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HOUSE BILL NO. 1122

Offered January 10, 2018

Prefiled January 10, 2018

A BILL to amend and reenact § 55-510 of the Code of Virginia, relating to the Property Owners' Association Act; access to association records.

Patron—Convirs-Fowler

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 55-510 of the Code of Virginia is amended and reenacted as follows:

§ 55-510. Access to association records; association meetings; notice.

A. The association shall keep detailed records, including records of receipts the following:

1. A list of the association's current membership, including each member's address, telephone number, and email address, if any;

2. Receipts and expenditures affecting the operation and administration of the association. All financial books and records shall be kept in accordance with generally accepted accounting practices;

3. The actual salary of the six highest compensated employees of the association earning over \$75,000 and aggregate salary information of all other employees of the association;

4. A copy of the current declaration, the association's articles of incorporation and bylaws, and any rules and regulations or architectural guidelines adopted by the association;

5. Pursuant to subsection F, a copy of all minutes of the board of directors and association meetings; and

6. Records of all correspondence between management or members of the association's board of directors and association members.

B. Subject to the provisions of subsection C and so long as the request is for a proper purpose related to his membership in the association, all books and records kept by or on behalf of the association, shall be available for examination and copying by a member in good standing or his authorized agent including but not limited to:

1. The association's membership list and addresses, which shall not be used for purposes of pecuniary gain or commercial solicitation; and

2. The actual salary of the six highest compensated employees of the association earning over \$75,000 and aggregate salary information of all other employees of the association; provided, however, that (i) the records specified in subdivision A 1 shall not be used for purposes of pecuniary gain or commercial solicitation and (ii) for the records specified in subdivision A 3, individual salary information shall not be available for examination and copying during the declarant control period.

Notwithstanding any provision of law to the contrary, this right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five business days' written notice for an association managed by a common interest community manager and 10 business days' written notice for a self-managed association, which notice reasonably identifies the purpose for the request and the specific books and records of the association requested.

C. Books and records kept by or on behalf of an association may be withheld from inspection and copying to the extent that they concern:

1. Personnel matters relating to specific, identified persons or a person's medical records;

2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;

3. Pending or probable litigation. Probable litigation means those instances where there has been a specific threat of litigation from a party or the legal counsel of a party;

4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to § 55-513;

5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;

6. Disclosure of information in violation of law;

7. Meeting minutes or other confidential records of an executive session of the board of directors held in accordance with subsection C of § 55-510.1;

8. Documentation, correspondence or management or board reports compiled for or on behalf of the

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59 association or the board by its agents or committees for consideration by the board in executive session;
60 or

61 9. Individual unit owner or member files, other than those of the requesting lot owner, including any
62 individual lot owner's or member's files kept by or on behalf of the association.

63 D. Prior to providing copies of any books and records to a member in good standing under this
64 section, the association may impose and collect a charge, reflecting the reasonable costs of materials and
65 labor, not to exceed the actual costs thereof. Charges may be imposed only in accordance with a cost
66 schedule adopted by the board of directors in accordance with this subsection. The cost schedule shall
67 (i) specify the charges for materials and labor, (ii) apply equally to all members in good standing, and
68 (iii) be provided to such requesting member at the time the request is made.

69 E. Notwithstanding the provisions of subsections B and C, all books and records of the association,
70 including individual salary information for all employees and payments to independent contractors, shall
71 be available for examination and copying upon request by a member of the board of directors in the
72 discharge of his duties as a director.

73 F. Meetings of the association shall be held in accordance with the provisions of the bylaws at least
74 once each year after the formation of the association. The bylaws shall specify an officer or his agent
75 who shall, at least 14 days in advance of any annual or regularly scheduled meeting, and at least seven
76 days in advance of any other meeting, send to each member notice of the time, place, and purposes of
77 such meeting. In the event of cancellation of any annual meeting of the association at which directors
78 are elected, the seven-day notice of any subsequent meeting scheduled to elect such directors shall
79 include a statement that the meeting is scheduled for the purpose of the election of directors.

80 Notice shall be sent by United States mail to all members at the address of their respective lots
81 unless the member has provided to such officer or his agent an address other than the address of the
82 member's lot; or notice may be hand delivered by the officer or his agent, provided the officer or his
83 agent certifies in writing that notice was delivered to the member. Except as provided in subdivision C
84 7, draft minutes of the board of directors shall be open for inspection and copying (i) within 60 days
85 from the conclusion of the meeting to which such minutes appertain or (ii) when such minutes are
86 distributed to board members as part of an agenda package for the next meeting of the board of
87 directors, whichever occurs first.