

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 751

An Act to amend and reenact § 55-514 of the Code of Virginia, relating to the Property Owners' Association Act; special assessments.

[H 834]

Approved April 16, 1998

Be it enacted by the General Assembly of Virginia:

1. That § 55-514 of the Code of Virginia is amended and reenacted as follows:

§ 55-514. Authority to levy special assessments.

A. In addition to all other assessments which are authorized in the declaration, the board of directors of an association shall have the power to levy a special assessment against its members if the purpose in so doing is found by the board to be in the best interests of the association and the proceeds of the assessment are used primarily for the maintenance and upkeep, ~~including capital expenditures,~~ of the common area *and such other areas of association responsibility expressly provided for in the declaration, including capital expenditures.* A majority of votes cast, in person or by proxy, at a meeting of the membership convened in accordance with the provisions of the association's bylaws within sixty days of promulgation of the notice of the assessment shall rescind or reduce the special assessment. No director or officer of the association shall be liable for failure to perform his fiduciary duty if a special assessment for the funds necessary for the director or officer to perform his fiduciary duty is rescinded by the owners pursuant to this section, and the association shall indemnify such director or officer against any damage resulting from any claimed breach of fiduciary duty arising therefrom.

B. The failure of a member to pay the special assessment allowed by subsection A shall entitle the association to the lien provided by § 55-516 as well as any other rights afforded a creditor under law.

C. The failure of a member to pay the special assessment allowed by subsection A will provide the association with the right to deny the member access to any or all of the common areas. Notwithstanding the immediately preceding sentence, direct access to the member's lot over any road within the development which is a common area shall not be denied the member.