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**HOUSE BILL NO. 2200**

Offered January 10, 2013

A *BILL to amend and reenact §§ 55-509.5 and 55-509.10 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 55-513.2, relating to the Property Owners' Association Act; home-based businesses permitted.*

Patrons—Webert, Ramadan and Keam

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 55-509.5 and 55-509.10 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 55-513.2 as follows:**

**§ 55-509.5. Contents of association disclosure packet; delivery of packet.**

A. The association shall deliver, within 14 days after receipt of a written request and instructions by a seller or his authorized agent, an association disclosure packet as directed in the written request. The information contained in the association disclosure packet shall be current as of a date specified on the association disclosure packet. If hand or electronically delivered, the written request is deemed received on the date of delivery. If sent by United States mail, the request is 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 expenditure of funds approved by the association or the board of directors that shall require an assessment in addition to the regular assessment during the current year or the immediately succeeding fiscal year;

3. A statement, including the amount of all assessments and any other mandatory fees or charges currently imposed by the association, together with any post-closing fee charged by the common interest community manager, if any, and associated with the purchase, disposition, and maintenance of the lot and to the right of use of common areas, and the status of the account;

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

5. The current reserve study report or summary thereof, a statement 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 prepared by the association, and a copy of its statement of income and expenses or statement of its financial position (balance sheet) for the last fiscal year for which such statement is available, including a statement of the balance due of any outstanding loans of the association;

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

8. A statement setting forth what insurance coverage is provided for all lot owners by the association, including the fidelity bond maintained by the association, and what additional insurance would normally be secured by each individual lot owner;

9. A statement that any improvement or alteration made to the lot, or uses made of the lot or common area assigned thereto are or are not in violation of the declaration, bylaws, rules and regulations, architectural guidelines and articles of incorporation, if any, of the association;

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;

11. *A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to operate a home-based business on the owner's lot.*

12. A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to display any flag on the owner's lot, including but not limited to reasonable restrictions as to the size, place, and manner of placement or display of such flag and the installation of any flagpole or similar structure necessary to display such flag;

13. ~~13.~~ A copy of the current declaration, the association's articles of incorporation and bylaws, and any rules and regulations or architectural guidelines adopted by the association;

14. A copy of any approved minutes of the board of directors and association meetings for the six calendar months preceding the request for the disclosure packet;

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59 14. 15. A copy of the notice given to the lot owner by the association of any current or pending rule  
60 or architectural violation;

61 15. 16. A copy of the fully completed one-page cover sheet developed by the Common Interest  
62 Community Board pursuant to § 54.1-2350; and

63 16. 17. Certification that the association has filed with the Common Interest Community Board the  
64 annual report required by § 55-516.1, which certification shall indicate the filing number assigned by the  
65 Common Interest Community Board, and the expiration date of such filing.

66 B. Failure to receive copies of an association disclosure packet shall not excuse any failure to  
67 comply with the provisions of the declaration, articles of incorporation, bylaws, or rules or regulations.

68 C. The disclosure packet shall be delivered in accordance with the written request and instructions of  
69 the seller or his authorized agent, including whether the disclosure packet shall be delivered  
70 electronically or in hard copy and shall specify the complete contact information for the parties to whom  
71 the disclosure packet shall be delivered. The disclosure packet required by this section, shall not, in and  
72 of itself, be deemed a security within the meaning of § 13.1-501.

73 D. The seller or his authorized agent may request that the disclosure packet be provided in hard copy  
74 or in electronic form. An association or common interest community manager may provide the  
75 disclosure packet electronically; however, the seller or his authorized agent shall have the right to  
76 request that the association disclosure packet be provided in hard copy. The seller or his authorized  
77 agent shall continue to have the right to request a hard copy of the disclosure packet in person at the  
78 principal place of business of the association. If the seller or his authorized agent requests that the  
79 disclosure packet be provided in electronic format, neither the association nor its common interest  
80 community manager may require the seller or his authorized agent to pay any fees to use the provider's  
81 electronic network or system. If the seller or his authorized agent asks that the disclosure packet be  
82 provided in electronic format, the seller or his authorized agent may designate no more than two  
83 additional recipients to receive the disclosure packet in electronic format at no additional charge.

84 **§ 55-509.10. Exceptions to disclosure requirements.**

85 A. The contract disclosures required by § 55-509.4 and the association disclosure packet required by  
86 § 55-509.5 shall not be provided in the case of:

87 1. A disposition of a lot by gift;

88 2. A disposition of a lot pursuant to court order if the court so directs;

89 3. A disposition of a lot by foreclosure or deed in lieu of foreclosure;

90 4. A disposition of a lot by a sale at an auction, where the association disclosure packet was made  
91 available as part of an auction package for prospective purchasers prior to the auction sale; or

92 5. A disposition of a lot to a person or entity who is not acquiring the lot for his own residence or  
93 for the construction thereon of a dwelling unit to be occupied as his own residence, unless requested by  
94 such person or entity. If such disclosures are not requested, a statement in the contract of sale that the  
95 purchaser is not acquiring the lot for such purpose shall be conclusive and may be relied upon by the  
96 seller of the lot. The person or entity acquiring the lot shall nevertheless be obligated to abide by the  
97 declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all  
98 matters.

99 B. In any transaction in which an association disclosure packet is required and a trustee acts as the  
100 seller in the sale or resale of a lot, the trustee shall obtain the association disclosure packet from the  
101 association and provide the packet to the purchaser.

102 C. In the case of an initial disposition of a lot by the declarant, the association disclosure packet  
103 required by § 55-509.5 need not include the information referenced in subdivisions A 2, A 3, A 5 nor A  
104 9 of § 55-509.5, and it shall include the information referenced in ~~subdivisions~~ subdivision A 16 17 of  
105 § 55-509.5 only if the association has filed an annual report prior to the date of such disclosure packet.

106 **§ 55-513.2. Home-based businesses permitted; compliance with local ordinances.**

107 A. No association shall prohibit any lot owner from operating a home-based business on his lot. Any  
108 home-based business shall comply with all applicable local ordinances.

109 B. For the purposes of this chapter, "home-based business" means any enterprise for which the  
110 principal administrative and managerial activities take place within an individual's personal residence.

111 2. That the General Assembly finds that the objectives of this act serve the public interest by  
112 promoting Virginia's small businesses.