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SENATE BILL NO. 419

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact § 55-509.2 of the Code of Virginia, relating to the Virginia Property Owners' Association Act; control of association by declarant.

Patron—Vogel

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 55-509.2 of the Code of Virginia is amended and reenacted as follows:

§ 55-509.2. Period of declarant control; documents to be provided by declarant upon transfer of control.

A. The declaration may authorize the declarant to appoint and remove some or all of the members of the board of directors or to exercise powers and responsibilities otherwise assigned to the board of directors or the association until (i) three months after 80 percent of all lots that the declarant has reserved the right to develop in all phases of development have been conveyed to a person other than a declarant or builder and (ii) the number of lots not yet developed is less than 200. The declarant shall have the right to develop all additional lots in accordance with provisions in effect at the time of transfer of control. To the extent so provided in the declaration or bylaws, the declarant, either directly or through a designee, shall have the right to a seat on the board of the association until such time as all lots have been conveyed to a person other than a declarant or a builder.

B. Unless previously provided to the board of directors of the association, once the majority of the members of the board of directors are owners of improved lots in the association and the declarant no longer holds a majority of the votes in the association, the declarant shall provide to the board of directors or its designated agent the following: (i) all association books and records held by or controlled by the declarant, including without limitation, minute books and rules and regulations and all amendments thereto which may have been promulgated; (ii) a statement of receipts and expenditures from the date of the recording of the association documents to the end of the regular accounting period immediately succeeding the first election of the board of directors by the home owners, not to exceed sixty days after the date of the election, such statement being prepared in an accurate and complete manner, utilizing the accrual method of accounting; (iii) a copy of the latest available approved plans and specifications for all improvements in the project or as-built plans if available; (iv) all association insurance policies which are currently in force; (v) written unexpired warranties of the contractors, subcontractors, suppliers, and manufacturers, if any, relative to all common area improvements; (vi) any contracts in which the association is a contracting party; and (vii) a list of manufacturers of paints, roofing materials and other similar materials if specified for use on the association property.

C. If the association is managed by a common interest community manager in which the declarant, or its principals, have no pecuniary interest or management role, then such common interest community manager shall have the responsibility to provide the documents and information required by clauses (i), (ii), (iv), and (vi).