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HOUSE BILL NO. 2376

Offered January 16, 2017

A *BILL to amend and reenact § 55-509.7 of the Code of Virginia, relating to the Property Owners' Association Act; fees for disclosure packets by associations not professionally managed.*

Patron—Watts

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 55-509.7 of the Code of Virginia is amended and reenacted as follows:****§ 55-509.7. Fees for disclosure packets; associations not professionally managed.**

A. An association that is not professionally managed may charge a fee for the preparation and issuance of the association disclosure packet required by § 55-509.5. Any fee shall reflect the actual cost of the preparation of the association disclosure packet, but shall not exceed \$0.10 per page of copying costs or a total of \$100 for all costs incurred in preparing the association disclosure packet. The seller or his authorized agent shall specify whether the association disclosure packet shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the disclosure packet shall be delivered. If the seller or his authorized agent specifies that delivery shall be made to the purchaser or his authorized agent, the preparer shall provide the disclosure packet directly to the designated persons, at the same time it is delivered to the seller or his authorized agent. The association shall advise the requestor if electronic delivery of the disclosure packet or the disclosure packet update or financial update is not available, if electronic delivery has been requested by the seller or his authorized agent.

B. No fees other than those specified in this section shall be charged by the association for compliance with its duties and responsibilities under this section. Any fees charged pursuant to this section shall be collected at the time of delivery of the disclosure packet. If unpaid, any such fees shall be an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55-516. The seller may pay the association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the association.

C. If an association disclosure packet has been issued for a lot within the preceding 12-month period, a person specified in the written instructions of the seller or his authorized agent, including the seller or his authorized agent, or the purchaser or his authorized agent may request a disclosure packet update. The requestor shall specify whether the disclosure packet update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the specified update shall be delivered. The disclosure packet update shall be delivered within 10 days of the written request therefor.

D. The settlement agent may request a financial update. The requestor shall specify whether the financial update shall be delivered electronically or in hard copy, and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request therefor.

E. A reasonable fee for the disclosure packet update or a financial update may be charged by the preparer not to exceed \$50. At the option of the purchaser or his authorized agent, the requestor may request that the association perform an additional inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration, for a fee not to exceed \$50. Any fees charged for the specified update shall be collected at the time of delivery of the update. The association shall not require cash, check, certified funds, or credit card payments at the time the request is made for the disclosure packet update. The requestor may request that the specified update be provided in hard copy or in electronic form.

F. No association may require the requestor to request the specified update electronically. The seller or his authorized agent shall continue to have the right to request a hard copy of the specified update in person at the principal place of business of the association. If the requestor asks that the specified update be provided in electronic format, the association shall not require the requester to pay any fees to use the provider's electronic network or system. If the requestor asks that the specified update be provided in electronic format, the requestor may designate no more than two additional recipients to receive the specified update in electronic format at no additional charge. A copy of the specified update shall be provided to the seller or his authorized agent.

G. When a disclosure packet has been delivered as required by § 55-509.5, the association shall, as to the purchaser, be bound by the statements set forth therein as to the status of the assessment account

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59 and the status of the lot with respect to any violation of the declaration, bylaws, rules and regulations,
60 architectural guidelines and articles of incorporation, if any, of the association as of the date of the
61 statement unless the purchaser had actual knowledge that the contents of the disclosure packet were in
62 error.

63 H. If the association has been requested to furnish the association disclosure packet required by this
64 section, failure to provide the association disclosure packet substantially in the form provided in this
65 section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the
66 declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the
67 request with respect to the subject lot. The association shall be liable to the seller in an amount equal to
68 the actual damages sustained by the seller in an amount not to exceed \$500. The purchaser shall
69 nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural
70 guidelines of the association as to all matters arising after the date of the settlement of the sale.

71 *I. An association that is not professionally managed may act as a professionally managed*
72 *association for purposes of § 55-509.6 only upon the following conditions:*

73 *1. The development contains more than 100 lots subject to a declaration, as those terms are defined*
74 *in § 55-509;*

75 *2. The association has registered with the Common Interest Community Board pursuant to Chapter*
76 *29 (§ 55-528 et seq.), is current with filings of its annual reports, and has paid its annual assessments*
77 *to the Common Interest Community Board pursuant to § 55-530.1 to the Common Interest Community*
78 *Management Recovery Fund; and*

79 *3. Unless exempt under § 54.1-2347, any person providing services to the association for*
80 *compensation who has verbal or written communication with members of the association shall be*
81 *licensed as a common interest community manager; however, any such person for compensation who*
82 *performs only back-office functions shall not be required to be licensed.*

83 *An association that is not professionally managed that satisfies each of these conditions and that*
84 *performs the responsibilities of a professionally managed association for purposes of § 55-509.6 shall*
85 *have the liabilities and receive the compensation of a professionally managed association as set out in*
86 *§ 55-509.6.*