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HOUSE BILL NO. 1488

Offered January 22, 1996

A BILL to amend and reenact §§ 55-79.40, 55-79.41, 55-79.58:1, 55-79.74, 55-79.84:1, 55-79.87, 55-79.88, 55-79.90, 55-79.94, and 55-79.103 of the Code of Virginia and to repeal §§ 55-79.86, 55-79.89, 55-79.91 through 55-79.93:1, and 55-79.98 through 55-79.102 of the Code of Virginia, relating to the Virginia Condominium Act; deregulation.

Patron—Wagner

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-79.40, 55-79.41, 55-79.58:1, 55-79.74, 55-79.84:1, 55-79.87, 55-79.88, 55-79.90, 55-79.94, and 55-79.103 of the Code of Virginia are amended and reenacted as follows:

§ 55-79.40. Application and construction of chapter.

A. This chapter shall apply to all condominiums and to all horizontal property regimes or condominium projects. For the purposes of this chapter, the terms "horizontal property regime" and "condominium project" shall be deemed to correspond to the term "condominium" ; the term "apartment" shall be deemed to correspond to the term "unit" ; the term "co-owner" shall be deemed to correspond to the term "unit owner" ; the term "council of co-owners" shall be deemed to correspond to the term "unit owners' association" ; the term "developer" shall be deemed to correspond to the term "declarant" ; the term "general common elements" shall be deemed to correspond to the term "common elements" ; and the terms "master deed" and "master lease" shall be deemed to correspond to the term "declaration" and shall be deemed included in the term "condominium instruments." This chapter shall be deemed to supersede the Horizontal Property Act, §§ 55-79.1 through 55-79.38, and no condominium shall be established under the latter on or after July 1, 1974. But this chapter shall not be construed to affect the validity of any provision of any condominium instrument recorded prior to July 1, 1974. Nor shall Article 4 (§ 55-79.86 et seq.) of this chapter be deemed to supersede §§ 55-79.16 through 55-79.31 of the Horizontal Property Act as to any condominiums established prior to the effective date hereof.

B. This chapter shall not apply to condominiums located outside this the Commonwealth. Sections 55-79.88 through, 55-79.90, 55-79.94, and §§ 55-79.98 through 55-79.103 shall apply to all contracts for the disposition of condominium units signed in this Commonwealth by any person, unless exempt under § 55-79.87.

C. Subsection (b) of § 55-79.79 and § 55-79.94 do not apply to the declarant of a conversion condominium if that declarant is a proprietary lessees' association that, immediately before the creation of the condominium, owned fee simple title to or a fee simple reversionary interest in the real estate described pursuant to subdivision (a) (3) of § 55-79.54.

§ 55-79.41. Definitions.

When used in this chapter:

"Common elements" means all portions of the condominium other than the units.

"Common expenses" means all expenditures lawfully made or incurred by or on behalf of the unit owners' association, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the condominium instruments; "future common expenses" means common expenses for which assessments are not yet due and payable.

"Condominium" means real property, and any incidents thereto or interests therein, lawfully submitted to this chapter by the recordation of condominium instruments pursuant to the provisions of this chapter. No project shall be deemed a condominium within the meaning of this chapter unless the undivided interests in the common elements are vested in the unit owners.

"Condominium instruments" is a collective term referring to the declaration, bylaws, and plats and plans, recorded pursuant to the provisions of this chapter. Any exhibit, schedule, or certification accompanying a condominium instrument and recorded simultaneously therewith shall be deemed an integral part of that condominium instrument. Any amendment or certification of any condominium instrument shall, from the time of the recordation of such amendment or certification, be deemed an integral part of the affected condominium instrument, so long as such amendment or certification was made in accordance with the provisions of this chapter.

"Condominium unit" means a unit together with the undivided interest in the common elements appertaining to that unit. (Cf. the definition of "unit," infra.)

"Contractable condominium" means a condominium from which one or more portions of the submitted land may be withdrawn in accordance with the provisions of the declaration and of this

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60 chapter. If such withdrawal can occur only by the expiration or termination of one or more leases, then
61 the condominium shall not be deemed a contractable condominium within the meaning of this chapter.

