

022982500

SENATE BILL NO. 523

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws
on January 30, 2002)

(Patron Prior to Substitute—Senator Mims)

A BILL to amend and reenact §§ 55-79.41, 55-79.97, 55-509 and 55-512 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 55-79.83:1 and 55-514.1, relating to the Condominium and Property Owners' Association Acts; reserves for common areas.

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-79.41, 55-79.97, 55-509 and 55-512 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 55-79.83:1 and 55-514.1 as follows:

§ 55-79.41. Definitions.

When used in this chapter:

"Capital components" means those items, whether or not a part of the common area, for which the unit owners' association has the obligation for repair, replacement or restoration and for which the executive organ determines funding is necessary.

"Common elements" means all portions of the condominium other than the units.

"Common expenses" means all expenditures lawfully made or incurred by or on behalf of the unit owners' association, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the condominium instruments.

"Condominium" means real property, and any incidents thereto or interests therein, lawfully submitted to this chapter by the recordation of condominium instruments pursuant to the provisions of this chapter. No project shall be deemed a condominium within the meaning of this chapter unless the undivided interests in the common elements are vested in the unit owners.

"Condominium instruments" is a collective term referring to the declaration, bylaws, and plats and plans, recorded pursuant to the provisions of this chapter. Any exhibit, schedule, or certification accompanying a condominium instrument and recorded simultaneously therewith shall be deemed an integral part of that condominium instrument. Any amendment or certification of any condominium instrument shall, from the time of the recordation of such amendment or certification, be deemed an integral part of the affected condominium instrument, so long as such amendment or certification was made in accordance with the provisions of this chapter.

"Condominium unit" means a unit together with the undivided interest in the common elements appertaining to that unit. (Cf. the definition of "unit," *infra*.)

"Contractable condominium" means a condominium from which one or more portions of the submitted land may be withdrawn in accordance with the provisions of the declaration and of this chapter. If such withdrawal can occur only by the expiration or termination of one or more leases, then the condominium shall not be deemed a contractable condominium within the meaning of this chapter.

"Conversion condominium" means a condominium containing structures which before the recording of the declaration, were wholly or partially occupied by persons other than those who have contracted for the purchase of condominium units and those who occupy with the consent of such purchasers.

"Convertible land" means a building site; that is to say, a portion of the common elements, within which additional units and/or limited common elements may be created in accordance with the provisions of this chapter.

"Convertible space" means a portion of a structure within the condominium, which portion may be converted into one or more units and/or common elements, including but not limited to limited common elements in accordance with the provisions of this chapter. (Cf. the definition of "unit," *infra*.)

"Declarant" means any person, or group of persons acting in concert, that (i) offers to dispose of his or its interest in a condominium unit not previously disposed of, including an institutional lender which may not have succeeded to or accepted any special declarant rights pursuant to § 55-79.74:3; (ii) reserves or succeeds to any special declarant right; or (iii) applies for registration of the condominium. However, for the purposes of clauses (i) and (iii), the term "declarant" shall not include an institutional lender which acquires title by foreclosure or deed in lieu thereof unless such lender offers to dispose of its interest in a condominium unit not previously disposed of to anyone not in the business of selling real estate for his own account, except as otherwise provided in § 55-79.74:3. The term "declarant" shall not include an individual who acquires title to a condominium unit at a foreclosure sale.

"Dispose" or "disposition" refers to any voluntary transfer of a legal or equitable interest in a condominium unit to a purchaser, but shall not include the transfer or release of security for a debt.

"Executive organ" means an executive and administrative entity, by whatever name denominated,

60 designated in the condominium instruments as the governing body of the unit owners' association.

61 "Expandable condominium" means a condominium to which additional land may be added in
62 accordance with the provisions of the declaration and of this chapter.

63 "Future common expenses" means common expenses for which assessments are not yet due and
64 payable.

65 "Identifying number" means one or more letters and/or numbers that identify only one unit in the
66 condominium.

67 "Institutional lender" means one or more commercial or savings banks, savings and loan associations,
68 trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or
69 business trusts including but not limited to real estate investment trusts, any other lender regularly
70 engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans
71 made by such a lender, or any combination of any of the foregoing entities.

