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HOUSE BILL NO. 919

Offered January 22, 1996

A *BILL to amend and reenact § 55-512 of the Code of Virginia, relating to the Property Owners' Association Act.*

Patron—Robinson

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 55-512 of the Code of Virginia is amended and reenacted as follows:**

§ 55-512. Association disclosure packet.

A. Subject to the provisions of subsections B and E, the association shall make available to an owner or his authorized agent within fourteen days after receipt of a written request therefor and receipt of the appropriate fee, an association disclosure packet, which, upon receipt, the seller shall deliver to the purchaser. If hand delivered, the written request and fee are deemed received on the date of delivery. If sent by United States mail, the request and fee are deemed received six days after the postmark date. An association disclosure packet shall contain the following:

1. The name of the association and, if incorporated, the state in which the association is incorporated and the name and address of its registered agent in Virginia;

2. A statement of any capital expenditure anticipated by the association within the current year and, where available, the two succeeding fiscal years;

3. A statement, including the amount of all assessments and any other mandatory fees or charges currently imposed by the association applicable to the lot being purchased and to the right of use of common areas, and the status of the account;

4. A statement whether there is any other entity or facility to which the lot owner may be liable for fees or other charges;

5. A statement or a summary of the status and amount of any reserve or replacement fund and any portion of the fund allocated by the board of directors for a specified project;

6. A copy of the association's current budget or a summary thereof, and a copy of its statement of income and expenses or statement of its financial condition for the last fiscal year for which such statement is available;

7. A statement of the nature of any pending suit or unpaid judgment to which the association is a party which either could or would have a material impact on the association or its members or which relates to the lot being purchased;

8. A statement setting forth all insurance coverage, including any fidelity bond, maintained by the association;

9. A statement as to whether any notice has been given to the seller that any improvement or alteration made to the lot, or uses made of the lot or common area assigned thereto, are in violation of any of the instruments referred to in subdivision 11 of this subsection;

10. A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to place a sign on the owner's lot advertising the lot for sale; ~~and~~

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

12. *A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to install or use a video or television antenna, including a satellite dish.*

The disclosure packet, once received by the seller from the association, shall be delivered by the seller to the purchaser. The association shall have no obligation to deliver the disclosure packet to the purchaser of the lot. The disclosure packet required by this section, shall not, in and of itself, be deemed a security within the meaning of § 13.1-501.

B. The association may charge a fee for the preparation and issuance of the disclosure packet required by this section. The fee shall reflect the actual cost of the preparation of the packet, but shall not exceed \$100.

C. When a disclosure packet has been issued as required by this section, the association shall, as to the purchaser, be bound by the statements set forth therein as to the status of the assessment account and the status of the lot with respect to any violation of any of the instruments referred to in subdivision 10 of subsection A of this section as of the date of the statement unless the purchaser had actual knowledge that the contents of the disclosure packet were in error.

D. If the association has been requested to furnish the disclosure packet required by this section and

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60 has been paid the appropriate fee, its failure to provide the disclosure packet in substantially the form
61 provided herein within fourteen days from the actual receipt of the request by an officer, director or
62 agent of the association shall be deemed a waiver of any claim for delinquent assessments or of any
63 violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the
64 date of the request with respect to the subject lot. The association shall be liable to the seller in an
65 amount equal to the actual damages sustained by the seller in an amount not to exceed \$500. The
66 purchaser shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and
67 architectural guidelines of the association as to all matters arising after the date of the settlement of the
68 sale.

69 E. The contract disclosures required by § 55-511 and the disclosure packet required by this section
70 need not be provided in the case of:

- 71 1. A disposition of a lot by gift;
- 72 2. A disposition of a lot pursuant to court order if the court so directs;
- 73 3. A disposition of a lot by foreclosure or deed in lieu of foreclosure;
- 74 4. A disposition of a lot that is zoned for or otherwise restricted to nonresidential use; or
- 75 5. A disposition of a lot to a person or entity who is not acquiring the lot for his own residence or
76 for the construction thereon of a dwelling unit to be occupied as his own residence, unless requested by
77 such person or entity. If such disclosures are not requested, a statement in the contract of sale that the
78 purchaser is not acquiring the lot for such purpose shall be conclusive and may be relied upon by the
79 seller of the lot. The person or entity acquiring the lot shall nevertheless be obligated to abide by the
80 declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all
81 matters.

82 F. In any transaction in which a disclosure packet is required and a trustee acts as the seller in the
83 sale or resale of a lot, the trustee shall obtain the disclosure packet from the association and provide the
84 packet to the purchaser.