62 "Conversion condominium" means a condominium containing structures which before the recording
63 of the declaration, were wholly or partially occupied by persons other than those who have contracted
64 for the purchase of condominium units and those who occupy with the consent of such purchasers.

65 "Convertible land" means a building site; that is to say, a portion of the common elements, within
66 which additional units and/or limited common elements may be created in accordance with the
67 provisions of this chapter.

68 "Convertible space" means a portion of a structure within the condominium, which portion may be
69 converted into one or more units and/or common elements, including but not limited to limited common
70 elements in accordance with the provisions of this chapter. (Cf. the definition of "unit," *infra*.)

71 "Declarant" means any person, or group of persons acting in concert, that (i) offers to dispose of his
72 or its interest in a condominium unit not previously disposed of, including an institutional lender which
73 may not have succeeded to or accepted any special declarant rights pursuant to § 55-79.74:3; *or* (ii)
74 reserves or succeeds to any special declarant right; ~~or (iii) applies for registration of the condominium.~~
75 However, for the purposes of ~~clauses (i) and (iii),~~ *clause (i)*, the term "declarant" shall not include an
76 institutional lender which acquires title by foreclosure or deed in lieu thereof unless such lender offers to
77 dispose of its interest in a condominium unit not previously disposed of to anyone not in the business of
78 selling real estate for his own account, except as otherwise provided in § 55-79.74:3. The term
79 "declarant" shall not include an individual who acquires title to a condominium unit at a foreclosure
80 sale.

81 "Dispose" or "disposition" refers to any voluntary transfer of a legal or equitable interest in a
82 condominium unit to a purchaser, but shall not include the transfer or release of security for a debt.

83 "Executive organ" means an executive and administrative entity, by whatever name denominated,
84 designated in the condominium instruments as the governing body of the unit owners' association.

85 "Expandable condominium" means a condominium to which additional land may be added in
86 accordance with the provisions of the declaration and of this chapter.

87 "Identifying number" means one or more letters and/or numbers that identify only one unit in the
88 condominium.

89 "Institutional lender" means one or more commercial or savings banks, savings and loan associations,
90 trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or
91 business trusts including but not limited to real estate investment trusts, any other lender regularly
92 engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans
93 made by such a lender, or any combination of any of the foregoing entities.

94 "Land" is a three-dimensional concept and includes parcels with upper or lower boundaries, or both
95 upper and lower boundaries, as well as parcels extending *ab solo usque ad coelum*. Parcels of airspace
96 constitute land within the meaning of this chapter. Any requirement in this chapter of a legally sufficient
97 description shall be deemed to include a requirement that the upper or lower boundaries, if any, of the
98 parcel in question be identified with reference to established datum.

99 "Leasehold condominium" means a condominium in all or any portion of which each unit owner
100 owns an estate for years in his unit, or in the land within which that unit is situated, or both, with all
101 such leasehold interests due to expire naturally at the same time. A condominium including leased land,
102 or an interest therein, within which no units are situated or to be situated shall not be deemed a
103 leasehold condominium within the meaning of this chapter.

104 "Limited common element" means a portion of the common elements reserved for the exclusive use
105 of those entitled to the use of one or more, but less than all, of the units.

106 "Nonbinding reservation agreement" means an agreement between the declarant and a prospective
107 purchaser which is in no way binding on the prospective purchaser and which may be canceled without
108 penalty at the sole discretion of the prospective purchaser by written notice, hand-delivered or sent by
109 United States mail, return receipt requested, to the declarant or to any sales agent of the declarant at any
110 time prior to the formation of a contract for the sale or lease of a condominium unit or an interest
111 therein. Such agreement shall not contain any provision for waiver or any other provision in derogation
112 of the rights of the prospective purchaser as contemplated by this subsection, nor shall any such
113 provision be a part of any ancillary agreement.

