executing the amendment.

3 (d) Except to the extent expressly permitted or required by other provisions of this
4 Chapter, no amendment may create or increase special declarant rights, increase the number of
5 units, or change the boundaries of any unit, the allocated interest of a unit, or the uses to which
6 any unit is restricted, in the absence of unanimous consent of the unit owners.

7 (e) Amendments to the declaration required by this Chapter to be recorded by the
8 association shall be prepared, executed, recorded, and certified on behalf of the association by
9 any officer of the association designated for that purpose or, in the absence of designation, by the
10 president of the association."

11 **SECTION 3.** This act is effective when it becomes law and applies to amendments
12 to declarations executed on or after that date.