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PREFACE
The 2019 Homeowners’ and Condominium Association Legislative Update includes an overview of the legislative amendments from the 2019 Virginia General Assembly Legislative Session. The guide is designed to be an interactive document connecting the public with the Code of Virginia.

The Consumer Affairs Branch monitors the regulatory process and incorporates information about amended regulations into subsequent editions of the Fairfax County Homeowners’ and Condominium Association Legislative Update. These updates are informational only, and should not be used or relied upon in place of the actual text of the relevant legislation. In addition, homeowners’ and condominium association members should consult with private legal counsel regarding their specific legal rights and interests, and should in no way rely upon this informational guide for evaluating those specific legal rights and interests.

Please contact the Fairfax County Department of Cable and Consumer Services, Consumer Affairs office at 703-222-8435, TTY 711, for additional information or assistance.
2019 LEGISLATIVE UPDATES
The General Assembly meets each January and bills that pass both chambers become law once they are signed by the governor. The Titles, Chapters, and Sections of the Code of Virginia pertaining to the governance of common interest communities which were impacted by the activity of the 2019 Virginia General Assembly session, are included. This revision acknowledges the October 1, 2019 recodification of Property and Conveyances from Title 55 to Title 55.1 and the new chapter and provision numbers. The Code of Virginia, in its entirety, can be viewed online using the Virginia Legislative Information Service.

Title 54.1. Professions and Occupations - Chapter 23.3. Common Interest Communities

§ 54.1-2350. Annual report; form to accompany resale certificates and disclosure packets.
Provides that the owner of residential real property under the Virginia Residential Property Disclosure Act must include in the residential property disclosure statement provided to a potential purchaser of residential property, a statement that the owner makes no representations with respect to the existence or recordation of any maintenance agreement for any stormwater detention facilities on the property. In addition, the statement must advise the potential purchaser to take whatever due diligence steps they deem necessary to determine the presence of any such facilities or agreements, such as: 1) contacting the settlement provider, 2) consulting the locality in which the property is located, or 3) reviewing any survey of the property that may have been conducted. The bill also requires the Common Interest Community Board to include notice that annual assessments or special assessments paid by the owner to the association may be used for the construction or maintenance of stormwater management facilities. This notice is to be included in the form that accompanies association disclosure packets required to be provided to all prospective purchasers of lots located within a development that is subject to the Virginia Property Owners' Association Act and resale certificates provided to purchasers of units located in a condominium that is subject to the Condominium Act.

§ 54.1-2352. Cease and desist orders.
Authorizes the Common Interest Community Board to issue orders requiring governing boards and developers under the (i) Condominium Act (§ 55-79.39 et seq.), (ii) Virginia Real Estate Time-Share Act (§ 55-360 et seq.), and (iii) Virginia Real Estate Cooperative Act (§ 55-424 et seq.) to take affirmative action to correct certain conditions to come into compliance with relevant statutory requirements.

§ 54.1-2354.2. Common Interest Community Management Information Fund.
Eliminates annual assessments levied by the Common Interest Community Board (Board). The bill allows for the collection of application, renewal, and annual reporting fees set by the Board in accordance with a biennial assessment of the Common Interest Community Management Information Fund similar to the assessment required by the Callahan Act (§ 54.1-113), but at no
time shall such fee exceed $25 unless such fee is based on the number of units or lots in the association.

**Title 55.1. Property and Conveyances - Chapter 7. Virginia Residential Property Disclosure Act**

§ 55.1-703. Required disclosures for buyer to beware; buyer to exercise necessary due diligence.
Provides that the owner of residential real property under the Virginia Residential Property Disclosure Act must include in the residential property disclosure statement provided to a potential purchaser of residential property, a statement that the owner makes no representations with respect to the existence or recordation of any maintenance agreement for any stormwater detention facilities on the property. In addition, the statement must advise the potential purchaser to take whatever due diligence steps they deem necessary to determine the presence of any such facilities or agreements, such as: 1) contacting the settlement provider, 2) consulting the locality in which the property is located, or 3) reviewing any survey of the property that may have been conducted. The bill also requires the Common Interest Community Board to include notice that regular, annual assessments or special assessments paid by the owner to the association may be used for the construction or maintenance of stormwater management facilities. This notice is to be included in the form that accompanies association disclosure packets required to be provided to all prospective purchasers of lots located within a development that is subject to the Virginia Property Owners' Association Act and resale certificates provided to purchasers of units located in a condominium that is subject to the Condominium Act.

**Title 55.1. Property and Conveyances - Chapter 18. Property Owners’ Association Act**

§ 55.1-1804. Documents to be provided by declarant upon transfer of control.
Requires a declarant, in the case of a property-owners' association, to deliver to the Board of Directors or designee, an inventory and description of stormwater facilities located on the premises. The bill requires the delivery of final site plans and applicable recorded easements and agreements regarding the inventory and description of stormwater management facilities located on common elements of a property owners' association property so that such association is aware of the requirements for the maintenance, repair, or replacement of the stormwater facilities.

§ 55.1-1808. Contract disclosure statement; right of cancellation.
Provides that a purchaser of a lot subject to the Property Owners' Association Act who receives an association disclosure packet that is not in conformity with law may cancel the contract for such lot (i) within three days after the date of the contract if the disclosure packet is received on or before the date that the purchaser signs the contract; (ii) within three days of receiving the disclosure packet if the disclosure packet is hand delivered, delivered by electronic means,
or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained; or (iii) within six days after the postmark date if the disclosure packet is sent to the purchaser by United States mail.

