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HOUSE BILL NO. 2100

Offered January 14, 2015

Prefiled January 14, 2015

A BILL to amend and reenact §§ 54.1-2351, 55-79.87, 55-79.97, 55-79.97:1, and 55-509.6 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 55-79.42:1 and 55-79.87:1 and by adding in Article 1 of Chapter 26 of Title 55 a section numbered 55-509.3:1, relating to the Condominium and the Property Owners' Association Acts; allowable charges; rental of units.

Patrons—Peace and Simon

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2351, 55-79.87, 55-79.97, 55-79.97:1, and 55-509.6 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 55-79.42:1 and 55-79.87:1 and by adding in Article 1 of Chapter 26 of Title 55 a section numbered 55-509.3:1 as follows:

§ 54.1-2351. General powers and duties of Board concerning associations.

A. The Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in furtherance of the objectives of this chapter, but the Board may not intervene in the internal activities of an association except to the extent necessary to prevent or cure violations of this chapter or of the chapter pursuant to which the association is created. The Board may prescribe forms and procedures for submitting information to the Board.

B. If it appears that any governing board or common interest community manager has engaged, is engaging, or is about to engage in any act or practice in violation of this chapter, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, or any of the Board's regulations or orders, the Board without prior administrative proceedings may bring suit in the appropriate court to enjoin that act or practice or for other appropriate relief. The Board is not required to post a bond or prove that no adequate remedy at law exists.

C. The Board may intervene in any action or suit involving a violation by a declarant or a developer of a time-share project of this chapter, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, or any of the Board's regulations or orders.

D. The Board may accept grants-in-aid from any governmental source and may contract with agencies charged with similar functions in this or other jurisdictions in furtherance of the objectives of this chapter.

E. The Board may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices, and may develop information that may be useful in the discharge of the Board's duties.

F. In issuing any cease and desist order the Board shall state the basis for the adverse determination and the underlying facts.

G. Without limiting the remedies that may be obtained under this chapter, the Board, without compliance with the Administrative Process Act (§ 2.2-4000 et seq.), shall have the authority to enforce the provisions of this section and may institute proceedings in equity to enjoin any person, partnership, corporation, or any other entity violating this chapter, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, or any of the Board's regulations or orders. Such proceedings shall be brought in the name of the Commonwealth by the Board in the circuit court or general district court of the city or county in which the unlawful act occurred or in which the defendant resides.

H. The Board may assess a monetary penalty to be paid to the Common Interest Community Management Information Fund of not more than \$1,000 per violation against any governing board or its common interest community manager that violates any provision of this chapter, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, or any of the Board's regulations or orders. In determining the amount of the penalty, the Board shall consider the degree and extent of harm caused by the violation. No monetary penalty may be assessed under this chapter, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, or any of the Board's regulations or orders unless the governing board or its common interest community manager has been given notice and an opportunity to be heard pursuant to the

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59 Administrative Process Act (§ 2.2-4000 et seq.). The penalty may be sued for and recovered in the name
60 of the Commonwealth.

61 **§ 55-79.42:1. Association charges.**

62 *Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law,*
63 *no unit owners' association may (i) make an assessment or impose a charge against a unit owner unless*
64 *the charge is a fee for services provided or related to use of the common elements or (ii) charge a fee*
65 *related to the provisions set out in § 55-79.97.1 that are not expressly authorized in that section.*

66 **§ 55-79.87. Exemptions from certain provisions of article.**

67 A. Unless the method of offer or disposition is adopted for the purpose of evasion of this chapter,
68 the provisions of §§ 55-79.88 through 55-79.93, subsections A and C of § 55-79.94, and § 55-79.97 do
69 not apply to:

- 70 1. Dispositions pursuant to court order;
- 71 2. Dispositions by any government or government agency;
- 72 3. Offers by the declarant on nonbinding reservation agreements;
- 73 4. Dispositions in a residential condominium in which there are three or fewer units, so long as the
74 condominium instruments do not reserve to the declarant the right to create additional condominium
75 units; or

76 5. A disposition of a unit by a sale at an auction, where the resale certificate was made available as
77 part of an auction package for prospective purchasers prior to the auction sale, *or in the case of a*
78 *residential condominium owned by the declarant, where the current public offering statement was made*
79 *available as part of the auction package for prospective purchasers prior to the auction sale.*

80 B. In cases of dispositions in a condominium where all units are restricted to nonresidential use, the
81 provisions of §§ 55-79.88 through 55-79.95 shall not apply, unless the method of offer or disposition is
82 adopted for the purpose of evasion of this chapter.

