

NORTH CAROLINA GENERAL ASSEMBLY
1963 SESSION

CHAPTER 685
SENATE BILL 315

1 AN ACT TO PROVIDE FOR THE CREATION OF UNIT OWNERSHIP IN REAL
2 PROPERTY; DEFINING THE ELEMENTS OF SUCH OWNERSHIP AND THE
3 MANNER IN WHICH THE SAME SHALL BE ESTABLISHED, MANAGED, AND
4 TAXED.

5
6 The General Assembly of North Carolina do enact:

7
8 **Section 1.** Short Title. This Act shall be known as the "Unit Ownership Act".

9 **Sec. 2.** Creation of Unit Ownership. Unit ownership may be created by an owner or
10 the co-owners of a building by an express declaration of their intention to submit such property
11 to the provisions of the Act, which Declaration shall be recorded in the office of the Register of
12 Deeds of the county in which the property is situated.

13 **Sec. 3.** Definitions. Unless it is plainly evident from the context that a different
14 meaning is intended, as used herein:

15 (a) "Declaration" means the instrument, duly recorded, by which the property is
16 submitted to the provisions of this Act, as hereinafter provided, and such Declaration as from
17 time to time may be lawfully amended.

18 (b) "Unit" or "Condominium Unit" means an enclosed space consisting of one
19 or more rooms occupying all or part of a floor in a building of one or more floors or stories
20 regardless of whether it be designed for residence, for office, for the operation of any industry
21 or business, or for any other type of independent use and shall include such accessory spaces
22 and areas as may be described in the Declaration such as garage space, storage space, balcony,
23 terrace or patio, provided it has a direct exit to a thoroughfare or to a given common space
24 leading to a thoroughfare.

25 (c) "Unit Designation" means the number, letter, or combination thereof
26 designating the unit in the Declaration.

27 (d) "Unit Owner" means a person, corporation, partnership, association, trust or
28 other legal entity, or any combination thereof, who owns a unit within the building.

29 (e) "Association of Unit Owners" means all of the unit owners acting as a group
30 in accordance with the By-Laws and Declaration.

31 (f) "Condominium" means the ownership of single units in a multiunit structure
32 with common areas and facilities.

33 (g) "Common Areas and Facilities", unless otherwise provided in the
34 Declaration or lawful amendments thereto, means and includes:

35 (1) The land on which the building stands and such other land and
36 improvements thereon as may be specifically included in the Declaration,
37 except any portion thereof included in a unit;

38 (2) The foundations, columns, girders, beams, supports, main walls, roofs, halls,
39 corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of
40 the building;

41 (3) The basements, yards, gardens, parking areas and storage spaces;

42 (4) The premises for the lodging of janitors or persons in charge of property;

- 1 (5) Installations of central services such as power, light, gas, hot and cold water,
2 heating, refrigeration, air conditioning and incinerating;
- 3 (6) The elevators, tanks, pumps, motors, fans, compressors, ducts, and in
4 general, all apparatus and installations existing for common use;
- 5 (7) Such community and commercial facilities as may be provided for in the
6 Declaration; and
- 7 (8) All other parts of the property necessary or convenient to its existence,
8 maintenance and safety, or normally in common use.
- 9 (h) "Limited Common Areas and Facilities" means and includes those common
10 areas and facilities which are agreed upon by all the unit owners to be reserved for the use of a
11 certain number of units to the exclusion of the other units, such as special corridors, stairways
12 and elevators, sanitary services common to the units of a particular floor, and the like.
- 13 (i) "Common Expenses" means and includes:
- 14 (1) All sums lawfully assessed against the unit owners by the Association of
15 Unit Owners;
- 16 (2) Expenses of administration, maintenance, repair or replacement of the
17 common areas and facilities;
- 18 (3) Expenses agreed upon as common expenses by the Association of Unit
19 Owners;
- 20 (4) Expenses declared common expenses by the provisions of this Act, or by the
21 Declaration or the By-Laws;
- 22 (5) Hazard insurance premiums, if required.
- 23 (j) "Common Profits" means the balance of all income, rents, profits, and
24 revenues from the common areas and facilities remaining after the deductions of the common
25 expenses.
- 26 (k) "Majority" or "Majority of Unit Owners" means the owners of more than
27 fifty per cent (50%) of the aggregate interest in the common areas and facilities as established
28 by the Declaration assembled at a duly called meeting of the Unit Owners.
- 29 (l) "Recordation" means to file of record in the office of the County Register of
30 Deeds in the county where the land is situated, in the manner provided by
31 law for recordation of instruments affecting real estate.
- 32 (m) "Person" means individual, corporation, partnership, association, trustee, or
33 other legal entity.
- 34 (n) "Property" means and includes the land, the building, all improvements and
35 structures thereon and all easements, rights and appurtenances belonging thereto, and all
36 articles of personal property intended for use in connection therewith, which have been or are
37 intended to be submitted to the provisions of this Act.

