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HOUSE BILL NO. 2305

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 18, 2009)

(Patron Prior to Substitute—Delegate Griffith)

*A BILL to amend and reenact § 55-510 of the Code of Virginia, relating to the Property Owners' Association Act; access to books and records.***Be it enacted by the General Assembly of Virginia:****1. That § 55-510 of the Code of Virginia is amended and reenacted as follows:**

§ 55-510. Access to association records; association meetings; notice.

A. The association shall keep detailed records of receipts and expenditures affecting the operation and administration of the association. All financial books and records shall be kept in accordance with generally accepted accounting practices.

B. Subject to the provisions of subsection C and so long as the request is for a proper purpose related to his membership in the association, all books and records kept by or on behalf of the association, including but not limited to the association's membership list and addresses, which shall not be used for purposes of pecuniary gain or commercial solicitation, and aggregate salary information of employees of the association, shall be available for examination and copying by a member in good standing or his authorized agent so long as the request is for a proper purpose related to his membership in the association including but not limited to:

1. The association's membership list and addresses, which shall not be used for purposes of pecuniary gain or commercial solicitation; and

2. The actual salary of the six highest compensated employees of the association earning over \$75,000 and aggregate salary information of all other employees of the association; however, individual salary information shall not be available for examination and copying during the declarant control period.

This right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five days' written notice reasonably identifying the purpose for the request and the specific books and records of the association requested.

C. Books and records kept by or on behalf of an association may be withheld from inspection and copying to the extent that they concern:

1. Personnel matters relating to specific, identified persons or a person's medical records;

2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;

3. Pending or probable litigation. Probable litigation means those instances where there has been a specific threat of litigation from a party or the legal counsel of a party;

4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to § 55-513;

5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;

6. Disclosure of information in violation of law;

7. Meeting minutes or other confidential records of an executive session of the board of directors held in accordance with subsection C of § 55-510.1;

8. Documentation, correspondence or management or board reports compiled for or on behalf of the association or the board by its agents or committees for consideration by the board in executive session; or

9. Individual unit owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.

D. Prior to providing copies of any books and records to a member in good standing under this section, the association may impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs thereof.

E. Notwithstanding the provisions of subsections B and C, all books and records of the association, including individual salary information for all employees and payments to independent contractors, shall be available for examination and copying upon request by a member of the board of directors in the discharge of his duties as a director.

F. Meetings of the association shall be held in accordance with the provisions of the bylaws at least once each year after the formation of the association. The bylaws shall specify an officer or his agent

60 who shall, at least 14 days in advance of any annual or regularly scheduled meeting, and at least seven
61 days in advance of any other meeting, send to each member notice of the time, place, and purposes of
62 such meeting. Notice shall be sent by United States mail to all members at the address of their
63 respective lots unless the member has provided to such officer or his agent an address other than the
64 address of the member's lot; or notice may be hand delivered by the officer or his agent, provided the
65 officer or his agent certifies in writing that notice was delivered to the member. Except as provided in
66 subdivision C 7, draft minutes of the board of directors shall be open for inspection and copying (i)
67 within 60 days from the conclusion of the meeting to which such minutes appertain or (ii) when such
68 minutes are distributed to board members as part of an agenda package for the next meeting of the
69 board of directors, whichever occurs first.