83 **§ 55-79.87:1. Rental of units.**

84 A. *Except as expressly authorized in this chapter or in the declaration or as otherwise provided by*
85 *law, no unit owners' association may condition or prohibit rental by a unit owner of his unit to a*
86 *tenant.*

87 *No unit owners' association shall:*

- 88 1. *Charge a rental fee, application, or other processing fee of any kind in excess of \$50 as a*
89 *condition of approval of such a rental during the term of any lease;*
- 90 2. *Require the unit owner to use a lease prepared by the unit owners' association; or*
- 91 3. *Charge a security deposit from the unit owner or the tenant of the unit owner.*

92 *However, the unit owners' association may charge a fee for use of an elevator or other common*
93 *element amenity, but may not charge both the unit owner and the tenant such fee unless both the unit*
94 *owner and tenant use such common element amenity.*

95 B. *The unit owners' association may require the unit owner to provide the unit owners' association a*
96 *copy of any lease with a tenant or a unit owners' association document completed by the unit owner or*
97 *representative that discloses the names and contact information of tenant and occupants under the lease.*
98 *The unit owners' association may require the unit owner to provide the tenant a copy of any rules and*
99 *regulations of the unit owners' association. The failure of the unit owner to satisfy any such*
100 *requirements shall not invalidate the lease.*

101 **§ 55-79.97. Resale by purchaser.**

102 A. In the event of any resale of a condominium unit by a unit owner other than the declarant, and
103 subject to the provisions of subsection F and § 55-79.87 A, the unit owner shall disclose in the contract
104 that (i) the unit is located within a development which is subject to the Condominium Act, (ii) the Act
105 requires the seller to obtain from the unit owners' association a resale certificate and provide it to the
106 purchaser, (iii) the purchaser may cancel the contract within three days after receiving the resale
107 certificate or being notified that the resale certificate will not be available, (iv) if the purchaser has
108 received the resale certificate, the purchaser has a right to request a resale certificate update or financial
109 update in accordance with § 55-79.97:1, as appropriate, and (v) the right to receive the resale certificate
110 and the right to cancel the contract are waived conclusively if not exercised before settlement.

111 For purposes of clause (iii), the resale certificate shall be deemed not to be available if (a) a current
112 annual report has not been filed by the unit owners' association with either the State Corporation
113 Commission pursuant to § 13.1-936 or the Common Interest Community Board pursuant to §
114 55-79.93:1, (b) the seller has made a written request to the unit owners' association that the resale
115 certificate be provided and no such resale certificate has been received within 14 days in accordance
116 with subsection C, or (c) written notice has been provided by the unit owners' association that a resale
117 certificate is not available.

118 B. If the contract does not contain the disclosure required by subsection A, the purchaser's sole
119 remedy is to cancel the contract prior to settlement.

120 C. The information contained in the resale certificate shall be current as of a date specified on the

resale certificate. A resale certificate update or a financial update may be requested as provided in § 55-79.97:1, as appropriate. The purchaser may cancel the contract (i) within three days after the date of the contract, if the purchaser receives the resale certificate on or before the date that the purchaser signs the contract; (ii) within three days after receiving the resale certificate if the resale certificate is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United Parcel Service, and a receipt obtained; or (iii) within six days after the postmark date if the resale certificate is sent to the purchaser by United States mail. Notice of cancellation shall be provided to the unit owner or his agent by one of the following methods:

- a. Hand delivery;
- b. United States mail, postage prepaid, provided the sender retains sufficient proof of mailing, which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing;
- c. Electronic means provided the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or
- d. Overnight delivery using a commercial service or the United States Postal Service.