38 **Sec. 4.** Application of Act. This Act shall be applicable only to property, the full
39 owner or all of the owners of which submit the same to the provisions hereof by duly executing
40 and recording a Declaration as hereinafter provided.

41 **Sec. 5.** Status and Title of Unit Ownership. Unit ownership as created and defined
42 in this Act shall vest in the holder exclusive ownership and possession with all the incidents of
43 real property. A condominium unit in the building may be individually conveyed, leased and
44 encumbered and may be inherited or devised by Will, as if it were solely and entirely
45 independent of the other condominium units in the building of which it forms a part. Such a
46 unit may be held and owned by more than one person either as tenants in common or tenants by
47 the entirety or in any other manner recognized under the laws of this State.

48 **Sec. 6.** Ownership of Common Areas and Facilities.

49 (a) Each unit owner shall be entitled to an undivided interest in the common
50 areas and facilities in the ratio expressed in the Declaration. Such ratio shall be in the
51 approximate relation that the fair market value of the unit at the date of the Declaration bears to

1 the then aggregate fair market value of all the units having an interest in said common areas
2 and facilities.

3 (b) The ratio of the undivided interest of each unit owner in the common areas
4 and facilities as expressed in the Declaration shall have a permanent character and shall not be
5 altered except with the unanimous consent of all unit owners expressed in an amended
6 Declaration duly recorded.

7 (c) The undivided interest in the common areas and facilities shall not be
8 separated from the unit to which it appertains and shall be deemed conveyed or encumbered
9 with the unit even though such interest is not expressly mentioned or described in the
10 conveyance or other instrument.

11 **Sec. 7.** Indivisibility of the Common Areas and Facilities. The common areas and
12 facilities shall remain undivided and no unit owner or any other person shall bring any action
13 for partition or division of any part thereof, unless the property has been removed from the
14 provisions of this Act as provided; in Sections 16 and 25. Any covenant to the contrary shall be
15 null and void. This restraint against partition shall not apply to the individual condominium
16 unit.

17 **Sec. 8.** Use of Common Areas and Facilities. Each unit owner may use the common
18 areas and facilities in accordance with the purpose for which they are intended, without
19 hindering or encroaching upon the lawful rights of the other unit owners.

20 **Sec. 9.** Maintenance, Repair, Additions and Improvements to the Common Areas
21 and Facilities. The necessary work of maintenance, repair, and replacement of the common
22 areas and facilities and the making of any additions or improvements thereto shall be carried
23 out only as provided herein and in the By-Laws. The Association of Unit Owners shall have the
24 irrevocable right, to be exercised by the Manager or Board of Directors, or other managing
25 body as provided in the By-Laws, to have access to each unit from time to time during
26 reasonable hours as may be necessary for the maintenance, repair or replacement of any of the
27 common areas and facilities therein or accessible therefrom, or for making emergency repairs
28 therein necessary to prevent damage to the common areas and facilities or to another unit or
29 units.

