

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 454

An Act to amend and reenact §§ 55-79.52, 55-79.80:3, and 55-79.97 of the Code of Virginia, relating to the Condominium Act; limitation on occupancy.

[S 590]

Approved April 14, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-79.52, 55-79.80:3, and 55-79.97 of the Code of Virginia are amended and reenacted as follows:

§ 55-79.52. Validity of condominium instruments; discrimination prohibited.

(a) A. All provisions of the condominium instruments shall be deemed severable, and any unlawful provision thereof shall be void.

(b) B. No provision of the condominium instruments shall be deemed void by reason of the rule against perpetuities.

(c) C. No restraint on alienation shall discriminate or be used to discriminate on the basis of religious conviction, race, color, sex, or national origin any basis prohibited under the Virginia Fair Housing Law (§ 36-96.1 et seq.).

(d) D. Subject to the provisions of subsection (c) hereof, the rule of property law known as the rule restricting unreasonable restraints on alienation shall not be applied to defeat any provision of the condominium instruments restraining the alienation of condominium units other than such units as may be restricted to residential use only.

§ 55-79.80:3. Power of unit owners' association to limit occupancy of a unit.

The unit owners' association shall have the power, to the extent the condominium instruments expressly so provide, to limit the number of persons who may occupy a unit as a dwelling. Such limitation shall be reasonable; and no such limitation shall be more restrictive than the applicable local zoning ordinance and shall comply with the provisions of § 55-79.52.

§ 55-79.97. Resale by purchaser.

A. In the event of any resale of a condominium unit by a unit owner other than the declarant, such owner shall obtain from the unit owners' association and furnish to the purchaser, prior to the contract date of the disposition, the following:

1. An appropriate statement pursuant to subsection H of § 55-79.84 which need not be notarized and, if applicable, an appropriate statement pursuant to § 55-79.85;

2. A statement of any capital expenditures anticipated by the unit owners' association within the current or succeeding two fiscal years;

3. A statement, including the amount, of all assessments and any other fees or charges currently imposed by the unit owners' association and associated with the purchase, disposition and maintenance of the condominium unit and the use of the common elements;

4. A statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the board of directors;

5. A copy of the unit owners' association's current budget or a summary thereof prepared by the association and a copy of the statement of financial condition of the unit owners' association for the last fiscal year for which a statement is available;

6. A statement of the nature and status of any pending suits or judgments in which the unit owners' association is a party which either could or would have a material impact on the association or the unit owners or which relates to the unit being purchased;

7. A statement setting forth what insurance coverage is provided for all unit owners by the unit owners' association and what additional insurance coverage would normally be secured by each individual unit owner;

8. A statement that any improvements or alterations made to the unit, or the limited common elements assigned thereto, by the prior unit owner are not in violation of the condominium instruments;

9. A copy of the current bylaws and rules and regulations of the unit owners' association and the amendments thereto;

10. A statement of whether the condominium or any portion thereof is located within a development subject to the Property Owners' Association Act (§ 55-508 et seq.) of Chapter 26 of this title; and

11. A certificate that the unit owners' association has filed the annual report required by § 55-79.93.1; the certificate shall indicate the registration number and date of registration with the agency; and

12. A statement of any limitation on the number of persons who may occupy a unit as a dwelling.

Failure to receive copies of such documents shall not excuse any failure to comply with the provisions thereof.

B. If more than sixty days have elapsed between the contract date of the disposition and the date of settlement, the purchaser may submit a copy of the contract to the unit owners' association with a request for assurance that statements previously furnished pursuant to subsection A hereof remain materially unchanged, or, if there have been material changes, a statement specifying such changes. The purchaser shall be provided with such assurances or such statement within ten days of the receipt of such request by the unit owners' association. The purchaser may be required to pay the same fee charged a unit owner for statements requested pursuant to subsection A hereof, if any.

C. In the absence of a written agreement to the contrary, the failure of the unit owners' association to provide the statement required by subsection B or the disclosure by such statement that there have been one or more material changes shall, at the option of the purchaser, render void the contract of purchase.

D. The unit owners' association shall furnish the statements and copies of documents prescribed by subsection A hereof upon the written request of any unit owner within ten days of the receipt of such request. Payment of the reasonable costs of preparing such statements and copies of documents may be required of the unit owner requesting them as a prerequisite to their issuance, but the total fee shall not exceed \$100, including and not in addition to, any fee charged pursuant to subsection H of § 55-79.84 and § 55-79.85.

E. Subject to the provisions of § 55-79.87, but notwithstanding any other provisions of this chapter, the provisions and requirements of this section shall apply to any such resale of a condominium unit created under the provisions of the Horizontal Property Act (§ 55-79.1 et seq.).