

999771408

HOUSE BILL NO. 2616

Offered January 21, 1999

A BILL to amend and reenact §§ 55-508 and 55-509 of the Code of Virginia, relating to the Property Owners' Association Act; applicability.

Patron—Plum (By Request)

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 55-508 and 55-509 of the Code of Virginia are amended and reenacted as follows:****§ 55-508. Applicability.**

A. This chapter shall apply to developments subject to a declaration, as defined herein, initially recorded after January 1, 1959, associations incorporated or otherwise organized after such date, and all subdivisions created under the former Subdivided Land Sales Act (§ 55-336 et seq.). For the purposes of this chapter, as used in the former Subdivided Land Sales Act, the terms:

"Covenants," "deed restrictions," or "other recorded instruments" for the management, regulation and control of a development shall be deemed to correspond with the term "declaration";

"Developer" shall be deemed to correspond with the term "declarant";

"Lot" shall be deemed to correspond with the term "lot"; and

"Subdivision" shall be deemed to correspond with the term "development."

This chapter shall be deemed to supersede the Subdivided Land Sales Act, and no development shall be established under the latter on or after July 1, 1998. This chapter shall not be construed to affect the validity of any provision of any declaration recorded prior to July 1, 1998.

The provisions of this chapter which exclude the applicability of this chapter to developments which impose on the association maintenance or operational responsibilities or on the owners or occupants of lots a mandatory payment of money less than \$150 per year per lot as a regular annual assessment shall not be applied retroactively to any development subject to a declaration recorded prior to July 1, 1991.

This chapter shall not be construed to affect the validity of any provision of any prior declaration; however, to the extent the declaration is silent, the provisions of this chapter shall apply. If any one lot in a development is subject to the provisions of this chapter, all lots in the development shall be subject to the provisions of this chapter notwithstanding the fact that such lots would otherwise be excluded from the provisions of this chapter. Notwithstanding any provisions of this chapter, a declaration may specifically provide for the applicability of the provisions of this chapter. The granting of rights in this chapter shall not be construed to imply that such rights did not exist with respect to any development created in the Commonwealth before July 1, 1989.

B. This chapter shall not apply to the (i) provisions of documents of, (ii) operations of any association governing, or (iii) relationship of a member to any association governing condominiums created pursuant to the Condominium Act (§ 55-79.39 et seq.), cooperatives created pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.), time-shares created pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), or membership campgrounds created pursuant to the Virginia Membership Camping Act (§ 59.1-311 et seq.). This chapter shall not apply to any nonstock, nonprofit, taxable corporation with nonmandatory membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public.

§ 55-509. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Act" means the Virginia Property Owners' Association Act.

"Association" means the property owners' association.

"Board of directors" means the executive body of a property owners' association, or a committee which is exercising the power of the executive body by resolution or bylaw.

"Common area" means property within a development which is owned, leased or required by the declaration to be maintained or operated by a property owners' association for the use of its members and designated as common area in the declaration.

"Declarant" means the person or entity signing the declaration and its successors or assigns who may submit property to a declaration.

"Declaration" means any instrument, however denominated, recorded among the land records of the county or city in which the development or any part thereof is located, that either (i) imposes on the association maintenance or operational responsibilities for the common area in an amount in excess of \$150 per year per lot as a regular annual assessment or (ii) creates the authority in the association to

INTRODUCED

HB2616

60 impose on lots, or on the owners or occupants of such lots, or on any other entity any mandatory
61 payment of money ~~in an amount in excess of \$150 per year per lot as a regular annual assessment~~ in
62 connection with the provision of maintenance and/or services for the benefit of some or all of the lots,
63 the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or
64 supplement to the instruments described in this definition. "Declaration" shall not include a declaration
65 of a condominium, real estate cooperative, time-share project or campground.

66 "Development" means real property located within ~~this~~ *the* Commonwealth subject to a declaration
67 which contains both lots, at least some of which are residential or are occupied for recreational
68 purposes, and common areas with respect to which any person, by virtue of ownership of a lot, is a
69 member of an association and is obligated to pay assessments provided for in a declaration.

70 "Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown on
71 a recorded subdivision plat for a development or the boundaries of which are described in the
72 declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other
73 than a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative
74 if the condominium or cooperative is a part of a development.

75 "Property owners' association" or "association" means an incorporated or unincorporated entity upon
76 which responsibilities are imposed and to which authority is granted in the declaration.