30 **Sec. 10.** Compliance With Covenants, By-Laws and Administrative Provisions.
31 Each unit owner shall comply strictly with the By-Laws and with the administrative rules and
32 regulations adopted pursuant thereto, as either of the same may be lawfully amended from time
33 to time, and with the covenants, conditions and restrictions set forth in the Declaration or in the
34 deed to his unit. Failure to comply with any of the same shall be grounds for an action to
35 recover sums due, for damages or injunctive relief, or both, maintainable by the Manager or
36 Board of Directors on behalf of the Association of Unit Owners or, in a proper sense, by an
37 aggrieved unit owner.

38 **Sec. 11.** Certain Work Prohibited. No unit owner shall do any work which would
39 jeopardize the soundness or safety of the property or impair any easement or hereditament
40 without in every such case the unanimous consent of all the other unit owners affected being
41 first obtained.

42 **Sec. 12.** Contributions for Payment of Expenses of Administration and
43 Maintenance. The unit owners are bound to contribute pro rata, in the percentages computed
44 according to Section 6 of this Act, toward the expenses of administration and of maintenance
45 and repair of the general common areas and facilities and, in proper cases of the limited
46 common areas and facilities, of the building and toward any other expense lawfully agreed
47 upon. No unit owner may exempt himself from contributing toward such expense by waiver of
48 the use or enjoyment of the common areas and facilities or by abandonment of the unit
49 belonging to him.

1 Provided, however, that the common profits of the property, if any, shall be
2 distributed among the unit owners according to the percentage of the undivided interest in the
3 common areas and facilities.

4 **Sec. 13.** Contents and Recordation of Declaration. The Declaration creating and
5 establishing unit ownership as provided in Section 3 of this Act, shall be recorded in the office
6 of the County Register of Deeds and shall contain the following particulars:

7 (a) Description of the land on which the building and improvements are or are
8 to be located.

9 (b) Description of the building, stating the number of stories and basements, the
10 number of units, and the principal materials of which it is constructed.

11 (c) The unit designation of each unit, and a statement of its location,
12 approximate area, number of rooms, and immediate common area to which it has access, and
13 any other data necessary for its proper identification.

14 (d) Description of the general common areas and facilities and the proportionate
15 interest of each unit owner therein.

16 (e) Description of the limited common areas and facilities, if any, stating what
17 units shall share the same and in what proportion.

18 (f) Statement of the purpose for which the building and each of the units are
19 intended and restricted as to use.

20 (g) The name of a person to receive service of process in the cases hereinafter
21 provided, together with the residence or the place of business of such person which shall be
22 within the city and county in which the building is located.

23 (h) Any further details in connection with the property which the person
24 executing the Declaration may deem desirable to set forth consistent with this Act.

25 (i) The method by which the Declaration may be amended, consistent with the
26 provisions of this Act.

27 **Sec. 14.** Recordation and Contents of Deeds Conveying Unit Ownership. Deeds
28 conveying a unit ownership shall be recorded in the office of the Register of Deeds in the
29 county in which the land and building is located and shall contain the following particulars:

30 (a) Description of the land as provided in Section 13 of this Act, including the
31 book and page numbers and the date of recording of the Declaration.

32 (b) The unit designation as contained in the Declaration and any other data
33 necessary for its proper identification.

34 (c) A clear expression of the use for which the unit is intended and restrictions
35 on its use.

36 (d) The percentage of undivided interest appertaining to the unit in the common
37 areas and facilities.

38 (e) Any further details which the grantor and grantee may deem desirable to set
39 forth consistent with the Declaration and this Act.

40 **Sec. 15.** Copy of Plans to be Attached to Declaration. There shall be attached to the
41 Declaration, at the time it is filed for record, a full and exact copy of the plans of the building,
42 which copy of plans shall be entered of record along with the Declaration. Said plans shall
43 show graphically all particulars of the building, including, but not limited to, the layout,
44 location, ceiling and floor elevations, unit numbers and dimensions of the units, stating the
45 name of the building or that it has no name, area and location of the common areas and
46 facilities affording access to each unit, and such plans shall bear the verified statement of a
47 registered architect or licensed professional engineer certifying that it is an accurate copy of
48 portions of the plans of the building as filed with and approved by the municipal or other
49 governmental subdivision having jurisdiction over the issuance of permits for the construction
50 of buildings. If such plans do not include a verified statement by such architect or engineer that
51 such plans fully and accurately depict the layout, location, ceiling and floor elevations, unit

