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HOUSE BILL NO. 468**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws
on February 11, 2010)

(Patron Prior to Substitute—Delegate Watts)

*A BILL to amend and reenact §§ 54.1-2347, 54.1-2348, and 54.1-2349 of the Code of Virginia, relating to common interest communities; powers and duties of Common Interest Community Board.***Be it enacted by the General Assembly of Virginia:****1. That §§ 54.1-2347, 54.1-2348, and 54.1-2349 of the Code of Virginia are amended and reenacted as follows:**

§ 54.1-2347. Exceptions and exemptions generally.

A. The provisions of this chapter shall not be construed to prevent or prohibit:

1. An employee of a duly licensed common interest community manager from providing management services within the scope of the employee's employment by the duly licensed common interest community manager;

2. An employee of an association from providing management services for that association's common interest community;

3. A resident of a common interest community acting without compensation from providing management services for that common interest community;

4. *A resident of a common interest community from providing bookkeeping, billing, or record keeping services for that common interest community for compensation, provided the fidelity bond maintained by the association insures the association against losses resulting from theft or dishonesty committed by such person;*

5. A member of the governing board of an association acting without compensation from providing management services for that association's common interest community;

5.6. A person acting as a receiver or trustee in bankruptcy in the performance of his duties as such or any person acting under order of any court from providing management services for a common interest community;

6.7. A duly licensed attorney-at-law from representing an association or a common interest community manager in any business that constitutes the practice of law;

7.8. A duly licensed certified public accountant from providing bookkeeping or accounting services to an association or a common interest community manager;

8.9. A duly licensed real estate broker or agent from selling, leasing, renting, or managing lots within a common interest community; or

9.10. An association, exchange agent, exchange company, managing agent, or managing entity of a time-share project registered pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et seq.) from providing management services for such time-share project.

B. A licensee of the Board shall comply with the Board's regulations, notwithstanding the fact that the licensee would be otherwise exempt from licensure under subsection A. Nothing in this subsection shall be construed to require a person to be licensed in accordance with this chapter if he would be otherwise exempt from such licensure.

§ 54.1-2348. Common Interest Community Board; membership; meetings; quorum.

There is hereby created the Common Interest Community Board (the Board) as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. Members of the Board shall be appointed by the Governor and consist of eleven members as follows: three shall be representatives of Virginia common interest community managers, one shall be a Virginia attorney whose practice includes the representation of associations, one shall be a representative of a Virginia certified public accountant whose practice includes providing attest services to associations, one shall be a representative of the Virginia time-share industry, two shall be representatives of developers of Virginia common interest communities, and three shall be Virginia citizens, one of whom serves or who has served on the governing board of an association *that is not professionally managed at the time of appointment* and two of whom reside in a common interest community. Of the initial appointments, one representative of Virginia common interest community managers and one representative of developers of Virginia common interest communities shall serve terms of two years and one representative of Virginia common interest community managers and one representative of developers of Virginia common interest communities shall serve terms of three years; the Virginia attorney shall serve a term of three years; the Virginia certified public accountant shall serve a term of one year; the Virginia citizen who serves or who has served on the governing board of an association shall serve a term of two years, and the two Virginia citizens who reside in a common interest community shall serve terms of one year. All other

60 initial appointments and all subsequent appointments shall be for terms for four years, except that
61 vacancies may be filled for the remainder of the unexpired term. Each appointment of a representative
62 of a Virginia common interest community manager to the Board may be made from nominations
63 submitted by the Virginia Association of Community Managers, who may nominate no more than three
64 persons for each manager vacancy. In no case shall the Governor be bound to make any appointment
65 from such nominees. No person shall be eligible to serve for more than two successive four-year terms.

66 The Board shall meet at least four times each year and at other such times as it deems necessary.
67 The Board shall elect from its membership a chairman and a vice-chairman to serve for a period of one
68 year. A majority of the Board shall constitute a quorum. The Board is vested with the powers and duties
69 necessary to execute the purposes of this chapter.

