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SENATE BILL NO. 706

Offered January 10, 2018

Prefiled January 10, 2018

A BILL to amend and reenact §§ 55-79.83:1, 55-471.1, and 55-514.1 of the Code of Virginia, relating to common interest communities; reserves for capital components; budget.

Patron—Surovell

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-79.83:1, 55-471.1, and 55-514.1 of the Code of Virginia are amended and reenacted as follows:

§ 55-79.83:1. Reserves for capital components.

A. Except to the extent otherwise provided in the condominium instruments and unless the condominium instruments impose more stringent requirements, the executive organ shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace and restore the capital components;

2. Review the results of that study at least annually to determine if reserves are sufficient; and

3. Make any adjustments the executive organ deems necessary to maintain reserves, as appropriate.

B. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the unit owners' association budget shall include, without limitations:

1. The current estimated replacement cost, estimated remaining life and estimated useful life of the capital components;

2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside, to repair, replace or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year; ~~and~~

3. A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to this section and the extent to which the unit owners' association is funding its reserve obligations consistent with the study currently in effect; *and*

4. *A statement detailing the amount of any shortage or excess of total cash reserves as indicated by the study required by subdivision A 1 and the amount of such shortage or excess per capita for each member of the association.*

C. Failure of any member of the executive organ or officer of the association to comply with the provisions of this section shall constitute prima facie evidence of a breach of fiduciary duty on the part of the member or officer.

§ 55-471.1. Reserves for capital components.

A. Except to the extent otherwise provided in the declaration and unless the declaration imposes more stringent requirements, the executive board shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components;

2. Review the results of that study at least annually to determine if reserves are sufficient; and

3. Make any adjustments the executive board deems necessary to maintain reserves, as appropriate.

B. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include, without limitations:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components;

2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year; ~~and~~

3. A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to this section and the extent to which the association is funding its reserve obligations consistent with the study currently in effect; *and*

4. *A statement detailing the amount of any shortage or excess of total cash reserves as indicated by the study required by subdivision A 1 and the amount of such shortage or excess per capita for each member of the association.*

C. Failure of any member of the executive board or officer of the association to comply with the provisions of this section shall constitute prima facie evidence of a breach of fiduciary duty on the part of the board member or officer.

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59 **§ 55-514.1. Reserves for capital components.**

60 A. Except to the extent otherwise provided in the declaration and unless the declaration imposes
61 more stringent requirements, the board of directors shall:

62 1. Conduct at least once every five years a study to determine the necessity and amount of reserves
63 required to repair, replace and restore the capital components;

64 2. Review the results of that study at least annually to determine if reserves are sufficient; and

65 3. Make any adjustments the board of directors deems necessary to maintain reserves, as appropriate.

66 B. To the extent that the reserve study conducted in accordance with this section indicates a need to
67 budget for reserves, the association budget shall include, without limitation:

68 1. The current estimated replacement cost, estimated remaining life and estimated useful life of the
69 capital components;

70 2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of
71 accumulated cash reserves set aside, to repair, replace or restore capital components and the amount of
72 the expected contribution to the reserve fund for that year; ~~and~~

73 3. A general statement describing the procedures used for the estimation and accumulation of cash
74 reserves pursuant to this section and the extent to which the association is funding its reserve obligations
75 consistent with the study currently in effect; *and*

76 4. *A statement detailing the amount of any shortage or excess of total cash reserves as indicated by*
77 *the study required by subdivision A 1 and the amount of such shortage or excess per capita for each*
78 *member of the association.*

79 C. *Failure of any member of the board of directors or officer of the association to comply with the*
80 *provisions of this section shall constitute prima facie evidence of a breach of fiduciary duty on the part*
81 *of the board member or officer.*