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SENATE BILL NO. 1409

Senate Amendments in [] — January 29, 2007

A *BILL to amend and reenact § 55-513 of the Code of Virginia, relating to the Virginia Property Owners' Association; enforcement of rules; charges assessed for violations.*

Patron Prior to Engrossment—Senator Houck

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 55-513 of the Code of Virginia is amended and reenacted as follows:

§ 55-513. Adoption and enforcement of rules.

A. The board of directors of the association shall have the power to establish, adopt, and enforce rules and regulations with respect to use of the common areas and with respect to such other areas of responsibility assigned to the association by the declaration, except where expressly reserved by the declaration to the members. Rules and regulations may be adopted by resolution and shall be reasonably published or distributed throughout the development. A majority of votes cast, in person or by proxy, at a meeting convened in accordance with the provisions of the association's bylaws and called for that purpose, shall repeal or amend any rule or regulation adopted by the board of directors. Rules and regulations may be enforced by any method normally available to the owner of private property in Virginia, including, but not limited to, application for injunctive relief or damages, during which the court may award to the association court costs and reasonable attorneys' fees.

B. The board of directors of the association shall also have the power, to the extent the declaration or rules and regulations duly adopted pursuant thereto expressly so provide, to (i) suspend a member's right to use facilities or services, including utility services, provided directly through the association for nonpayment of assessments which are more than sixty days past due, to the extent that access to the lot through the common areas is not precluded *unless the board has, through a separate determination, suspended a lot owner's privilege to [~~use~~ operate a motor vehicle on the] roads owned by the association* and provided that such suspension shall not endanger the health, safety, or property of any owner, tenant, or occupant and (ii) assess charges against any member for any violation of the declaration or rules and regulations for which the member or his family members, tenants, guests, or other invitees are responsible.

1. Before any such charges or suspension may be imposed, the member shall be given an opportunity to be heard and to be represented by counsel before the board of directors or other tribunal specified in the documents. Notice of a hearing, including the charges or other sanctions that may be imposed, shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at the address of record with the association at least fourteen days prior to the hearing.

2. The amount of any charges so assessed shall not be limited to the expense or damage to the association caused by the violation, but shall not exceed ~~fifty dollars~~ \$50 for a single offense or ~~ten dollars~~ \$10 per day for any offense of a continuing nature and shall be treated as an assessment against the member's lot for the purposes of § 55-516. However, the total charges for any offense of a continuing nature shall not be assessed for a period exceeding ninety days. *In addition, if the association has contracted with a private security services business licensed under § 9.1-139 to enforce the traffic rules of the association, a charge [~~of not to exceed~~] \$250 per offense may be imposed for (i) exceeding the posted speed limit by 20 miles per hour or more, (ii) reckless driving, other than high speed, (iii) operating a motor vehicle without a valid operating permit, state registration, or valid state inspection, (iv) operating a motor vehicle on roads owned by the association after the privilege to [~~use~~ operate a motor vehicle on] such roads has been suspended, and (v) attempting to escape or elude security personnel after receiving a visible or audible signal to bring the motor vehicle to a stop. [Such charges shall be treated as an assessment against the members' lot or lots for the purposes of § 55-516.]*

3. After the date a lawsuit is filed challenging any such charges, no additional charges shall accrue. If the court rules in favor of the association, it shall be entitled to collect such charges from the date the action was filed as well as all other charges assessed pursuant to this section against the lot owner prior to the action.

4. The hearing result shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at the address of record with the association within seven days of the hearing.

ENGROSSED

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