72 "Land" is a three-dimensional concept and includes parcels with upper or lower boundaries, or both
73 upper and lower boundaries, as well as parcels extending ab solo usque ad coelum. Parcels of airspace
74 constitute land within the meaning of this chapter. Any requirement in this chapter of a legally sufficient
75 description shall be deemed to include a requirement that the upper or lower boundaries, if any, of the
76 parcel in question be identified with reference to established datum.

77 "Leasehold condominium" means a condominium in all or any portion of which each unit owner
78 owns an estate for years in his unit, or in the land within which that unit is situated, or both, with all
79 such leasehold interests due to expire naturally at the same time. A condominium including leased land,
80 or an interest therein, within which no units are situated or to be situated shall not be deemed a
81 leasehold condominium within the meaning of this chapter.

82 "Limited common element" means a portion of the common elements reserved for the exclusive use
83 of those entitled to the use of one or more, but less than all, of the units.

84 "Meeting" or "meetings" means the formal gathering of the executive organ where the business of the
85 unit owners' association is discussed or transacted.

86 "Nonbinding reservation agreement" means an agreement between the declarant and a prospective
87 purchaser which is in no way binding on the prospective purchaser and which may be canceled without
88 penalty at the sole discretion of the prospective purchaser by written notice, hand-delivered or sent by
89 United States mail, return receipt requested, to the declarant or to any sales agent of the declarant at any
90 time prior to the formation of a contract for the sale or lease of a condominium unit or an interest
91 therein. Such agreement shall not contain any provision for waiver or any other provision in derogation
92 of the rights of the prospective purchaser as contemplated by this subsection, nor shall any such
93 provision be a part of any ancillary agreement.

94 "Offer" means any inducement, solicitation, or attempt to encourage any person or persons to acquire
95 any legal or equitable interest in a condominium unit, except as security for a debt. Nothing shall be
96 considered an "offer" which expressly states that the condominium has not been registered with the Real
97 Estate Board and that no unit in the condominium can or will be offered for sale until such time as the
98 condominium has been so registered.

99 "Officer" means any member of the executive organ or official of the unit owners' association.

100 "Par value" means a number of dollars or points assigned to each unit by the declaration.
101 Substantially identical units shall be assigned the same par value, but units located at substantially
102 different heights above the ground, or having substantially different views, or having substantially
103 different amenities or other characteristics that might result in differences in market value, may, but need
104 not, be considered substantially identical within the meaning of this subsection. If par value is stated in
105 terms of dollars, that statement shall not be deemed to reflect or control the sales price or fair market
106 value of any unit, and no opinion, appraisal, or fair market transaction at a different figure shall affect
107 the par value of any unit, or any undivided interest in the common elements, voting rights in the unit
108 owners' association or liability for common expenses assigned on the basis thereof.

109 "Person" means a natural person, corporation, partnership, association, trust, or other entity capable of
110 holding title to real property, or any combination thereof.

111 "Purchaser" means any person or persons, other than a declarant, who acquire by means of a
112 voluntary transfer a legal or equitable interest in a condominium unit, other than (i) a leasehold interest,
113 including renewal options, of less than twenty years or (ii) as security for a debt.

114 "Size" means the number of cubic feet, or the number of square feet of ground and/or floor space,
115 within each unit as computed by reference to the plat and plans and rounded off to a whole number.
116 Certain spaces within the units including, without limitation, attic, basement, and/or garage space may,
117 but need not, be omitted from such calculation or partially discounted by the use of a ratio, so long as
118 the same basis of calculation is employed for all units in the condominium, and so long as that basis is
119 described in the declaration.

120 "Special declarant rights" means any right reserved for the benefit of a declarant, or of a person or
121 group of persons that becomes a declarant, to (i) expand an expandable condominium, (ii) contract a

contractable condominium, (iii) convert convertible land or convertible space or both, (iv) appoint or remove any officers of the unit owners' association or the executive organ pursuant to subsection A of § 55-79.74, (v) exercise any power or responsibility otherwise assigned by any condominium instrument or by this chapter to the unit owners' association, any officer or the executive organ, or (vi) maintain sales offices, management offices, model units and signs pursuant to § 55-79.66.

