1 **VIRGINIA ACTS OF ASSEMBLY — CHAPTER**

2 *An Act to amend and reenact § 55-453 of the Code of Virginia, relating to the Real Estate Cooperative*
3 *Act; amendment of declaration; revival of expired declarant rights.*

[H 2599]
4
5 Approved

6 **Be it enacted by the General Assembly of Virginia:**
7 **1. That § 55-453 of the Code of Virginia is amended and reenacted as follows:**
8 § 55-453. Amendment of declaration.
9 A. Except in cases of amendments that may be executed by a declarant under § 55-446, the
10 association under § 55-430, subsection C of § 55-443, subsection C of § 55-445, subsection A of
11 § 55-448, or § 55-449, or certain proprietary lessees under subsection B of § 55-445, subsection A of
12 § 55-448, subsection B of § 55-449, or subsection B of § 55-454 and except as limited by subsection D,
13 the declaration may be amended only by vote or agreement of proprietary lessees of cooperative
14 interests to which at least two-thirds of the votes in the association are allocated, or any larger majority
15 the declaration specifies. The declaration may specify a smaller number only if all of the units are
16 restricted exclusively to nonresidential use.
17 B. No action to challenge the validity of an amendment adopted by the association pursuant to this
18 section may be brought more than one year after the amendment is recorded.
19 C. Every amendment to the declaration must be recorded in every city or county in which any
20 portion of the cooperative is located and is effective only upon recordation. An amendment shall be
21 indexed in the grantee's index in the name of the cooperative and the association and in the grantor's
22 index in the name of the parties executing the amendment.
23 D. The declaration may be amended to extend the time limit within which special declarant rights
24 imposed by the declaration pursuant to subdivision A 8 of § 55-442 may be exercised only by vote or
25 agreement of proprietary lessees of cooperative interests to which at least two-thirds of the votes in the
26 association are allocated to cooperative interests not owned by a declarant, or any larger percentage the
27 declaration specifies. Except to the extent expressly permitted or required by this subsection or other
28 provisions of this chapter, no amendment may create or increase special declarant rights, increase the
29 number of units, or change the boundaries of any unit, the allocated interests of a cooperative interest or
30 the uses to which any unit is restricted, in the absence of unanimous consent of the proprietary lessees.
31 *E. If the time limit specified in the declaration for the creation of cooperative interests or the*
32 *exercise of special declarant rights has expired, with the approval of the persons entitled to cast at least*
33 *two-thirds of the votes in the association, other than any votes allocated to cooperative interests owned*
34 *by the declarant, or any larger percentage as the declaration specifies, the declaration may be amended*
35 *to (i) revive and reinstate any or all of the expired rights to create additional cooperative interests and*
36 *any or all of the expired special declarant rights, and (ii) vest in any person, including the original*
37 *declarant, any or all of the powers, rights, privileges, and authority to which a declarant is entitled*
38 *under this chapter regarding the exercise of the revived and reinstated rights with respect to any parcel*
39 *of real estate that is a common element or any additional real estate that such amendment permits to be*
40 *added to the cooperative. In no event, however, shall any such amendment extend or renew a period of*
41 *declarant control of the association or provide a new period of declarant control.*
42 ~~E.~~ *F.* Amendments to the declaration required by this chapter to be recorded by the association shall
43 be prepared, executed, recorded and certified on behalf of the association by any officer of the
44 association designated for that purpose or, in the absence of designation, by the president of the
45 association.