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HOUSE BILL NO. 530

House Amendments in [] — January 28, 2014

A *BILL to amend and reenact §§ 55-79.53 and 55-515 of the Code of Virginia, relating to the Condominium and Property Owners' Association Acts; compliance with declaration.*

Patron Prior to Engrossment—Delegate Pogge

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 55-79.53 and 55-515 of the Code of Virginia are amended and reenacted as follows:****§ 55-79.53. Compliance with condominium instruments.**

A. The declarant, [~~the unit owners' association,~~] every unit owner, and all those entitled to occupy a unit shall comply with all lawful provisions of this chapter and all provisions of the condominium instruments. Any lack of such compliance shall be grounds for an action or suit to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the unit owners' association, or by its executive organ or any managing agent on behalf of such association, or, in any proper case, by one or more aggrieved unit owners on their own behalf or as a class action. A unit owners' association shall have standing to sue in its own name for any claims or actions related to the common elements as provided in subsection B of § 55-79.80. Except as provided in subsection B, the prevailing party shall be entitled to recover reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in § 8.01-382. [*This section shall not preclude an action against the unit owners' association.*]

B. In actions against a unit owner for nonpayment of assessments in which the unit owner has failed to pay assessments levied by the unit owners' association on more than one unit or such unit owner has had legal actions taken against him for nonpayment of any prior assessment and the prevailing party is the association or its executive organ or any managing agent on behalf of the association, the prevailing party shall be awarded reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in subsection A, even if the proceeding is settled prior to judgment. The delinquent unit owner shall be personally responsible for reasonable attorney fees and costs expended in the matter by the unit owners' association, whether any judicial proceedings are filed.

C. The condominium instruments may provide for arbitration of disputes or other means of alternative dispute resolution. Any such arbitration held in accordance with this subsection shall be consistent with the provisions of this chapter and Chapter 21 (§ 8.01-577 et seq.) of Title 8.01. The place of any such arbitration or alternative dispute resolution shall be in the county or city in which the condominium is located, or as mutually agreed by the parties.

§ 55-515. Compliance with declaration.

A. [Every ~~The association,~~ every] lot owner, and all those entitled to occupy a lot shall comply with all lawful provisions of this chapter and all provisions of the declaration. Any lack of such compliance shall be grounds for an action or suit to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the association, or by its board of directors or any managing agent on behalf of such association, or in any proper case, by one or more aggrieved lot owners on their own behalf or as a class action. Except as provided in subsection B, the prevailing party shall be entitled to recover reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in § 8.01-382. [*This section shall not preclude an action against the association.*]

B. In actions against a lot owner for nonpayment of assessments in which the lot owner has failed to pay assessments levied by the association on more than one lot or such lot owner has had legal actions taken against him for nonpayment of any prior assessment and the prevailing party is the association or its board of directors or any managing agent on behalf of the association, the prevailing party shall be awarded reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in subsection A, even if the proceeding is settled prior to judgment. The delinquent owner shall be personally responsible for reasonable attorney fees and costs expended in the matter by the association, whether any judicial proceedings are filed.

C. A declaration may provide for arbitration of disputes or other means of alternative dispute resolution. Any such arbitration held in accordance with this subsection shall be consistent with the provisions of this chapter and Chapter 21 (§ 8.01-577 et seq.) of Title 8.01. The place of any such arbitration or alternative dispute resolution shall be in the county or city in which the development is located, or as mutually agreed to by the parties.

ENGROSSED

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