114 "Offer" means any inducement, solicitation, or attempt to encourage any person or persons to acquire
115 any legal or equitable interest in a condominium unit, except as security for a debt. ~~Nothing shall be~~
116 ~~considered an "offer" which expressly states that the condominium has not been registered with the Real~~
117 ~~Estate Board and that no unit in the condominium can or will be offered for sale until such time as the~~
118 ~~condominium has been so registered.~~

119 "Officer" means any member of the executive organ or official of the unit owners' association.

120 "Par value" means a number of dollars or points assigned to each unit by the declaration.
121 Substantially identical units shall be assigned the same par value, but units located at substantially

122 different heights above the ground, or having substantially different views, or having substantially
123 different amenities or other characteristics that might result in differences in market value, may, but need
124 not, be considered substantially identical within the meaning of this subsection. If par value is stated in
125 terms of dollars, that statement shall not be deemed to reflect or control the sales price or fair market
126 value of any unit, and no opinion, appraisal, or fair market transaction at a different figure shall affect
127 the par value of any unit, or any undivided interest in the common elements, voting rights in the unit
128 owners' association or liability for common expenses assigned on the basis thereof.

129 "Person" means a natural person, corporation, partnership, association, trust, or other entity capable of
130 holding title to real property, or any combination thereof.

131 "Purchaser" means any person or persons, other than a declarant, who acquire by means of a
132 voluntary transfer a legal or equitable interest in a condominium unit, other than (i) a leasehold interest,
133 including renewal options, of less than twenty years or (ii) as security for a debt.

134 "Size" means the number of cubic feet, or the number of square feet of ground and/or floor space,
135 within each unit as computed by reference to the plat and plans and rounded off to a whole number.
136 Certain spaces within the units including, without limitation, attic, basement, and/or garage space may
137 but need not be omitted from such calculation or partially discounted by the use of a ratio, so long as
138 the same basis of calculation is employed for all units in the condominium, and so long as that basis is
139 described in the declaration.

140 "Special declarant rights" means any right reserved for the benefit of a declarant, or of a person or
141 group of persons that becomes a declarant, to (i) expand an expandable condominium, (ii) contract a
142 contractable condominium, (iii) convert convertible land or convertible space or both, (iv) appoint or
143 remove any officers of the unit owners' association or the executive organ pursuant to subsection (a) of
144 § 55-79.74, (v) exercise any power or responsibility otherwise assigned by any condominium instrument
145 or by this chapter to the unit owners' association, any officer or the executive organ, or (vi) maintain
146 sales offices, management offices, model units and signs pursuant to § 55-79.66.

147 "Unit" means a portion of the condominium designed and intended for individual ownership and use.
148 (Cf. the definition of "condominium unit", supra.) For the purposes of this chapter, a convertible space
149 shall be treated as a unit in accordance with subsection (d) of § 55-79.62.

150 "Unit owner" means one or more persons who own a condominium unit, or, in the case of a
151 leasehold condominium, whose leasehold interest or interests in the condominium extend for the entire
152 balance of the unexpired term or terms. This term shall not include any person or persons holding an
153 interest in a condominium unit solely as security for a debt.

154 § 55-79.58:1. Bond to insure completion of improvements.

155 A. ~~The declarant shall~~ *governing body of any county, city or town may require by ordinance that a*
156 *declarant file with the Real Estate Board* ~~it~~ a bond entered into by the declarant in the sum of 100
157 percent of the estimated cost of completion, to the extent of the declarant's obligation as stated in the
158 declaration, of all improvements to the common elements of the condominium labeled in the plat or
159 plats as "(NOT YET COMPLETED)" or "(NOT YET BEGUN)" located upon submitted land and which
160 the declarant reasonably believes will not be substantially complete at the time of conveyance of the
161 first condominium unit. Such bond shall be conditioned upon the faithful performance of the declarant's
162 obligation to complete said improvements in strict conformity with the plans and specifications for the
163 same as described in the declaration.

164 B. All bonds required ~~herein~~ *pursuant to this section* shall be executed by a surety company
165 authorized to transact business in the Commonwealth of Virginia or by such other surety as is
166 satisfactory to the ~~Board~~ *local governing body*.

