

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 55-79.75:2 and 55-513.1 of the Code of Virginia, relating to the*  
3 *Virginia Condominium Act and the Virginia Property Owners' Association Act; display of the flag of*  
4 *the United States.*

5 [S 151]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That §§ 55-79.75:2 and 55-513.1 of the Code of Virginia are amended and reenacted as follows:**

9 § 55-79.75:2. Display of the flag of the United States; necessary supporting structures; affirmative  
10 defense.

11 A. ~~Unless expressly prohibited by the condominium instruments,~~ *In accordance with the federal*  
12 *Freedom to Display the American Flag Act of 2005,* no unit owners' association shall prohibit or  
13 otherwise adopt or enforce any policy restricting a unit owner from displaying upon property to which  
14 the unit owner has a separate ownership interest or a right to exclusive possession or use the flag of  
15 the United States whenever such display is in compliance with Chapter 1 of Title 4 of the United States  
16 Code, or any rule or custom pertaining to the proper display of the flag. A unit owners' association  
17 may, however, establish reasonable restrictions as to the size, place, duration, and manner of placement  
18 or display of the flag on such property provided such restrictions are necessary to protect a substantial  
19 interest of the unit owners' association.

20 B. The unit owners' association may restrict the display of such flags in the common elements. A  
21 unit owners' association may establish reasonable restrictions as to the size, place, duration, and manner  
22 of placement or display of such flag.

23 C. *In any action brought by the unit owners association under § 55-79.80:2 for a violation of a flag*  
24 *restriction, the unit owners' association shall bear the burden of proof that the restrictions as to the*  
25 *size, place, duration, and manner of placement or display of such flag are necessary to protect a*  
26 *substantial interest of the unit owners' association.*

27 D. In any action brought by the unit owners' association under § 55-79.80:2, the unit owner shall be  
28 entitled to assert as an affirmative defense that the required disclosure of any limitation pertaining to the  
29 flag of the United States or any flagpole or similar structure necessary to display the flag of the United  
30 States was not contained in the public offering statement or resale certificate, as appropriate, required  
31 pursuant to § 55-79.90 or 55-79.97.

32 § 55-513.1. Display of the flag of the United States; necessary supporting structures; affirmative  
33 defense.

34 A. ~~Unless specifically prohibited by the association's rules and regulations or architectural guidelines~~  
35 ~~provided in the disclosure packet required pursuant to § 55-509.5, the~~ *In accordance with the federal*  
36 *Freedom to Display the American Flag Act of 2005,* no association shall ~~not~~ prohibit any lot owner  
37 from displaying upon property to which the lot owner has a separate ownership interest or a right to  
38 exclusive possession or use the flag of the United States whenever such display is in compliance with  
39 Chapter 1 of Title 4 of the United States Code, or any rule or custom pertaining to the proper display  
40 of the flag. The association may, however, establish reasonable restrictions as to the size, place,  
41 duration, and manner of placement or display of the flag on such property provided such restrictions  
42 are necessary to protect a substantial interest of the association.

43 B. The association may restrict the display of such flag in the common areas and may establish  
44 reasonable restrictions as to the time, size, place, duration, and manner of placement or display.

45 C. *In any action brought by the association under § 55-513 for violation of a flag restriction, the*  
46 *association shall bear the burden of proof that the restrictions as to the size, place, duration, and*  
47 *manner of placement or display of such flag are necessary to protect a substantial interest of the*  
48 *association.*

49 D. In any action brought by the association under § 55-513, the lot owner shall be entitled to assert  
50 as an affirmative defense that the required disclosure of any limitations pertaining to the display of flags  
51 or any flagpole or similar structure necessary to display such flags was not contained in the disclosure  
52 packet required pursuant to § 55-509.5.