

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 627

An Act to amend and reenact § 55-471 of the Code of Virginia, relating to the Virginia Real Estate Cooperative Act; assessments for certain cooperatives.

[S 606]

Approved March 12, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 55-471 of the Code of Virginia is amended and reenacted as follows:

§ 55-471. Assessments for common expenses.

A. Until the association makes a common expense assessment, the declarant shall pay all common expenses. After any assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association.

B. Except for assessments under subsections C, D ~~and~~, E, and F, all common expenses must be assessed against all the cooperative interests in accordance with the allocations set forth in the declaration pursuant to subsection A of § 55-444.

Any past due common expense assessment or installment thereof bears interest at the rate established by the association not exceeding eighteen percent per year.

C. To the extent required by the declaration:

1. Any common expense associated with the maintenance, repair or replacement of a limited common element must be assessed against the cooperative interests for the units to which that limited common element is assigned, equally, or in any other proportion that the declaration provides;

2. Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the cooperative interests for the units benefited; and

3. The costs of insurance must be assessed in proportion to risk, and the costs of utilities must be assessed in proportion to usage.

D. Assessments to pay a judgment against the association may be made only against the cooperative interests in the cooperative at the time the judgment was entered, in proportion to their common expense liabilities.

E. If any common expense is caused by the negligence or other misconduct of any proprietary lessee, or of his family members, tenants or other invitees, the association may assess that expense exclusively against his cooperative interest.

F. *Notwithstanding any other provision in this section, in any cooperative where permanent residency is, in general, restricted to individuals age 55 and over and the primary purpose of the association is to provide services and amenities to the residents of the cooperative that are consistent with the services and amenities typically provided to residents of full service senior housing communities in the United States, the declaration may provide, or may be amended to provide by vote or agreement of proprietary lessees of cooperative interests to which at least two-thirds of the votes in the association are allocated (or any larger majority the declaration specifies), that:*

1. Common expenses may be assessed against all cooperative interests in accordance with the standards in general use from time to time among full service senior housing communities in the United States for the purpose of fairly and equitably establishing the fees and charges imposed on their residents to pay for all common expenses of such senior housing communities, including the expenses of providing services and amenities, such standards to be determined by the executive board of the association, acting reasonably;

2. Common expenses may be assessed against any cooperative interest which has been created pursuant to the declaration but as to which construction of the unit appurtenant thereto has not been completed; provided, that nothing contained herein shall relieve the declarant of its obligations under subsection B of § 55-464; and

3. Common expenses may be assessed against any cooperative interest as to which the unit appurtenant thereto has been completed until the unit is initially permanently occupied; provided, however, that all such cooperative interests shall pay all direct expenses of the association related to such cooperative interests and any common expenses which directly benefit such cooperative interest, in each case, determined in accordance with the provisions set forth in the declaration or the association's by-laws; provided, however, that if neither the declaration nor the by-laws contain provision therefor, then such expenses shall be paid in accordance with the allocations set forth in the declaration pursuant to subsection A of § 55-444.

G. If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.