"Unit" means a portion of the condominium designed and intended for individual ownership and use. (Cf. the definition of "condominium unit," supra.) For the purposes of this chapter, a convertible space shall be treated as a unit in accordance with subsection (d) of § 55-79.62.

"Unit owner" means one or more persons who own a condominium unit, or, in the case of a leasehold condominium, whose leasehold interest or interests in the condominium extend for the entire balance of the unexpired term or terms. This term shall not include any person or persons holding an interest in a condominium unit solely as security for a debt.

§ 55-79.83:1. *Reserves for capital components.*

A. Except to the extent otherwise provided in the condominium instruments and unless the condominium instruments impose more stringent requirements, the executive organ shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace and restore the capital components;

2. Review the results of that study at least annually to determine if reserves are sufficient; and

3. Make any adjustments the executive organ deems necessary to maintain reserves, as appropriate.

B. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the unit owners' association budget shall include, without limitations:

1. The current estimated replacement cost, estimated remaining life and estimated useful life of the capital components;

2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year; and

3. A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to this section and the extent to which the unit owners' association is funding its reserve obligations consistent with the study currently in effect.

§ 55-79.97. *Resale by purchaser.*

A. In the event of any resale of a condominium unit by a unit owner other than the declarant, and subject to the provisions of subsection J and § 55-79.87 A, the unit owner shall disclose in the contract that (i) the unit is located within a development which is subject to the Condominium Act, (ii) the Act requires the seller to obtain from the unit owners' association a resale certificate and provide it to the purchaser, (iii) the purchaser may cancel the contract within three days after receiving the resale certificate, (iv) the purchaser has a right to request an update of the resale certificate in accordance with subsection D, and (v) the right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement.

B. If the contract does not contain the disclosure required by subsection A, the purchaser's sole remedy is to cancel the contract prior to settlement.

C. The information contained in the resale certificate shall be current as of a date specified on the resale certificate. The purchaser may cancel the contract (i) within three days after the date of the contract, if the purchaser receives the resale certificate on or before the date that the purchaser signs the contract; (ii) within three days after receiving the resale certificate if the resale certificate is hand delivered; or (iii) within six days after the postmark date if the resale certificate is sent to the purchaser by United States mail. Notice of cancellation shall be hand delivered or sent by United States mail, return receipt requested, to the unit owner selling the unit. Such cancellation shall be without penalty, and the unit owner shall cause any deposit to be returned promptly to the purchaser.

A resale certificate shall include the following:

1. An appropriate statement pursuant to subsection H of § 55-79.84 which need not be notarized and, if applicable, an appropriate statement pursuant to § 55-79.85;

2. A statement of any expenditure of funds approved by the unit owners' association or the executive organ which shall require an assessment in addition to the regular assessment during the current or the immediately succeeding fiscal year;

3. A statement, including the amount, of all assessments and any other fees or charges currently imposed by the unit owners' association and associated with the purchase, disposition and maintenance of the condominium unit and the use of the common elements, and the status of the account;

4. A statement whether there is any other entity or facility to which the unit owner may be liable for fees or other charges;

5. A ~~The~~ current reserve study report or a summary thereof, a statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the

183 executive organ;

184 6. A copy of the unit owners' association's current budget or a summary thereof prepared by the unit
185 owners' association and a copy of the statement of its financial condition for the last fiscal year for
186 which a statement is available;

187 7. A statement of the nature and status of any pending suits or unpaid judgments to which the unit
188 owners' association is a party which either could or would have a material impact on the association or
189 the unit owners or which relates to the unit being purchased;

190 8. A statement setting forth what insurance coverage is provided for all unit owners by the unit
191 owners' association, including any fidelity bond maintained by the unit owners' association, and what
192 additional insurance coverage would normally be secured by each individual unit owner;

193 9. A statement that any improvements or alterations made to the unit, or the limited common
194 elements assigned thereto, by the prior unit owner are not in violation of the condominium instruments;

195 10. A copy of the current bylaws, rules and regulations and architectural guidelines adopted by the
196 unit owners' association and the amendments thereto;

197 11. A statement of whether the condominium or any portion thereof is located within a development
198 subject to the Property Owners' Association Act (§ 55-508 et seq.) of Chapter 26 of this title;

199 12. A copy of the notice given to the unit owner by the unit owners' association of any current or
200 pending rule or architectural violation;

201 13. Certification, if applicable, that the association has filed with the Real Estate Board the annual
202 report required by § 55-516.1; which certification shall indicate the filing number assigned by the Real
203 Estate Board and the expiration date of such filing; and

204 14. A statement of any limitation on the number of persons who may occupy a unit as a dwelling.