1 numbers and dimensions of the units, as built, there shall be recorded prior to the first
2 conveyance of any unit an amendment to the Declaration to which shall be attached a verified
3 statement of a registered architect or licensed professional engineer certifying that the plans
4 theretofore filed, or being filed simultaneously with such amendment, fully depict the layout,
5 ceiling and floor elevations, unit numbers and dimensions of the units as built. Such plans shall
6 be kept by the Register of Deeds in a separate file, indexed in the same manner as a conveyance
7 entitled to record, numbered serially in the order of receipt, each designated "Unit Ownership",
8 with the name of the building, if any, and each containing a reference to the book and page
9 numbers and date of the recording of the Declaration.

10 **Sec. 16. Removal From Provisions of This Act.**

11 (a) All of the unit owners may remove a property from the provisions of this Act
12 by an instrument to that effect, duly recorded, provided that the holders of all liens affecting
13 any of the units consent thereto or agree, in either case by instruments duly recorded, that their
14 liens be transferred to the percentage of the undivided interest of the unit owner in the property
15 as hereinafter provided.

16 (b) Upon removal of the property from the provisions of this Act, the property
17 shall be deemed to be owned as tenants in common by the unit owners. The undivided interest
18 in the property owned as tenants in common which shall appertain to each unit owner shall be
19 the percentage of the undivided interest previously owned by such unit owner in the common
20 areas and facilities.

21 **Sec. 17. Removal No Par to Subsequent Resubmission.** The removal provided for
22 in the preceding Section shall in no way bar the subsequent resubmission of the property to the
23 provisions of this Act.

24 **Sec. 18. By-Laws.** The administration of every property shall be governed by By-
25 Laws, a true copy of which shall be annexed to the Declaration and to the first deed of each
26 unit. No modification of or amendment to the By-Laws shall be valid, unless set forth in an
27 amendment to the Declaration and such amendment is duly recorded.

28 **Sec. 19. Necessary Contents of By-Laws; Modification of System; Recordation.**
29 The By-Laws shall provide for the following:

30 (a) Form of administration, indicating whether this shall be in charge of an
31 administrator, manager, or of a board of directors or board of administration, independent
32 corporate body, or otherwise, and specifying the powers, manner of removal, and, where
33 proper, the compensation thereof.

34 (b) Method of calling or summoning the unit owners to assemble; what
35 percentage, if other than a majority of unit owners, shall constitute a quorum; who is to preside
36 over the meeting and who will keep the minute book wherein the resolutions shall be recorded.

37 (c) Maintenance, repair and replacement of the common areas and facilities and
38 payments therefor, including the method of approving payment vouchers.

39 (d) Manner of collecting from the unit owners their share of the common
40 expenses.

41 (e) Designation and removal of personnel necessary for the maintenance, repair
42 and replacement of the common areas and facilities.

43 (f) Method of adopting and of amending administrative rules and regulations
44 governing the details of the operation and use of the common areas and facilities.

45 (g) Such restrictions on and requirements respecting the use and maintenance of
46 the units and the use of the common areas and facilities, not set forth in the Declaration, as are
47 designed to prevent unreasonable interference with the use of their respective units and of the
48 common areas and facilities by the several unit owners.

49 (h) The percentage of votes required to amend the By-Laws, and a provision
50 that such amendment shall not become operative unless set forth in an amended Declaration
51 and duly recorded.

1 (i) A provision that all unit owners shall be bound to abide by any amendment
2 upon the same being passed and duly set forth in an amended Declaration, duly recorded.

3 (j) Other provisions as may be deemed necessary for the administration of the
4 property consistent with this Act.

