

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 55.1-1804 and 55.1-2310 of the Code of Virginia, relating to Property
2 Owners' Association Act; disclosure requirements; declarant control.

3 **Be it enacted by the General Assembly of Virginia:**

4 **1. That §§ 55.1-1804 and 55.1-2310 of the Code of Virginia are amended and reenacted as follows:**

5 **§ 55.1-1804. Documents to be provided by declarant upon transfer of control.**

6 A. Unless previously provided to the board of directors of the association, once the majority of the
7 members of the board of directors other than the declarant are owners of improved lots in the association
8 and the declarant no longer holds a majority of the votes in the association, the declarant shall provide to
9 the board of directors or its designated agent the following: (i) all association books and records held by
10 or controlled by the declarant, including minute books and rules and regulations and all amendments to
11 such rules and regulations that may have been promulgated; (ii) a statement of receipts and expenditures
12 from the date of the recording of the association documents to the end of the regular accounting period
13 immediately succeeding the first election of the board of directors by the lot owners, not to exceed 60 days
14 after the date of the election, such statement being prepared in an accurate and complete manner, utilizing
15 the accrual method of accounting; (iii) the number of lots subject to the declaration; (iv) the number of
16 lots that may be subject to the declaration upon completion of development; (v) a copy of the latest
17 available approved plans and specifications for all improvements in the project or as-built plans if
18 available; (vi) all association insurance policies that are currently in force; (vii) written unexpired
19 warranties of the contractors, subcontractors, suppliers, and manufacturers, if any, relative to all common
20 area improvements, including stormwater facilities; (viii) any contracts in which the association is a
21 contracting party; (ix) a list of manufacturers of paints, roofing materials, and other similar materials if
22 specified for use on the association property; (x) the number of members of the board of directors and
23 number of such directors appointed by the declarant together with names and contact information of
24 members of the board of directors; and (xi) an inventory and description of stormwater facilities located
25 on the common area or which otherwise serve the development and for which the association has, or

subsequently may have, maintenance, repair, or replacement responsibility, together with the requirements for maintenance thereof.

B. The requirement for delivery of stormwater facility information required by clause (xi) of subsection A shall be deemed satisfied by delivery to the association of a final site plan or final construction drawings showing stormwater facilities as approved by a local government jurisdiction and applicable recorded easements or agreements, if any, containing requirements for the maintenance, repair, or replacement of the stormwater facilities.

C. If the association is managed by a common interest community manager in which the declarant, or its principals, ~~has~~ have no pecuniary interest or management role, then such common interest community manager shall have the responsibility to provide the documents and information required by clauses (i), (ii), (vi), and (viii) of subsection A.

D. If the declarant has any unexpired right to control the conduct of association business, including the declarant's reserved right to appoint members of the board of directors, the declarant shall disclose such rights and the status of declarant control in any contract for the sale of any lot other than for development or resale.

§ 55.1-2310. Resale certificate; form and contents.

A. The association shall include ~~the a~~ completed resale certificate form, developed by the Common Interest Community Board pursuant to subdivision 3 of § 54.1-2350, with supporting documentation set out in the following order:

1. The name, address, and phone numbers of the preparer of the resale certificate and any managing agent of the association;
2. A copy of the governing documents and any rules and regulations of the association;
3. A statement disclosing any restraint on the alienability of the unit for which the resale certificate is being issued;
4. A statement of the amount and payment schedules of assessments and any unpaid assessments currently due and payable to the association;
5. A statement of any other fees due and payable by an owner of the unit;

6. A statement of any other entity or facility to which the owner of the unit being sold may be liable for assessments, fees, or other charges due to the ownership of the unit;

7. A statement of the amount and payment schedule of any approved additional or special assessment and any unpaid additional or special assessment currently due and payable;

8. A statement of any capital expenditures approved by the association for the current and succeeding fiscal years;

9. A statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects;

10. The most recent balance sheet and income and expense statement, if any, of the association;

11. The current operating budget of the association;

12. The current reserve study or a summary of such study;

13. A statement of any unsatisfied judgments against the association and the nature and status of any pending actions in which the association is a party and that could have a material impact on the association, the owners, or the unit being sold;

14. A statement (i) describing any insurance coverage provided by the association for the benefit of the owners, including fidelity coverage, and any insurance coverage recommended or required to be obtained by the owners and (ii) indicating that the governing documents may make an owner responsible for payment of all or part of the deductible when making a claim against such insurance;

15. A statement as to whether the board has given or received written notice that any existing uses, occupancies, alterations, or improvements in or to the unit being sold or to the limited elements assigned thereto violate any provision of the governing documents or rules and regulations together with copies of any notices provided;

16. A statement as to whether the board has received written notice from a governmental agency of any violation of environmental, health, or building codes with respect to the unit being sold, the limited elements assigned thereto, or any other portion of the common interest community that has not been cured;

17. A copy of any approved minutes of meetings of the board held during the last six months;

18. A copy of any approved or draft minutes of the most recent association meeting;

19. A statement of the remaining term of any leasehold estate affecting a common area or common element, as those terms are defined in §§ 55.1-1800, 55.1-1900, and 55.1-2100, in the common interest community and the provisions governing any extension or renewal of such leasehold;

20. A statement of any limitation in the governing documents on the number or age of persons who may occupy a unit as a dwelling;

21. A statement setting forth any restriction, limitation, or prohibition on the right of an owner to display the flag of the United States, including reasonable restrictions as to the size, time, place, and manner of placement or display of such flag;

22. A statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on the owner's unit or limited element;

23. A statement setting forth any restriction, limitation, or prohibition on the size, placement, or duration of display of political, for sale, or any other signs on the property;

24. A statement identifying any parking or vehicle restriction, limitation, or prohibition in the governing documents or rules and regulations;

25. A statement setting forth any restriction, limitation, or prohibition on the operation of a home-based business that otherwise complies with all applicable local ordinances;

26. A statement setting forth any restriction, limitation, or prohibition on an owner's ability to rent the unit;

27. In a cooperative, a statement setting forth whether the cooperative association is aware of any statute, regulation, or rule applicable to the cooperative that would affect an owner's ability to deduct real estate taxes and interest paid by the cooperative association for federal income tax purposes;

28. A statement describing any pending sale or encumbrance of common elements;

29. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies; ~~and~~

30. A statement describing any unexpired right of the declarant to control the conduct of association business, including the declarant's reserved right to appoint members of the board of directors; and

~~30-31.~~ Certification that the association has filed with the Common Interest Community Board the annual report required by law, which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing.

110 B. No association shall require the purchaser's name to be set out on the completed resale certificate

111 prepared pursuant to the provisions of this chapter.

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