205 Failure to receive copies of such documents shall not excuse any failure to comply with the
206 provisions thereof.

207 The resale certificate, once received by the owner from the unit owners' association, shall be
208 delivered by the owner to the purchaser. The unit owners' association shall have no obligation to deliver
209 the resale certificate to the purchaser of the unit. The resale certificate shall not, in and of itself, be
210 deemed a security within the meaning of § 13.1-501.

211 D. The purchaser may submit a copy of the contract to the unit owners' association with a request
212 for assurance that statements previously furnished pursuant to subsection C remain materially unchanged,
213 or, if there have been material changes, a statement specifying such changes. The purchaser shall be
214 provided with such assurances or such statement within ten days of the receipt of such request by the
215 unit owners' association. The purchaser may be required to pay the same fee charged a unit owner for
216 the resale certificate, if any. Any fee shall reflect the actual cost incurred by the unit owners' association
217 in providing the assurances, but shall not exceed ten cents per page in copying costs or a total of fifty
218 dollars for all costs incurred in updating the resale certificate.

219 E. In the absence of a written agreement to the contrary, the failure of the unit owners' association to
220 provide the statement required by subsection D or the disclosure by such statement that there have been
221 one or more material changes shall render the purchase contract void at the option of the purchaser.

222 F. The unit owners' association shall furnish the resale certificate upon the written request of any unit
223 owner within fourteen days of the receipt of such request. Payment of the actual costs of preparing the
224 resale certificate may be required of the unit owner requesting it as a prerequisite to its issuance, but the
225 total fee shall not exceed ten cents per page in copying costs or a total of \$100, including and not in
226 addition to, any fee charged pursuant to subsection H of § 55-79.84 and § 55-79.85, for all costs
227 incurred in preparing the resale certificate.

228 G. When a resale certificate has been issued as required by this section, the unit owners' association
229 shall, as to the purchaser, be bound by the statements set forth therein as to the status of the assessment
230 account and the status of the unit with respect to any violation of the condominium instruments as of
231 the date of the resale certificate unless the purchaser had actual knowledge that the contents of the resale
232 certificate were in error.

233 H. If the unit owners' association has been requested to furnish the resale certificate required by this
234 section and has been paid the appropriate fee, its failure to provide the resale certificate in substantially
235 the form provided herein within fourteen days from the actual receipt of the request by an officer,
236 director or agent of the unit owners' association shall be deemed a waiver of any claim for delinquent
237 assessments or of any violation of the condominium instruments, rules and regulations, or architectural
238 guidelines existing as of the date of the request with respect to the subject unit. The unit owners'
239 association shall be liable to the seller in an amount equal to the actual damages sustained by the seller
240 in an amount not to exceed \$500. The purchaser shall nevertheless be obligated to abide by the
241 condominium instruments, rules and regulations, and architectural guidelines of the unit owners'
242 association as to all matters arising after the date of the settlement of the sale.

243 I. Subject to the provisions of § 55-79.87, but notwithstanding any other provisions of this chapter,
244 the provisions and requirements of this section shall apply to any such resale of a condominium unit

created under the provisions of the Horizontal Property Act (§ 55-79.1 et seq.).

J. The resale certificate required by this section need not be provided in the case of:

1. A disposition of a unit by gift;
2. A disposition of a unit pursuant to court order if the court so directs; or
3. A disposition of a unit by foreclosure or deed in lieu of foreclosure.

K. In any transaction in which a resale certificate is required and a trustee acts as the seller in the sale or resale of a unit, the trustee shall obtain the resale certificate from the unit owners' association and provide the resale certificate to the purchaser.

§ 55-509. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Act" means the Virginia Property Owners' Association Act.

"Association" means the property owners' association.