167 C. ~~The Board may promulgate reasonable regulations which govern the return of bonds submitted in~~
168 ~~accordance with this section.~~

169 § 55-79.74. Control of condominium by declarant.

170 (a) The condominium instruments may authorize the declarant, or a managing agent or some other
171 person or persons selected or to be selected by the declarant, to appoint and remove some or all of the
172 officers of the unit owners' association and/or its executive organ, or to exercise powers and
173 responsibilities otherwise assigned by the condominium instruments and by this chapter to the unit
174 owners' association, the officers, or the executive organ. The declarant or the managing agent or such
175 other person or persons selected by the declarant to so appoint and remove officers and/or the executive
176 organ or to exercise such powers and responsibilities otherwise assigned to the unit owners' association,
177 the officers, or the executive organ shall be subject to liability as fiduciaries of the unit owners for their
178 action or omissions during the period of declarant control as specified in the condominium instruments
179 or if not so specified, within such period as defined in this section. But no amendment to the
180 condominium instruments shall increase the scope of such authorization if there is any unit owner other
181 than the declarant, and no such authorization shall be valid after the time limit set by the condominium
182 instruments or after units to which three-fourths of the undivided interests in the common elements

183 appertain have been conveyed, whichever occurs first. For the purposes of the preceding sentence only,
184 the calculation of the fraction of undivided interest shall be based upon the total undivided interests
185 assigned or to be assigned to all units registered with the Real Estate Board pursuant to subsection B of
186 ~~§ 55-79.92 hereof~~ and described pursuant to subdivision (4) of subsection (a), subdivision (2) of
187 subsection (b), or subdivision (8) of subsection (c), of § 55-79.54. The time limit initially set by the
188 condominium instruments shall not exceed five years in the case of an expandable condominium, three
189 years in the case of a condominium (other than an expandable condominium) containing any convertible
190 land, or two years in the case of any other condominium. Such time period shall commence upon
191 settlement of the first unit to be sold in any portion of the condominium.

192 (b) (1) If entered into any time prior to the expiration of the period of declarant control contemplated
193 by subsection (a) hereof, no contract or lease entered into with the declarant or any entity controlled by
194 the declarant, management contract, employment contract or lease of recreational or parking areas or
195 facilities, which is directly or indirectly made by or on behalf of the unit owners' association, its
196 executive organ, or the unit owners as a group, shall be entered into for a period in excess of two years.
197 Any such contract or agreement entered into on or after July 1, 1978, may be terminated without
198 penalty by the unit owners' association or its executive organ upon not less than ninety days' written
199 notice to the other party given not later than sixty days after the expiration of the period of declarant
200 control contemplated by subsection (a) hereof. Any such contract or agreement may be renewed for
201 periods not in excess of two years; however, at the end of any two-year period the unit owners'
202 association or its executive organ may terminate any further renewals or extensions thereof. The
203 provisions of this subsection shall not apply to any lease or leases which are referred to in § 55-79.48 or
204 which are subject to subsection (e) of § 55-79.54.

205 (2) If entered into at any time prior to the expiration of the period of declarant control contemplated
206 by subsection (a) hereof, any contract, lease or agreement, other than those subject to the provisions of
207 subsection (b) (1) hereof, may be entered into by or on behalf of the unit owners' association, its
208 executive organ, or the unit owners as a group, if such contract, lease or agreement is bona fide and is
209 commercially reasonable to the unit owners' association at the time entered into under the circumstances.

210 (3) This section does not apply to any contract, incidental to the disposition of a condominium unit,
211 to provide to a unit owner for the duration of such unit owner's life, or for any term in excess of one
212 year, nursing services, medical services, other health-related services, board and lodging and care as
213 necessary, or any combination of such services. The rule of property law known as the rule restricting
214 unreasonable restraints on alienation shall not be applied to defeat any provision of the condominium
215 instruments requiring that the unit owners be parties to such contracts.