5 **Sec. 20.** Book of Receipts and Expenditures Availability for Examination. The
6 Manager or Board of Directors, or other form of administration provided in the By-Laws, as the
7 case may be, shall keep detailed, accurate records in chronological order of the receipts and
8 expenditures affecting the common areas and facilities, specifying and identifying the
9 maintenance and repair expenses of the common areas and facilities and any other expense
10 incurred. Both said book and the vouchers accrediting the entries thereupon shall be available
11 for examination by all the unit owners, their duly authorized agents or attorneys, at convenient
12 hours on working days that shall be set and announced for general knowledge. All books and
13 records shall be kept in accordance with good and accepted accounting practices and an outside
14 audit shall be made at least once a year.

15 **Sec. 21.** Separate Taxation. Each condominium unit and its percentage of undivided
16 interest in the common areas and facilities shall be deemed to be a parcel and shall be
17 separately assessed and taxed by each assessing unit and special district for all types of taxes
18 authorized by law including but not limited to special ad valorem levies and special
19 assessments. Each unit holder shall be liable solely for the amount of taxes against his
20 individual unit and shall not be affected by the consequences resulting from the tax delinquency
21 of other unit holders. Neither the building, the property nor any of the common areas and
22 facilities shall be deemed to be a parcel.

23 **Sec. 22.** Priority of Liens.

24 (a) Any sum assessed by the Association of Unit Owners for the share of the
25 common expenses chargeable to any unit, and remaining unpaid for a period of thirty (30) days
26 or longer, shall constitute a lien on such unit when filed of record in the office of the Clerk of
27 Superior Court of the county in which the property is located in the manner provided therefor
28 by Article 8 of Chapter 44 of the General Statutes. Upon the same being duly filed, such lien
29 shall be prior to all other liens except the following:

- 30 (1) Assessments, liens and charges for real estate taxes due and unpaid on the
31 unit;
32 (2) All sums unpaid on deeds of trust, mortgages and other incumbrances duly
33 of record against the unit prior to the docketing of the aforesaid lien.
34 (3) Materialmen's and mechanics' liens.

35 (b) Provided the same is duly filed in accordance with the provisions contained
36 in subsection (a) of this Section, a lien created by non-payment of a unit owner's pro rata share
37 of the common expenses may be foreclosed by suit by the Manager or Board of Directors,
38 acting on behalf of the unit owners, in like manner as a deed of trust or mortgage of real
39 property. In any such foreclosure the unit owner shall be required to pay a reasonable rental for
40 the unit, if so provided in the By-Laws, and the plaintiff in such foreclosure shall be entitled to
41 the appointment of a receiver to collect the same. The Manager or Board of Directors, acting on
42 behalf of the unit owners shall have power, unless prohibited by the Declaration, to bid in the
43 unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. A suit to
44 recover a money judgment for unpaid common expenses shall be maintainable without
45 foreclosing or waiving the lien securing the same.

46 (c) Where the mortgagee of a first mortgage of record or other purchaser of a
47 unit obtains title to the unit as a result of foreclosure of the first mortgage, such purchaser, his
48 successors and assigns, shall not be liable for the share of the common expenses or assessments
49 by the Association of Unit Owners chargeable to such unit which became due prior to the
50 acquisition of title to such unit by such purchaser. Such unpaid share of common expenses or

1 assessments shall be deemed to be common expenses collectible from all of the unit owners
2 including such purchaser, his successors and assigns.

3 **Sec. 23.** Joint and Several Liability of Grantor and Grantee for Unpaid Common
4 Expenses. The grantee of a unit shall be jointly and severally liable with the grantor for all
5 unpaid assessments against the latter for his proportionate share of the common expenses up to
6 the time of the grant or conveyance, without prejudice to the grantee's right to recover from the
7 grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to
8 a statement from the Manager or Board of Directors, as the case may be, setting forth the
9 amount of the unpaid assessments against the grantor and such grantee shall not be liable for,
10 nor shall the unit conveyed be subject to a lien for, any unpaid assessments in excess of the
11 amount therein set forth.

12 **Sec. 24.** Insuring Building Against Risks; Individual Right of Unit Owners. The
13 Manager of the Board of Directors, or other managing body, if required by the Declaration, By-
14 Laws or by a majority of the unit owners, shall have the authority to, and shall, obtain insurance
15 for the property against loss or damage by fire and such other hazards under such terms and for
16 such amounts as shall be required Or requested. Such insurance coverage shall be written on
17 the property in the name of such Manager or of the Board of Directors of the Association of
18 Unit Owners, as trustee for each of the unit owners in the percentages established in the
19 Declaration. The trustee so named shall have the authority on behalf of the unit owners to deal
20 with the insurer in the settlement of claims.