"Board of directors" means the executive body of a property owners' association, or a committee which is exercising the power of the executive body by resolution or bylaw.

"Capital components" means those items, whether or not a part of the common area, for which the association has the obligation for repair, replacement or restoration and for which the board of directors determines funding is necessary.

"Common area" means property within a development which is owned, leased or required by the declaration to be maintained or operated by a property owners' association for the use of its members and designated as common area in the declaration.

"Declarant" means the person or entity signing the declaration and its successors or assigns who may submit property to a declaration.

"Declaration" means any instrument, however denominated, recorded among the land records of the county or city in which the development or any part thereof is located, that either (i) imposes on the association maintenance or operational responsibilities for the common area in an amount in excess of \$150 per year per lot as a regular annual assessment or (ii) creates the authority in the association to impose on lots, or on the owners or occupants of such lots, or on any other entity any mandatory payment of money in an amount in excess of \$150 per year per lot as a regular annual assessment in connection with the provision of maintenance and/or services for the benefit of some or all of the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or supplement to the instruments described in this definition. "Declaration" shall not include a declaration of a condominium, real estate cooperative, time-share project or campground.

"Development" means real property located within this Commonwealth subject to a declaration which contains both lots, at least some of which are residential or are occupied for recreational purposes, and common areas with respect to which any person, by virtue of ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration.

"Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative if the condominium or cooperative is a part of a development.

"Meeting" or "meetings" means the formal gathering of the board of directors where the business of the association is discussed or transacted.

"Property owners' association" or "association" means an incorporated or unincorporated entity upon which responsibilities are imposed and to which authority is granted in the declaration.

§ 55-512. Contents of association disclosure packet; other requirements.

A. Subject to the provisions of subsections C and F, the association shall make available to an owner or his authorized agent within fourteen days after receipt of a written request therefor and receipt of the appropriate fee, an association disclosure packet, which, upon receipt, the seller shall deliver to the purchaser. The information contained in the association disclosure packet shall be current as of a date specified on the association disclosure packet. If hand delivered, the written request and fee are deemed received on the date of delivery. If sent by United States mail, the request and fee are deemed received six days after the postmark date. An association disclosure packet shall contain the following:

1. The name of the association and, if incorporated, the state in which the association is incorporated and the name and address of its registered agent in Virginia;

2. A statement of any expenditure of funds approved by the association or the board of directors which shall require an assessment in addition to the regular assessment during the current year or the immediately succeeding fiscal year;

3. A statement, including the amount of all assessments and any other mandatory fees or charges currently imposed by the association and associated with the purchase, disposition and maintenance of the lot and to the right of use of common areas, and the status of the account;

4. A statement whether there is any other entity or facility to which the lot owner may be liable for fees or other charges;

5. *A The current reserve study report or summary thereof*, a statement of the status and amount of any reserve or replacement fund and any portion of the fund allocated by the board of directors for a specified project;

6. A copy of the association's current budget or a summary thereof prepared by the association, and a copy of its statement of income and expenses or statement of its financial condition for the last fiscal year for which such statement is available;

7. A statement of the nature and status of any pending suit or unpaid judgment to which the association is a party which either could or would have a material impact on the association or its members or which relates to the lot being purchased;

8. A statement setting forth what insurance coverage is provided for all lot owners by the association, including any fidelity bond maintained by the association, and what additional insurance would normally be secured by each individual lot owner;

9. A statement that any improvement or alteration made to the lot, or uses made of the lot or common area assigned thereto by the prior lot owner, are not in violation of any of the instruments referred to in subdivision 12 of this subsection;

10. A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to place a sign on the owner's lot advertising the lot for sale;

11. A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to display any flag on the owner's lot including, but not limited to reasonable restrictions as to the size, place and manner of placement or display of such flag and the installation of any flagpole or similar structure necessary to display such flag;

12. A copy of the current declaration, the association's articles of incorporation and bylaws, and any rules and regulations or architectural guidelines adopted by the association;

13. A copy of the notice given to the lot owner by the association of any current or pending rule or architectural violation; and

14. Certification, if applicable, that the association has filed with the Real Estate Board the annual report required by § 55-516.1; which certification shall indicate the filing number assigned by the Real Estate Board and the expiration date of such filing.