In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of cancellation. Such cancellation shall be without penalty, and the unit owner shall cause any deposit to be returned promptly to the purchaser.

A resale certificate shall include 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 expenditure of funds approved by the unit owners' association or the executive organ which shall require an assessment in addition to the regular assessment during the current or the immediately succeeding fiscal year;
3. A statement, including the amount, of all assessments and any other fees or charges currently imposed by the unit owners' association, together with any known post-closing fee charged by the common interest community manager, if any, and associated with the purchase, disposition and maintenance of the condominium unit and the use of the common elements, and the status of the account;
4. A statement whether there is any other entity or facility to which the unit owner may be liable for fees or other charges;
5. The current reserve study report or a summary thereof, 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 executive organ;
6. A copy of the unit owners' association's current budget or a summary thereof prepared by the unit owners' association and a copy of the statement of its financial position (balance sheet) for the last fiscal year for which a statement is available, including a statement of the balance due of any outstanding loans of the unit owners' association;
7. A statement of the nature and status of any pending suits or unpaid judgments to which the unit owners' association is a party which either could or would have a material impact on the unit owners' association or the unit owners or which relates to the unit being purchased;
8. A statement setting forth what insurance coverage is provided for all unit owners by the unit owners' association, including the fidelity bond maintained by the unit owners' association, and what additional insurance coverage would normally be secured by each individual unit owner;
9. A statement that any improvements or alterations made to the unit, or the limited common elements assigned thereto, are or are not in violation of the condominium instruments;
10. A copy of the current bylaws, rules and regulations and architectural guidelines adopted by the unit owners' association and the amendments thereto;
11. 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;
12. A copy of the notice given to the unit owner by the unit owners' association of any current or pending rule or architectural violation;
13. A copy of any approved minutes of the executive organ and unit owners' association meetings for the six calendar months preceding the request for the resale certificate;
14. Certification that the unit owners' association has filed with the Common Interest Community Board the annual report required by § 55-79.93:1; which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing;
15. A statement of any limitation on the number of persons who may occupy a unit as a dwelling;
16. A statement setting forth any restrictions, limitation or prohibition on the right of a unit owner to display the flag of the United States, including, but not limited to reasonable restrictions as to the size,

time, place, and manner of placement or display of such flag;

17. A statement setting forth any restriction, limitation, or prohibition on the right of a unit owner to install or use solar energy collection devices on the unit owner's property; and

18. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies.

Failure to receive a resale certificate shall not excuse any failure to comply with the provisions of the condominium instruments, articles of incorporation, or rules or regulations.

The resale certificate shall be delivered in accordance with the written request and instructions of the seller or his authorized agent, including whether the resale certificate shall be delivered electronically or in hard copy, at the option of the seller or his authorized agent, and shall specify the complete contact information for the parties to whom the resale certificate shall be delivered. The resale certificate shall be delivered within 14 days of receipt of such request. The resale certificate shall not, in and of itself, be deemed a security within the meaning of § 13.1-501.

D. The seller or his authorized agent may request that the resale certificate be provided in hard copy or in electronic form. A unit owners' association or common interest community manager may provide the resale certificate electronically; however, the seller or his authorized agent shall have the right to request that the resale certificate be provided in hard copy. The seller or his authorized agent shall continue to have the right to request a hard copy of the resale certificate in person at the principal place of business of the unit owners' association. If the seller or his authorized agent requests that the resale certificate be provided in electronic format, neither the unit owners' association nor its common interest community manager may require the seller or his authorized agent to pay any fees to use the provider's electronic network or system. If the seller or his authorized agent asks that the resale certificate be provided in electronic format, the seller or his authorized agent may ~~designate no more than two additional recipients to receive the resale certificate in electronic format at no additional charge request that an electronic copy be provided to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requestor. If so requested, the unit owners' association or its common interest community manager may require the seller or his authorized agent to pay the fee specified in § 55-79.97:1. The preparer of the resale packet shall provide such resale packet directly to the designated persons.~~

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.).