216 (c) If the unit owners' association is not in existence or does not have officers at the time of the
217 creation of the condominium, the declarant shall, until there is such an association with such officers,
218 have the power and the responsibility to act in all instances where this chapter requires action by the
219 unit owners' association, its executive organ, or any officer or officers.

220 (c1) Thirty days prior to the expiration of the period of declarant control, the declarant shall notify
221 the governing body of the city, county or town in which the condominium is located of the forthcoming
222 termination of declarant control. Prior to the expiration of the thirty-day period, the local governing
223 body or an agency designated by the local governing body shall advise the principal elected officer of
224 the condominium unit owners' association of any outstanding violations of applicable building codes,
225 local ordinances or other deficiencies of record.

226 (d) This section shall be strictly construed to protect the rights of the unit owners.

227 § 55-79.84:1. Bond to be posted by declarant.

228 A. *The local governing body of any county, city or town may require by ordinance that a declarant*
229 *of a condominium containing units which are required by this chapter to be registered with the Real*
230 *Estate Board shall post a bond in favor of the unit owners' association with good and sufficient surety,*
231 *in a sum equal to \$1,000 per unit, except that such sum shall not be less than \$10,000, nor more than*
232 *\$100,000. Such bond shall be filed with the Real Estate Board local governing body and shall be*
233 *maintained for so long as the declarant owns more than ten percent of the units in the condominium or,*
234 *if the declarant owns less than ten percent of the units in the condominium, until the declarant is current*
235 *in the payment of assessments. However, the Board local governing body shall return a bond where the*
236 *declarant owns one unit in a condominium containing less than ten units, provided such declarant is*
237 *current in the payment of assessments.*

238 B. No bond shall be accepted for filing unless it is with a surety company authorized to do business
239 in the Commonwealth, or by such other surety as is satisfactory to the ~~Board~~ local governing body, and
240 such bond shall be conditioned upon the payment of all assessments levied against condominium units
241 owned by the declarant. The ~~Board~~ local governing body may accept a letter of credit in lieu of the
242 bond contemplated by this section.

243 The Board may promulgate reasonable regulations which govern the return of bonds submitted in
244 accordance with this section.

