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HOUSE BILL NO. 607

House Amendments in [] — February 12, 2000

A BILL to amend and reenact § 55-79.74:1 of the Code of Virginia, relating to the Condominium Act; access to association records.

Patron—Callahan

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 55-79.74:1 of the Code of Virginia is amended and reenacted as follows:

§ 55-79.74:1. Books, minutes and records; inspection.

A. The declarant, the managing agent, the unit owners' association, or the person specified in the bylaws of the association shall keep detailed records of the receipts and expenditures affecting the operation and administration of the condominium and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or on behalf of the association. Subject to the provisions of subsections B, C and D, upon request, any unit owner shall be provided a copy of such records and minutes. All financial books and records shall be kept in accordance with generally accepted accounting practices.

B. Subject to the provisions of subsection C, all books and records kept by or on behalf of the unit owners' association, including, but not limited to, the unit owners' association membership list, addresses and aggregate salary information of unit owners' association employees, shall be available for examination and copying by a unit owner in good standing or his authorized agent so long as the request is for a proper purpose related to his membership in the unit owners' association, and not for pecuniary gain or commercial solicitation. This right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five days' written notice reasonably identifying the purpose for the request and the specific books and records of the unit owners' association requested.

C. Books and records kept by or on behalf of a unit owners' association may be withheld from examination or copying by unit owners and contract purchasers to the extent that they are drafts not yet incorporated into the unit owners' association's books and records or if such books and records concern:

- 1. Personnel matters or a person's medical records;
- 2. Communications with legal counsel or attorney work product;
- 3. Transactions currently in or under negotiation;
- 4. Pending or probable litigation;
- 5. Matters involving administrative or other formal proceedings for enforcement of the condominium instruments or rules and regulations promulgated pursuant thereto;
- 6. Disclosure of information in violation of law;
- 7. Meeting minutes or other records of an executive session of the executive organ held pursuant to subsection B of § 55-79.75; [~~or~~

8. Documentation, correspondence or management or executive organ reports compiled for or on behalf of the unit owners' association or the executive organ by its agents or committees for consideration by the executive organ *in executive session*; or

9.] Individual unit owner or member files, other than those of the requesting unit owner, including any individual unit owner's files kept by or on behalf of the unit owners' association.

D. The unit owners' association may impose and collect a charge, reflecting the actual costs of materials and labor, prior to providing copies of any books and records.

[2. That the Virginia Housing Study Commission shall review the operation of property owners' associations covered by the Property Owners' Association Act (§ 55-508 et seq.) and whether the Real Estate Board should be charged with the investigation and resolution of alleged violations of state law involving such associations. In conducting its review, the Commission shall consider the authority possessed by the Real Estate Board to conduct investigations and to take enforcement action under the Condominium Act (§ 55-79.39 et seq.). The Commission shall complete its work in time to submit its findings and report to the 2001 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.]

ENGROSSED

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