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**SENATE BILL NO. 968**

Offered January 10, 2007

Prefiled January 9, 2007

*A BILL to amend and reenact § 55-79.94 of the Code of Virginia, relating to the Virginia Condominium Act.*

Patron—Whipple

Referred to Committee on General Laws and Technology

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

**1. That § 55-79.94 of the Code of Virginia is amended and reenacted as follows:**

§ 55-79.94. Conversion condominiums; special provisions.

A. Any declarant of a conversion condominium shall include in his public offering statement in addition to the requirements of § 55-79.90 the following:

1. A specific statement of the amount of any initial or special condominium fee due from the purchaser on or before settlement of the purchase contract and the basis of such fee;

2. Information on the actual expenditures made on all repairs, maintenance, operation or upkeep of the subject building or buildings within the last three years, set forth tabularly with the proposed budget of the condominium, and cumulatively broken down on a per unit basis in proportion to the relative voting strengths allocated to the units by the bylaws. If such building or buildings have not been occupied for a period of three years, then the information shall be set forth for the maximum period such building or buildings have been occupied;

3. A description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves, or, if no provision is made for such reserves, a statement to that effect;

4. A statement of the declarant as to the present condition of all structural components and major utility installations in the condominium, which statement shall include the approximate dates of construction, installation, and major repairs, and the expected useful life of each such item, together with the estimated cost (in current dollars) of replacing each of the same;

5. If any building included or that may be included in the condominium was substantially completed prior to July 1, 1978, a statement that each such building has been inspected for asbestos in accordance with standards in effect at the time of inspection; or that an asbestos inspection will be conducted; and whether asbestos requiring response actions has been found, and if found, that response actions have been or will be completed in accordance with applicable standards prior to the conveyance of any unit in such building. Any asbestos management program or response action undertaken by the building owner shall comply with the standards promulgated pursuant to § 2.2-1164.

B. In the case of a conversion condominium, the declarant shall give at the time specified in subsection C of this section, formal notice to each of the tenants of the building or buildings which the declarant has submitted or intends to submit to the provisions of this chapter. This notice shall advise each tenant of (i) the offering price of the unit he occupies, (ii) the projected common expense assessments against that unit for at least the first year of the condominium's operation, (iii) any relocation services or assistance, public or private, of which the declarant is aware, (iv) any measures taken or to be taken by the declarant to reduce the incidence of tenant dislocation, and (v) the details of the relocation plan, if any is provided by the declarant, to assist tenants in relocating. During the first sixty days after such notice is mailed or hand delivered, each of the said tenants shall have the exclusive right to purchase the unit he occupies, but only if such unit is to be retained in the conversion condominium without substantial alteration in its physical layout. *If the conversion condominium is subject to a local ordinance that has been adopted pursuant to subsections F and G, any tenant who is disabled or elderly may assign the exclusive right to purchase his unit to a government agency, housing authority, or certified nonprofit housing corporation, which shall then offer the tenant a lease at an affordable rent, following the provisions of subsection F. The acquisition of such units by the governmental agency, housing authority, or nonprofit housing corporation shall not (i) exceed the greater of one unit or five percent of the total units in the condominium and (ii) impede the condominium conversion process. In determining which, if any, units shall be aquired pursuant to this subsection, preference shall be given to elderly or disabled tenants.*

The notice required above shall be hand delivered or sent by first-class mail, return receipt requested, and shall inform the tenants of the conversion to condominium. Such notice may also constitute the notice to terminate the tenancy as provided for in § 55-222, except that, despite the provisions of

§ 55-222, a tenancy from month to month may only be terminated upon 120 days' notice when such termination is in regard to the creation of a conversion condominium. If, however, a tenant so notified remains in possession of the unit he occupies after the expiration of the 120-day period with the permission of the declarant, in order to then terminate the tenancy, such declarant shall give the tenant a further notice as provided in § 55-222. Until the expiration of the 120-day period, the declarant shall have no right of access to the unit except as provided by subsection A of § 55-248.18 and except that, upon 45 days' written notice to the tenant, the declarant may enter the unit in order to make additional repairs, decorations, alterations or improvements, provided (i) the making of the same does not constitute an actual or constructive eviction of the tenant; and (ii) such entry is made either with the consent of the tenant or only at times when the tenant is absent from the unit. The declarant shall also provide general notice to the tenants of the condominium or proposed condominium at the time of application to the agency in addition to the formal notice required by this subsection.