245 § 55-79.87. Exemptions from certain provisions of article.
 246 A. Unless the method of offer or disposition is adopted for the purpose of evasion of this chapter,
 247 the provisions of §§ 55-79.88 through 55-79.93, subsections A and 55-79.90, subsection C of § 55-79.94,
 248 and § 55-79.97 of this chapter do not apply to:
 249 1. Dispositions pursuant to court order;
 250 2. Dispositions by any government or government agency;
 251 3. Offers by the declarant on nonbinding reservation agreements; or
 252 4. Dispositions in a residential condominium in which there are three or fewer units, so long as the
 253 condominium instruments do not reserve to the declarant the right to create additional condominium
 254 units.
 255 B. In cases of dispositions in a condominium where all units are restricted to nonresidential use, the
 256 provisions of §§ 55-79.88 through 55-79.90 and 55-79.94 of this chapter shall not apply, unless the
 257 method of offer or disposition is adopted for the purpose of evasion of this chapter.
 258 § 55-79.88. Limitations on dispositions of units.
 259 Unless exempt by § 55-79.87:
 260 1. ~~No declarant may offer or dispose of any interest in a condominium unit located in this~~
 261 ~~Commonwealth, nor offer or dispose in this Commonwealth of any interest in a condominium unit~~
 262 ~~located without this Commonwealth prior to the time the condominium including such unit is registered~~
 263 ~~in accordance with this chapter.~~
 264 2. ~~No, no~~ declarant may dispose of any interest in a condominium unit unless he delivers to the
 265 purchaser a current public offering statement by the time of such disposition and such disposition is
 266 expressly and without qualification or condition subject to cancellation by the purchaser within ten
 267 calendar days from the contract date of the disposition, or delivery of the current public offering
 268 statement, whichever is later. If the purchaser elects to cancel, he may do so by notice thereof
 269 hand-delivered or sent by United States mail, return receipt requested, to the declarant. Such cancellation
 270 shall be without penalty, and any deposit made by the purchaser shall be promptly refunded in its
 271 entirety.
 272 § 55-79.90. Public offering statement; condominium securities.
 273 (a) A public offering statement shall disclose fully and accurately the characteristics of the
 274 condominium and the units therein offered and shall make known to prospective purchasers all unusual
 275 and material circumstances or features affecting the condominium. The ~~proposed~~ public offering
 276 statement ~~submitted to the agency shall be in a form prescribed by its rules and shall include the~~
 277 following:
 278 (1) The name and principal address of the declarant and the condominium;
 279 (2) A general narrative description of the condominium stating the total number of units in the
 280 offering; the total number of units planned to be sold and rented; the total number of units that may be
 281 included in the condominium by reason of future expansion or merger of the project by the declarant;
 282 (3) Copies of the declaration and bylaws, with a brief narrative statement describing each and
 283 including information on declarant control, a projected budget for at least the first year of the
 284 condominium's operation (including projected common expense assessments for each unit), and
 285 provisions for reserves for capital expenditures and restraints on alienation;
 286 (4) Copies of any management contract, lease of recreational areas, or similar contract or agreement
 287 affecting the use, maintenance or access of all or any part of the condominium with a brief narrative
 288 statement of the effect of each such agreement upon a purchaser, and a statement of the relationship, if
 289 any, between the declarant and the managing agent or firm;
 290 (5) A general description of the status of construction, zoning, site plan approval, issuance of
 291 building permits, or compliance with any other state or local statute or regulation affecting the
 292 condominium;
 293 (6) The significant terms of any encumbrances, easements, liens and matters of title affecting the
 294 condominium;
 295 (7) The significant terms of any financing offered by the declarant to the purchaser of units in the
 296 condominium;
 297 (8) Provisions of any warranties provided by the declarant on the units and the common elements,
 298 other than the warranty prescribed by subsection (b) of § 55-79.79;
 299 (9) A statement that the purchaser may cancel the disposition within ten days of delivery of the
 300 current public offering statement, or within ten days of the contract date of the disposition, whichever is
 301 later;
 302 (9a) A statement of the declarant's obligation to complete improvements of the condominium which
 303 are planned but not yet begun, or begun but not yet completed. Said statement shall include a
 304 description of the quality of the materials to be used, the size or capacity of the improvements when
 305 material, and the time by which the improvements shall be completed. Any limitations on the declarant's

306 obligation to begin or complete any such improvements shall be expressly stated;

307 (10) Additional information required by the agency to assure full and fair disclosure to prospective
308 purchasers.

309 (b) The public offering statement shall not *may* be used for any promotional purposes before
310 registration of the condominium project and afterwards only if it is used in its entirety. No person may
311 advertise or represent that the agency approves or recommends the condominium or disposition thereof.
312 No portion of the public offering statement may be underscored, italicized, or printed in larger or
313 heavier or different color type than the remainder of the statement unless the agency requires it.

314 (c) The agency may require the declarant to alter or amend the proposed public offering statement in
315 order to assure full and fair disclosure to prospective purchasers, and no *No* change in the substance of
316 the promotional plan or plan of disposition or development of the condominium may be made after
317 registration without notifying the agency and without making *an* appropriate amendment of the public
318 offering statement. A public offering statement is not current unless all amendments are incorporated.

319 (d) If an interest in a condominium is currently registered with the Securities and Exchange
320 Commission of the United States, a declarant satisfies all requirements relating to the preparation of a
321 public offering statement in this chapter if he delivers to the purchaser and files with the agency a copy
322 of the public offering statement filed with the Securities and Exchange Commission. An interest in a
323 condominium is not a security under the provisions of the Securities Act (§ 13.1-501 et seq.).

324 § 55-79.94. Conversion condominiums; special provisions.

