

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 351

*An Act to amend and reenact § 55-428 of the Code of Virginia, relating to the Virginia Real Estate Cooperative Act; taxation.*

[H 1746]

Approved March 16, 2003

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

**1. That § 55-428 of the Code of Virginia is amended and reenacted as follows:**

§ 55-428. Property classification of cooperative interests; taxation.

A. A cooperative interest is real estate for all purposes. Unless waived by a proprietary lessee, a cooperative interest is subject to the provisions of §§ 34-1 through 34-34, regarding the homestead exemption.

B. Any portion of the common elements for which the declarant has reserved any development right must be separately taxed and assessed against the declarant, and the declarant alone is liable for the payment of those taxes.

C. When the highest and best use of any parcel improved by a multi-unit cooperative apartment complex is achieved by sale of the cooperative apartment units as individual units, the fair market value of the parcel shall be determined by aggregating the fair market value of all taxable real estate which is part of the parcel including, without limitation, each cooperative apartment unit and common elements. The fair market value of each such cooperative apartment unit shall be established by determining its fair market value for sale as an individual unit, determined in the same manner, mutatis mutandis, as the fair market value of condominium units. Tax bills shall be issued for each individual cooperative apartment unit.

No assessment of any parcel improved by a multi-unit cooperative apartment complex, whether the assessment was made before or after the adoption of this subsection, shall be held to be invalid because of the use of the method described in this subsection to determine the assessment.

D. Any duly authorized real estate assessor, board of assessors, or department of real estate assessments may require that all declarants, associations, master associations and proprietary lessees' associations in the county or city subject to local taxation furnish to such assessor, board or department on or before a time specified a statement listing all transfers of the cooperative apartment units over a specified period of time and a statement listing all owners and proprietary lessees of the cooperative apartment units as of a specified date. Each such statement shall be certified as to its accuracy by the declarant, association, master association or proprietary lessees' association for which the statement is furnished, or a duly authorized agent thereof. Any statement required by this subsection shall be kept confidential in accordance with the provisions of § 58.1-3.

E. Notwithstanding any other provision of law, the provisions of subsections C and D of this section shall apply to all cooperatives created in this Commonwealth, whether created before, on, or after July 1, 1982. However, subsections C and D shall not apply to any multi-unit cooperative apartment complex, the cooperative apartment units of which have been continually in use as such since December 31, 1967.

F. Any residential cooperative association, the members of which are owners of cooperative interests in a cooperative under this chapter, shall not be deemed to be a business for any state and local purposes, including, but not limited to, liability for payment of sales, meals, hotel, motel or gross receipts taxes and business licenses, to the extent that it collects payments from residents of the cooperative. *The provisions of this subsection are declaratory of existing law.*

G. Any tangible personal property owned by a residential cooperative association that would be considered household goods and personal effects if owned and used by an individual or by a family or household incident to maintaining an abode shall be considered household goods and personal effects owned and used by an individual or by a family or household incident to maintaining an abode for purposes of § 58.1-3504 and any local ordinance authorized thereby. *The provisions of this subsection are declaratory of existing law.*