C. The declarant of a conversion condominium shall, in addition to the requirements of § 55-79.89, include with the application for registration a copy of the formal notice set forth in subsection B and a certified statement that such notice, fully complying with the provisions of subsection B, shall be, at the time of the registration of such condominium, mailed or delivered to each of the tenants in the building or buildings for which registration is sought. The price and projected common expense assessments for each unit need not be filed with the agency until such notice is mailed to the tenants.

D. Notwithstanding the provisions of § 55-79.40 of this chapter, in the case of any conversion condominium created under the provisions of the Horizontal Property Act (§ 55-79.1 et seq.) for which a final report has not been issued by the agency pursuant to § 55-79.21 prior to June 1, 1975, the provisions of subsections A and B of this section shall apply and the declarant shall be required to furnish evidence of full compliance with subsections A and B prior to the issuance by the agency of a final report for such conversion condominium.

E. Any county, city or town may require by ordinance that the declarant of a conversion condominium file with that governing body all information which is required by the agency pursuant to § 55-79.89 and a copy of the formal notice required by subsection B. Such information shall be filed with that governing body when the application for registration is filed with the agency, and such copy of the formal notice shall be filed with that governing body. There shall be no fees for such filings.

F. The governing body of any county, city or town may enact an ordinance requiring that elderly or disabled tenants occupying as their residence, at the time of issuance of the general notice required by subsection B, apartments or units in a conversion condominium be offered leases or extensions of leases on the apartments or units they then occupied, or on other apartments or units of at least equal size and overall quality. The terms and conditions thereof shall be as agreed upon by the lessor and the lessee, provided that the rent for such apartment or unit shall not be in excess of reasonable rent for comparable apartments or units in the same market area as such conversion condominium and such lease shall include or incorporate by reference the bylaws and/or rules and regulations, if any, of the association. No such ordinance may require that such leases or extensions be offered on more than twenty percent of the apartments or units in such conversion condominium, nor may any such ordinance require that such leases or extensions extend beyond three years from the date of such notice. Such leases or extensions shall not be required, however, in the case of any apartments or units which will, in the course of the conversion, be substantially altered in the physical layout, restricted exclusively to nonresidential use, or be converted in such a manner as to require relocation of the tenant in premises outside of the project being converted.

For the purposes of this section:

"Elderly" means a person not less than sixty-two years of age.

"Disabled" means a person suffering from a severe, chronic physical or mental impairment which results in substantial functional limitations.

*"Affordable rent" means a monthly rent that does not exceed the greater of 30 percent of the annual gross income of the tenant household or 30 percent of the imputed income limit applicable to such unit size, as published by the Virginia Housing Development Authority for compliance with the Low Income Housing Tax Credit Program.*

*"Certified nonprofit housing corporation" means a nonprofit organization that has been certified by the locality as actively engaged in producing and preserving affordable housing as determined by criteria established by the locality.*

G. The governing body of any county utilizing the urban county executive form of optional government (§§ 15.2-800 through 15.2-858) or the county manager plan of optional government (§§ 15.2-702 through 15.2-749), or of any city or town adjoining any such county, may require by ordinance that the declarant of any residential condominium converted from multi-family rental use shall reimburse any tenant displaced by the conversion for amounts actually expended to relocate as a result of such dislocation. The reimbursement shall not be required to exceed the amount which the tenant would have been entitled to receive under §§ 25.1-407 and 25.1-415 if the real estate comprising the

condominium had been condemned by the Department of Transportation.