325 A. Any declarant of a conversion condominium shall include in his public offering statement in
326 addition to the requirements of § 55-79.90 the following:

327 1. A specific statement of the amount of any initial or special condominium fee due from the
328 purchaser on or before settlement of the purchase contract and the basis of such fee;

329 2. Information on the actual expenditures made on all repairs, maintenance, operation or upkeep of
330 the subject building or buildings within the last three years, set forth tabularly with the proposed budget
331 of the condominium, and cumulatively broken down on a per unit basis in proportion to the relative
332 voting strengths allocated to the units by the bylaws. If such building or buildings have not been
333 occupied for a period of three years, then the information shall be set forth for the maximum period
334 such building or buildings have been occupied;

335 3. A description of any provisions made in the budget for reserves for capital expenditures and an
336 explanation of the basis for such reserves, or, if no provision is made for such reserves, a statement to
337 that effect;

338 4. A statement of the declarant as to the present condition of all structural components and major
339 utility installations in the condominium, which statement shall include the approximate dates of
340 construction, installation, and major repairs, and the expected useful life of each such item, together with
341 the estimated cost (in current dollars) of replacing each of the same;

342 5. If any building included or that may be included in the condominium was substantially completed
343 prior to July 1, 1978, a statement that each such building has been inspected for asbestos in accordance
344 with standards in effect at the time of inspection; or that an asbestos inspection will be conducted; and
345 whether asbestos requiring response actions has been found, and if found, that response actions have
346 been or will be completed in accordance with applicable standards prior to the conveyance of any unit
347 in such building. Any asbestos management program or response action undertaken by the building
348 owner shall comply with the standards promulgated pursuant to § 2.1-526.14:2.

349 B. In the case of a conversion condominium, the declarant shall give at the time specified in
350 subsection C of this section, formal notice to each of the tenants of the building or buildings which the
351 declarant has submitted or intends to submit to the provisions of this chapter. This notice shall advise
352 each tenant of (i) the offering price of the unit he occupies, (ii) the projected common expense
353 assessments against that unit for at least the first year of the condominium's operation, (iii) any
354 relocation services or assistance, public or private, of which the declarant is aware, (iv) any measures
355 taken or to be taken by the declarant to reduce the incidence of tenant dislocation, and (v) the details of
356 the relocation plan, if any is provided by the declarant, to assist tenants in relocating. During the first
357 sixty days after such notice is mailed or hand delivered, each of the said tenants shall have the exclusive
358 right to purchase the unit he occupies, but only if such unit is to be retained in the conversion
359 condominium without substantial alteration in its physical layout.

360 The notice required above shall be hand delivered or sent by first-class mail, return receipt requested,
361 and shall inform the tenants of the conversion to condominium. Such notice may also constitute the
362 notice to terminate the tenancy as provided for in § 55-222, except that, despite the provisions of
363 § 55-222, a tenancy from month to month may only be terminated upon 120 days' notice when such
364 termination is in regard to the creation of a conversion condominium. If, however, a tenant so notified
365 remains in possession of the unit he occupies after the expiration of the 120-day period with the
366 permission of the declarant, in order to then terminate the tenancy, such declarant shall give the tenant a
367 further notice as provided in § 55-222. Until the expiration of the 120-day period, the declarant shall

368 have no right of access to the unit except as provided by subsection A of § 55-248.18 and except that;
 369 however, upon 45 days' written notice to the tenant, the declarant may enter the unit in order to make
 370 additional repairs, decorations, alterations or improvements, provided (i) the making of the same does
 371 not constitute an actual or constructive eviction of the tenant; and (ii) such entry is made either with the
 372 consent of the tenant or only at times when the tenant is absent from the unit. The declarant shall also
 373 provide general notice to the tenants of the condominium or proposed condominium at the time of
 374 application to the agency in addition to the formal notice required by this subsection.

375 C. The declarant of a conversion condominium shall, in addition to the requirements of § 55-79.89,
 376 include with the application for registration a copy of the formal notice set forth in subsection B and a
 377 certified statement that such notice, fully complying with the provisions of subsection B, shall be, at the
 378 time of the registration of such condominium, mailed or delivered to each of the tenants in the building
 379 or buildings for which registration is sought. The price and projected common expense assessments for
 380 each unit need not be filed with the agency until such notice is mailed to the tenants.

