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SENATE BILL NO. 270

Offered January 13, 2010

Prefiled January 12, 2010

A *BILL to amend and reenact § 55-530 of the Code of Virginia, relating to powers of the Common Interest Community Board; resolution of complaints.*

Patron—Whipple

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:**1. That § 55-530 of the Code of Virginia is amended and reenacted as follows:**

§ 55-530. Powers of the Board; Common interest community ombudsman; complaints.

A. The Board shall administer the provisions of this chapter pursuant to the powers conferred by § 54.1-2349 and this chapter.

B. The Director in accordance with § 54.1-303 shall appoint a Common Interest Community Ombudsman (the Ombudsman) and shall establish the Office of the Common Interest Community Ombudsman. The Ombudsman shall be a member in good standing in the Virginia State Bar. All state agencies shall assist and cooperate with the Office of the Common Interest Community Ombudsman in the performance of its duties under this chapter. The expenses for the operations of the Office of the Common Interest Community Ombudsman, including the compensation paid to the Ombudsman, shall be paid first from interest earned on deposits constituting the fund and the balance from the moneys collected annually in the fund.

C. The Office of the Common Interest Community Ombudsman shall:

1. Assist members in understanding their rights and the processes available to them according to the declaration and bylaws of the association;

2. Answer inquiries from members and other citizens by telephone, mail, electronic mail, and in person;

3. Provide to members and other citizens information concerning common interest communities upon request;

4. Make available, either separately or through an existing Internet website utilized by the Director, information as set forth in subdivision 3 and such additional information as may be deemed appropriate;

5. Receive the notices of complaint filed;

6. In conjunction with complaint and inquiry data maintained by the Director, maintain data on inquiries received, the types of assistance requested, notices of complaint received, any actions taken, and the disposition of each such matter;

7. Upon request, assist members in using the procedures and processes available to them in the association, including nonbinding explanations of laws or regulations governing common interest communities or interpretations thereof by the Board, and referrals to public and private agencies offering alternative dispute resolution services, with a goal of reducing and resolving conflicts among associations and their members. Such assistance may require the review of the declaration and other records of an association *and the procedures for resolving complaints required to be established by the association pursuant to subsection E.* An association shall provide such information to the Office of the Common Interest Community Ombudsman within a reasonable time upon request.

8. Ensure that members have access to the services provided through the Office of the Common Interest Community Ombudsman and that the members receive timely responses from the representatives of the Office of the Common Interest Community Ombudsman to the inquiries;

9. Upon request to the Director by (i) any of the standing committees of the General Assembly having jurisdiction over common interest communities or (ii) the Housing Commission, provide to the Director for dissemination to the requesting parties assessments of proposed and existing common interest community laws and other studies of common interest community issues;

10. Monitor changes in federal and state laws relating to common interest communities;

11. Provide information to the Director that will permit the Director to report annually on the activities of the Office of the Common Interest Community Ombudsman to the standing committees of the General Assembly having jurisdiction over common interest communities and to the Housing Commission. The Director's report shall be filed by December 1 of each year, and shall include a summary of significant new developments in federal and state laws relating to common interest communities each year; and

12. Carry out activities as the Board determines to be appropriate.

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59 D. The Board may use the remainder of the interest earned on the balance of the fund and of the
60 moneys collected annually and deposited in the fund for financing or promoting the following:

- 61 1. Information and research in the field of common interest community management and operation;
- 62 2. Expeditious and inexpensive procedures for resolving complaints about an association from
63 members of the association or other citizens;
- 64 3. Seminars and educational programs designed to address topics of concern to community
65 associations; and
- 66 4. Other programs deemed necessary and proper to accomplish the purpose of this chapter.

67 E. The Board shall establish by regulation a requirement that each association shall establish
68 reasonable procedures for the resolution of written complaints from the members of the association and
69 other citizens; ~~which system.~~ *Each association must adhere to the written procedures established*
70 *pursuant to this subsection when resolving association member and citizen complaints. The procedures*
71 *shall include but not be limited to the following:*

72 1. A record of each complaint shall be maintained for no less than one year after the association acts
73 upon the complaint.

74 2. Such association shall provide complaint forms or written procedures to be given to persons who
75 wish to register written complaints. The forms or procedures shall include the address and telephone
76 number of the association or its common interest community manager to which complaints shall be
77 directed and the mailing address, telephone number, and electronic mail address of the Office of the
78 Common Interest Community Ombudsman. The forms and written procedures shall include a clear and
79 understandable description of the complainant's right to give notice of adverse decisions pursuant to this
80 section.

81 F. A complainant may give notice to the Board of any final adverse decision in accordance with
82 regulations promulgated by the Board. The notice shall be filed within 30 days of the final adverse
83 decision, shall be in writing on forms prescribed by the Board, shall include copies of all records
84 pertinent to the decision, and shall be accompanied by a \$25 filing fee. The fee shall be collected by the
85 Director and paid directly into the state treasury and credited to the Common Interest Community
86 Management Information Fund, § 55-530.1. The Board may, for good cause shown, waive or refund the
87 filing fee upon a finding that payment of the filing fee will cause undue financial hardship for the
88 member. The Director shall provide a copy of the written notice to the association that made the final
89 adverse decision.

90 G. The Director or his designee, may request additional information concerning any notice of
91 complaint from the association that made the final adverse decision. The association shall provide such
92 information to the Director within a reasonable time upon request. If the Director upon review
93 determines that the final adverse decision may be in conflict with laws or regulations governing
94 common interest communities or interpretations thereof by the Board, the Director may, in his sole
95 discretion, provide the complainant and the association with information concerning such laws or
96 regulations governing common interest communities or interpretations thereof by the Board. The
97 determination of whether the final adverse decision may be in conflict with laws or regulations
98 governing common interest communities or interpretations thereof by the Board shall be a matter within
99 the sole discretion of the Director, whose decision is final and not subject to further review. The
100 determination of the Director shall not be binding upon the complainant or the association that made the
101 final adverse decision.

102 H. The Board shall issue a certificate of filing to each association which has properly filed in
103 accordance with this title. The certificate shall include the date of registration and a unique registration
104 number assigned by the Board.

105 I. The Board may prescribe regulations which shall be adopted, amended or repealed in accordance
106 with the Administrative Process Act (§ 2.2-4000 et seq.) to accomplish the purpose of this chapter.