70 § 54.1-2349. Powers and duties of the Board.

71 A. The Board shall administer and enforce the provisions of this chapter. In addition to the
72 provisions of § 54.1-201, the Board shall:

73 1. Promulgate regulations necessary to carry out the requirements of this chapter in accordance with
74 the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) to include but not be limited to the
75 prescription of fees, procedures, and qualifications for the issuance and renewal of common interest
76 community manager licenses. The Board shall annually assess each common interest community
77 manager an amount equal to the lesser of (i) \$1,000, or such other amount as the Board may establish
78 by regulation, or (ii) five hundredths of one percent (0.05%) of the gross receipts from common interest
79 community management during the preceding calendar year. For the purposes of clause (ii), no
80 minimum payment shall be less than \$10.00. The annual payment shall be remitted to the State
81 Treasurer and shall be placed to the credit of the Common Interest Community Management Fund
82 established pursuant to § 55-529;

83 2. Establish criteria for the licensure of common interest community managers to ensure the
84 appropriate training and educational credentials for the provision of management services to common
85 interest communities. Such criteria may include experiential requirements and shall include designation
86 as an Accredited Association Management Company by the Community Associations Institute. As an
87 additional alternative to such designation, the Board shall have authority, by regulation, to include one
88 of the following: (i) successful completion of another Board-approved training program and certifying
89 examination, or (ii) successful completion of a Virginia testing program to determine the quality of the
90 training and educational credentials for and competence of common interest community managers;

91 3. Establish criteria for the certification of the employees of common interest community managers
92 who have principal responsibility for management services provided to a common interest community or
93 who have supervisory responsibility for employees who participate directly in the provision of
94 management services to a common interest community to ensure the person possesses the character and
95 minimum skills to engage properly in the provision of management services to a common interest
96 community. Such criteria shall include designation as a Certified Manager of Community Associations
97 by the National Board of Certification for Community Association Managers, designation as an
98 Association Management Specialist by the Community Associations Institute, or designation as a
99 Professional Community Association Manager by the Community Associations Institute. As an additional
100 alternative to such designations, the Board shall have authority, by regulation, to include one of the
101 following: (i) successful completion of another Board-approved training program and certifying
102 examination, or (ii) successful completion of a Virginia testing program to determine the quality of the
103 training and educational credentials for and competence of the employees of common interest
104 community managers who participate directly in the provision of management services to a common
105 interest community. The fee paid to the Board for the issuance of such certificate shall be paid to the
106 Common Interest Community Management Information Fund established pursuant to § 55-529;

107 4. Approve the criteria for accredited common interest community manager training programs;

108 5. Approve accredited common interest community manager training programs;

109 6. Establish, by regulation, standards of conduct for common interest community managers and for
110 employees of common interest community managers certified in accordance with the provisions of this
111 chapter; and

112 7. Establish, by regulation, an education-based certification program for persons who are involved in
113 the business or activity of providing management services *for compensation* to common interest
114 communities. The Board shall have the authority to approve training courses and instructors in
115 furtherance of the provisions of this chapter.

116 B. The Board shall have the sole responsibility for the administration of this chapter and for the
117 promulgation of regulations to carry out the requirements thereof. The Board shall also be responsible
118 for the enforcement of this chapter, provided that the Real Estate Board shall have the sole responsibility
119 for the enforcement of this chapter with respect to a real estate broker, real estate salesperson, or real
120 estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) who is also licensed
121 as a common interest community manager.

C. The Board is authorized to obtain criminal history record information from any state or federal law-enforcement agency relating to an applicant for licensure or certification. Any information so obtained is for the exclusive use of the Board and shall not be released to any other person or agency except in furtherance of the investigation of the applicant or with the authorization of the applicant or upon court order.

2. That the provisions of this act amending § 54.1-2348 of the Code of Virginia shall not be construed to affect existing appointments for which the terms have not expired. However, any appointments or reappointments made after the effective date of this act shall be made in accordance with the provisions of this act.