381 D. Notwithstanding the provisions of § 55-79.40 of this chapter, in the case of any conversion
 382 condominium created under the provisions of the Horizontal Property Act (§ 55-79.1 et seq.) for which a
 383 final report has not been issued by the agency pursuant to § 55-79.21 prior to June 1, 1975, the
 384 provisions of subsections A and B of this section shall apply and the declarant shall be required to
 385 furnish evidence of full compliance with subsections A and B prior to the issuance by the agency of a
 386 final report for such conversion condominium.

387 E. Any county, city or town may require by ordinance that the declarant of a conversion
 388 condominium file with that governing body all information which is required by the agency pursuant to
 389 § 55-79.89 and a copy of the formal notice required by subsection B. Such information shall be filed
 390 with that governing body when the application for registration is filed with the agency, and such copy of
 391 the formal notice shall be filed with that governing body. There shall be no fees for such filings.

392 FD. The governing body of any county, city or town may enact an ordinance requiring that elderly
 393 or disabled tenants occupying as their residence, at the time of issuance of the general notice required
 394 by subsection B, apartments or units in a conversion condominium be offered leases or extensions of
 395 leases on the apartments or units they then occupied, or on other apartments or units of at least equal
 396 size and overall quality. The terms and conditions thereof shall be as agreed upon by the lessor and the
 397 lessee, provided that the rent for such apartment or unit shall not be in excess of reasonable rent for
 398 comparable apartments or units in the same market area as such conversion condominium and such lease
 399 shall include or incorporate by reference the bylaws and/or rules and regulations, if any, of the
 400 association. No such ordinance may require that such leases or extensions be offered on more than
 401 twenty percent of the apartments or units in such conversion condominium, nor may any such ordinance
 402 require that such leases or extensions extend beyond three years from the date of such notice. Such
 403 leases or extensions shall not be required, however, in the case of any apartments or units which will, in
 404 the course of the conversion, be substantially altered in the physical layout, restricted exclusively to
 405 nonresidential use, or be converted in such a manner as to require relocation of the tenant in premises
 406 outside of the project being converted.

407 For the purposes of this section:

408 "Elderly" means a person not less than sixty-two years of age.

409 "Disabled" means a person suffering from a severe, chronic physical or mental impairment which
 410 results in substantial functional limitations.

411 GE. The governing body of any county utilizing the urban county executive form of optional
 412 government (§§ 15.1-728 through 15.1-740) or the county manager plan of optional government
 413 (§§ 15.1-674 through 15.1-688), or of any city or town adjoining any such county, may require by
 414 ordinance that the declarant of any residential condominium converted from multi-family rental use shall
 415 reimburse any tenant displaced by the conversion for amounts actually expended to relocate as a result
 416 of such dislocation. The reimbursement shall not be required to exceed the amount which the tenant
 417 would have been entitled to receive under subsection B of § 25-239 and § 25-247.1 if the real estate
 418 comprising the condominium had been condemned by the Department of Transportation.

419 § 55-79.103. Penalties.

420 Any person who willfully violates any provision of §§ 55-79.87, 55-79.88, 55-79.89, 55-79.90,
 421 55-79.93, 55-79.94, or 55-79.95, or any rule adopted under or order issued pursuant to § 55-79.98, or
 422 any person who willfully in an application for registration makes any untrue statement of a material fact
 423 or omits to state a material fact shall be guilty of a misdemeanor and may be fined not less than \$1,000
 424 or double the amount of gain from the transaction, whichever is the larger but not more than \$50,000;
 425 or he may be imprisoned for not more than 6 months; or both, for each offense.

426 2. That §§ 55-79.86, 55-79.89, 55-79.91 through 55-79.93:1, and 55-79.98 through 55-79.102 of the
 427 Code of Virginia are repealed.

428 3. That the provisions of this act shall not apply to a condominium declaration recorded prior to

429 the effective date of this act.

430 4. That an emergency exists and this act is in force from its passage.