21 The premiums for such insurance on the building shall be deemed common expenses.
22 Provision for such insurance shall be without prejudice to the right of each unit owner to insure
23 his own unit for his benefit.

24 **Sec. 25.** Repair and Reconstruction: Disposition of Property in the Event of
25 Destruction or Damage. Except as hereinafter provided, damage to or destruction of the
26 building shall be promptly repaired and restored by the Manager or Board of Directors, or other
27 managing body, using the proceeds of insurance on the building for that purpose, and unit
28 owners shall be liable for assessment for any deficiency; provided, however, if the building
29 shall be more than two-thirds (2/3rds) destroyed by fire or other disaster and the owners of
30 three-fourths (3/4ths) of the building duly resolve not to proceed with repair or restoration, then
31 and in that event:

32 (a) The property shall be deemed to be owned as tenants in common by the unit
33 owners;

34 (b) The undivided interest in the property owned by the unit owners as tenants
35 in common which shall appertain to each unit owner shall be the percentage of undivided
36 interest previously owned by such owner in the common areas and facilities;

37 (c) Any liens affecting any of the units shall be deemed to be transferred in
38 accordance with the existing priorities to the percentage of the undivided interest of the unit
39 owner in the property as provided herein; and

40 (d) The property shall be subject to art action for sale for partition at the suit of
41 any unit owner, in which event the net proceeds of sale, together with the net proceeds of
42 insurance policies, if any, shall be considered as one fund and shall be divided among all the
43 unit owners in proportion to their respective undivided ownership of the common areas and
44 facilities, after first paying off, out of the respective shares of unit owners, to the extent
45 sufficient for that purpose, all liens on the unit of each unit owner.

46 **Sec. 26.** Actions. Without limiting the rights of any unit owner, actions may be
47 brought by the Manager or Board of Directors, in either case in the discretion of the Board of
48 Directors, on behalf of two or more of the unit owners, as their respective interests may appear,
49 with respect to any course of action relating to the common areas and facilities or more than
50 one unit. Service of process on two or more unit owners in any action relating to the common
51 areas and facilities or more than one unit may be made on the person designated in the

1 Declaration to receive service of process. Any individual, corporation, partnership, association,
2 trustee, or other legal entity claiming damages for injuries without any participation by a unit
3 owner shall first exhaust all available remedies against the Association of Unit Owners prior to
4 proceeding against any unit owner individually.

5 **Sec. 27. Zoning.** Whenever they deem it proper, the Planning and Zoning
6 Commission or any county or municipality may adopt supplemental rules and regulations
7 governing a condominium project established under this Act in order to implement this
8 program.

9 **Sec. 28. Personal Application.**

10 (a) All unit owners, tenants of such owners, employees of owners and tenants,
11 or any other persons that may in any manner use the property or any part thereof submitted to
12 the provisions of this Act, shall be subject to this Act and to the Declaration and By-Laws of
13 the Association of Unit Owners adopted pursuant to the provisions of this Act.

14 (b) All agreements, decisions and determinations lawfully made by the
15 Association of Unit Owners in accordance with the voting percentages established in the Act,
16 Declaration or By-Laws, shall be deemed to be binding on all unit owners.

17 **Sec. 29. Severability.** If any provision of this Act or any Section, sentence, clause,
18 phrase or word, or the application thereof in any circumstance is held invalid, the validity of the
19 remainder of the Act and of the application of any such provision, Section, sentence, clause,
20 phrase or word in any other circumstances shall not be affected thereby.

21 **Sec. 30.** All laws and clauses of laws in conflict with this Act are hereby repealed.

22 **Sec. 31.** This Act shall be in full force and effect from and after its ratification.

23 In the General Assembly read three times and ratified, this the 5th day of June,
24 1963.