F. The resale certificate required by this section need not be provided in the case of:

1. A disposition of a unit by gift;
2. A disposition of a unit pursuant to court order if the court so directs;
3. A disposition of a unit by foreclosure or deed in lieu of foreclosure; or
4. A disposition of a unit by a sale at auction, when the resale certificate was made available as part of the auction package for prospective purchasers prior to the auction.

G. In any transaction in which a resale certificate is required and a trustee acts as the seller in the sale or resale of a unit, the trustee shall obtain the resale certificate from the unit owners' association and provide the resale certificate to the purchaser.

§ 55-79.97:1. Fees for resale certificate.

A. The unit owners' association may charge fees as authorized by this section for the inspection of the property, the preparation and issuance of the resale certificate required by § 55-79.97, and for such other services as are set out in this section. Nothing in this chapter shall be construed to authorize the unit owners' association or common interest community manager to charge an inspection fee for a unit except as provided in this section.

B. A reasonable fee may be charged by the preparer of the resale certificate as follows for:

1. The inspection of the unit, as authorized in the declaration and as required to prepare the resale certificate, a fee not to exceed \$100;

2. The preparation and delivery of the resale certificate in (i) paper format, a fee not to exceed \$150 for no more than two hard copies, or (ii) electronic format, a fee not to exceed a total of \$125, for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requestor. Only one fee shall be charged for the preparation and delivery of the resale certificate;

3. At the option of the seller or his authorized agent, with the consent of the unit owners' association or the common interest community manager, expediting the inspection, preparation, and delivery of the resale certificate, an additional expedite fee not to exceed \$50;

4. At the option of the seller or his authorized agent, an additional hard copy of the resale certificate, a fee not to exceed \$25 per hard copy;

5. At the option of the seller or his authorized agent, a fee not to exceed an amount equal to the

actual cost paid to a third-party commercial delivery service for hand delivery or overnight delivery of the resale certificate; and

6. A post-closing fee to the purchaser of the unit, collected at settlement, for the purpose of establishing the purchaser as the owner of the unit in the records of the unit owners' association, a fee not to exceed \$50.

Neither the unit owners' association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request for the resale certificate is made. The resale certificate shall state that all fees and costs for the resale certificate shall be the personal obligation of the unit owner and shall be an assessment against the unit and collectible as any other assessment in accordance with the provisions of the condominium instruments and § 55-79.83, if not paid at settlement or within 45 days of the delivery of the resale certificate, whichever occurs first.

For purposes of this section, an expedite fee shall only be charged if the inspection and preparation of delivery of the resale certificate are completed within five business days of the request for a resale certificate.

C. No fees other than those specified in this section, and as limited by this section, shall be charged by the unit owners' association or its common interest community manager for compliance with the duties and responsibilities of the unit owners' association under this section. No additional fee shall be charged for access to the unit owners' association's or common interest community manager's website. The unit owners' association or its common interest community manager shall publish and make available in paper or electronic format, or both, a schedule of the applicable fees so that the seller or his authorized agent will know such fees at the time of requesting the resale certificate.

D. Any fees charged pursuant to this section shall be collected at the time settlement occurs on the sale of the unit and shall be due and payable out of the settlement proceeds in accordance with this section. *If the unit owners' association or common interest community manager has been notified in writing of the name of the settlement agent and fails to submit its invoices for payment of such costs at settlement and settlement in fact occurs, the unit owners' association shall not put a lien on the unit of the new purchaser after settlement.* The seller shall be responsible for all costs associated with the preparation and delivery of the resale certificate, except for the costs of any resale certificate update or financial update, which costs shall be the responsibility of the requestor, payable at settlement. Neither the unit owners' association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request is made for the resale certificate.