Failure to receive copies of such documents shall not excuse any failure to comply with the provisions thereof.

The disclosure packet, once received by the seller from the association, shall be delivered by the seller to the purchaser. The association shall have no obligation to deliver the disclosure packet to the purchaser of the lot. The disclosure packet required by this section, shall not, in and of itself, be deemed a security within the meaning of § 13.1-501.

B. The purchaser may submit a copy of the contract to the association with a request for assurance that the information required by this section previously furnished remains materially unchanged, or, if there have been material changes, a statement specifying such changes. The purchaser shall be provided with such assurances or such statement within ten days of the receipt of such request by the association. The purchaser may be required to pay a fee for the preparation and issuance of the requested assurances. The fee shall reflect the actual cost incurred by the association in providing such assurances but shall not exceed ten cents per page of copying costs or a total of fifty dollars for all costs incurred in updating the association disclosure packet.

C. The association may charge a fee for the preparation and issuance of the disclosure packet required by this section. Any fee shall reflect the actual cost of the preparation of the packet, but shall not exceed ten cents per page of copying costs or a total of \$100 for all costs incurred in preparing the association disclosure packet.

D. When a disclosure packet has been issued as required by this section, the association shall, as to the purchaser, be bound by the statements set forth therein as to the status of the assessment account and the status of the lot with respect to any violation of any of the instruments referred to in subdivision 12 of subsection A as of the date of the statement unless the purchaser had actual knowledge that the contents of the disclosure packet were in error.

E. If the association has been requested to furnish the disclosure packet required by this section and has been paid the appropriate fee, its failure to provide the disclosure packet in substantially the form provided herein within fourteen days from the actual receipt of the request by an officer, director or agent of the association shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject lot. The association shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$500. The purchaser shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all matters arising after the date of the settlement of the

368 sale.

369 F. The contract disclosures required by § 55-511 and the disclosure packet required by this section
370 need not be provided in the case of:

- 371 1. A disposition of a lot by gift;
- 372 2. A disposition of a lot pursuant to court order if the court so directs;
- 373 3. A disposition of a lot by foreclosure or deed in lieu of foreclosure;
- 374 4. A disposition of a lot that is zoned for or otherwise restricted to nonresidential use; or
- 375 5. A disposition of a lot to a person or entity who is not acquiring the lot for his own residence or
376 for the construction thereon of a dwelling unit to be occupied as his own residence, unless requested by
377 such person or entity. If such disclosures are not requested, a statement in the contract of sale that the
378 purchaser is not acquiring the lot for such purpose shall be conclusive and may be relied upon by the
379 seller of the lot. The person or entity acquiring the lot shall nevertheless be obligated to abide by the
380 declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all
381 matters.

382 G. In any transaction in which a disclosure packet is required and a trustee acts as the seller in the
383 sale or resale of a lot, the trustee shall obtain the disclosure packet from the association and provide the
384 packet to the purchaser.

385 *§ 55-514.I. Reserves for capital components.*

386 A. *Except to the extent otherwise provided in the declaration and unless the declaration imposes*
387 *more stringent requirements, the board of directors shall:*

- 388 1. *Conduct at least once every five years a study to determine the necessity and amount of reserves*
389 *required to repair, replace and restore the capital components;*
- 390 2. *Review the results of that study at least annually to determine if reserves are sufficient; and*
- 391 3. *Make any adjustments the board of directors deems necessary to maintain reserves, as*
392 *appropriate.*

393 B. *To the extent that the reserve study conducted in accordance with this section indicates a need to*
394 *budget for reserves, the association budget shall include, without limitation:*

- 395 1. *The current estimated replacement cost, estimated remaining life and estimated useful life of the*
396 *capital components;*
- 397 2. *As of the beginning of the fiscal year for which the budget is prepared, the current amount of*
398 *accumulated cash reserves that are set aside, to repair, replace or restore capital components and the*
399 *amount of the expected contribution to the reserve fund for that year; and*
- 400 3. *A general statement describing the procedures used for the estimation and accumulation of cash*
401 *reserves pursuant to this section and the extent to which the association is funding its reserve*
402 *obligations consistent with the study currently in effect.*