§ 55.1-1810. Fees for disclosure packet; professionally managed associations. Eliminates annual assessments levied by the Common Interest Community Board. The bill allows for the collection of application, renewal, and annual reporting fees set by the Board in accordance with a biennial assessment of the Common Interest Community Management Information Fund similar to the assessment required by the Callahan Act (§ 54.1-113), but at no time shall such fee exceed $25 unless such fee is based on the number of units or lots in the association.

§ 55.1-1811. Fees for disclosure packets; associations not professionally managed. Eliminates annual assessments levied by the Common Interest Community Board. The bill allows for the collection of application, renewal, and annual reporting fees set by the Board in accordance with a biennial assessment of the Common Interest Community Management Information Fund similar to the assessment required by the Callahan Act (§ 54.1-113), but at no time shall such fee exceed $25 unless such fee is based on the number of units or lots in the association.

§ 55.1-1815. Access to association records; association meetings; notice. Allows members of property owners’ associations to elect to receive notice of meetings of the association by email in lieu of the current requirement that such notice be sent by United States mail or hand delivered, provided that in the event that such electronic mail is returned as undeliverable, notice is subsequently sent by United States mail.

§ 55.1-1821. Home-based businesses permitted; compliance with local ordinances. Provides that if a development is located in a locality classifying home-based child care services as an accessory or ancillary residential use under the locality's zoning ordinance, the provision of home-based child care services in a personal residence shall be deemed a residential use unless (i) expressly prohibited or restricted by the declaration or (ii) restricted by the association's bylaws or rules.

§ 55.1-1826. Annual budget; reserves for capital components. Requires common interest communities under the Condominium Act to make available to members either the common interest community's annual budget or a summary of the annual budget prior to the beginning of each fiscal year. The bill requires that the five-year cash reserve study required under the Act include a statement that outlines the amount of the reserves recommended in such study as well as the amount of current cash available for replacement of the reserves. The bill also requires the Common Interest Community Board to prepare guidelines for the development of reserve studies for capital components.
§ 55.1-1835. Annual report by association.
Eliminates annual assessments levied by the Common Interest Community Board. The bill allows for the collection of application, renewal, and annual reporting fees set by the Board in accordance with a biennial assessment of the Common Interest Community Management Information Fund similar to the assessment required by the Callahan Act (§ 54.1-113), but at no time shall such fee exceed $25 unless such fee is based on the number of units or lots in the association.

Title 55.1. Property and Conveyances - Chapter 19. Condominium Act

§ 55.1-1943. Control of condominium by declarant.
Requires a declarant to deliver to the president of the unit owners' association or designated agent, an inventory and description of stormwater facilities located on the premises. The bill requires the delivery of final site plans and applicable recorded easements and agreements regarding the inventory and description of stormwater management facilities located on common elements of a condominium so that such association is aware of the requirements for the maintenance, repair, or replacement of the stormwater facilities.

§ 55.1-1953. Meetings of unit owners' associations and executive organ; voting by unit owners; proxies.
Provides that any proxy shall be void if not signed by, or on behalf of, the unit owner. The bill also provides that if the unit owner is more than one person, any such unit owner may object to the proxy at, or prior, to a meeting of the unit owners' association, whereupon the proxy shall be deemed revoked.

§ 55.1-1965. Reserves for capital components.
Requires common interest communities under the Condominium Act to make available to members either the common interest community's annual budget or a summary of the annual budget prior to the beginning of each fiscal year. The bill requires that the five-year cash reserve study required under the Act include a statement that outlines the amount of the reserves recommended in such study as well as the amount of current cash available for replacement of the reserves. The bill also requires the Common Interest Community Board to prepare guidelines for the development of reserve studies for capital components.

Eliminates annual assessments levied by the Common Interest Community Board. The bill allows for the collection of application, renewal, and annual reporting fees set by the Board in accordance with a biennial assessment of the Common Interest Community Management Information Fund similar to the assessment required by the Callahan Act (§ 54.1-113), but at no time shall such fee exceed $25 unless such fee is based on the number of units or lots in the association.
Authorizes the Common Interest Community Board to issue orders requiring governing boards and developers under the (i) Condominium Act (§ 55-79.39 et seq.), (ii) Virginia Real Estate Time-Share Act (§ 55-360 et seq.), and (iii) Virginia Real Estate Cooperative Act (§ 55-424 et seq.) to take affirmative action to correct certain conditions to come into compliance with relevant statutory requirements. Currently the Board is limited to temporary and permanent cease and desist orders.

§ 55.1-1990. Resale by purchaser; resale certificate; use of for sale sign in connection with resale; designation of authorized representative.
Provides that a purchaser of a unit subject to the Condominium Act who receives a condominium resale certificate that is not in conformity with law may cancel the contract for such unit (i) within three days after the date of the contract if the resale certificate is received on or before the date that the purchaser signs the contract; (ii) within three days of receiving the resale certificate if the resale certificate is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained; or (iii) within six days after the postmark date if the resale certificate is sent to the purchaser by United States mail.
To request this information in an alternate format, call the Department of Cable and Consumer Services, 703-222-8435 TTY 711.