

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 628

An Act to amend and reenact § 55-453 of the Code of Virginia, relating to the Virginia Real Estate Cooperative Act; amendment of declaration.

[S 616]

Approved March 12, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 55-453 of the Code of Virginia is amended and reenacted as follows:

§ 55-453. Amendment of declaration.

A. Except in cases of amendments that may be executed by a declarant under § 55-446, the association under § 55-430, subsection C of § 55-443, subsection C of § 55-445, subsection A of § 55-448, or § 55-449, or certain proprietary lessees under subsection B of § 55-445, subsection A of § 55-448, subsection B of § 55-449, or subsection B of § 55-454 and except as limited by subsection D, the declaration may be amended only 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. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

B. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded.

C. Every amendment to the declaration must be recorded in every city or county in which any portion of the cooperative is located and is effective only upon recordation. An amendment shall be indexed in the grantee's index in the name of the cooperative and the association and in the grantor's index in the name of the parties executing the amendment.

D. *The declaration may be amended to extend the time limit within which special declarant rights imposed by the declaration pursuant to subdivision A 8 of § 55-442 may be exercised only by vote or agreement of proprietary lessees of cooperative interests to which at least two-thirds of the votes in the association are allocated to cooperative interests not owned by a declarant, or any larger percentage the declaration specifies.* Except to the extent expressly permitted or required by *this subsection* or other provisions of this chapter, no amendment may create or increase special declarant rights, increase the number of units, or change the boundaries of any unit, the allocated interests of a cooperative interest or the uses to which any unit is restricted, in the absence of unanimous consent of the proprietary lessees.

E. Amendments to the declaration required by this chapter to be recorded by the association shall be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.