E. If settlement does not occur within 45 days of the delivery of the resale certificate, or funds are not collected at settlement and disbursed to the unit owners' association or the common interest community manager, all fees, including those costs that would have otherwise been the responsibility of the purchaser or settlement agent, shall be (i) assessed within one year after delivery of the resale certificate against the unit owner, (ii) the personal obligation of the unit owner, and (iii) an assessment against the unit and collectible as any other assessment in accordance with the provisions of the condominium instruments and § 55-79.83. The seller may pay the unit owners' association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the unit owners' association. The unit owners' association shall pay the common interest community manager the amount due from the unit owner within 30 days after invoice.

F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

G. If a resale certificate has been issued within the preceding 12-month period, a person specified in the written instructions of the seller or his authorized agent, including the seller or his authorized agent or the purchaser or his authorized agent, may request a resale certificate update. The requestor shall specify whether the resale certificate update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The resale certificate update shall be delivered within 10 days of the written request. *The resale certificate shall not be delivered in hard copy if the requestor has requested delivery of such resale certificate electronically. If the resale certificate is provided electronically by a website link, the preparer shall not cause the website link to expire in less than the subsequent 12-month period and shall not charge an additional fee for access to such resale certificate during such 12-month period.*

H. The settlement agent may request a financial update. The requestor shall specify whether the financial update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request.

I. A reasonable fee for the resale certificate update or financial update may be charged by the preparer, not to exceed \$50. At the option of the purchaser or his authorized agent, the requestor may

request that the unit owners' association or the common interest community manager perform an additional inspection of the unit, as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the property. *If the unit owners' association or its common interest community manager has been notified in writing of the name of the settlement agent and fails to submit its invoices for payment of such costs at settlement and settlement in fact occurs, the unit owners' association shall not put a lien on the unit of the new purchaser after settlement.* Neither the unit owners' association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the resale certificate update. The requestor may request that the specified update be provided in hard copy or in electronic form.

J. No unit owners' association or common interest community manager may require the requestor to request the specified update electronically. The seller or his authorized agent shall continue to have the right to request a hard copy of the specified update in person at the principal place of business of the unit owners' association. If the requestor asks that the specified update be provided in electronic format, neither the unit owners' association nor its common interest community manager may require the requestor to pay any fees to use the provider's electronic network or system. A copy of the specified update shall be provided to the seller or his authorized agent.

K. When a resale certificate has been delivered as required by § 55-79.97, the unit owners' 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 unit with respect to any violation of the condominium instruments as of the date of the statement unless the purchaser had actual knowledge that the contents of the resale certificate were in error.

L. If the unit owners' association or its common interest community manager has been requested in writing to furnish the resale certificate required by § 55-79.97, failure to provide the resale certificate substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject unit. The preparer of the resale certificate shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$1,000. The purchaser shall nevertheless be obligated to abide by the condominium instruments, rules and regulations, and architectural guidelines of the unit owners' association as to all matters arising after the date of the settlement of the sale.

§ 55-509.3:1. Rental of lots.

A. *Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no association may condition or prohibit rental by a lot owner of his unit to a tenant.*

No association shall:

1. *Charge a rental fee, application, or other processing fee of any kind in excess of \$50 as a condition of approval of such a rental during the term of any lease;*

2. *Require the lot owner to use a lease prepared by the association; or*

3. *Charge a security deposit from the lot owner or the tenant of the lot owner.*

However, the association may charge a fee for use of an elevator or other common area amenity, but may not charge both the lot owner and the tenant such fee unless both the lot owner and tenant use such common area amenity.

B. *The association may require the lot owner to provide the association a copy of any lease with a tenant or an association document completed by the lot owner or representative that discloses the names and contact information of tenant and occupants under such lease. The association may require the lot owner to provide the tenant a copy of any rules and regulations of the association. The failure of the lot owner to satisfy any such requirements shall not invalidate the lease.*

§ 55-509.6. Fees for disclosure packet; professionally managed associations.

A. A professionally managed association or its common interest community manager may charge certain fees as authorized by this section for the inspection of the property, the preparation and issuance of the disclosure packet required by § 55-509.5, and for such other services as set out in this section. The seller or his authorized agent shall specify in writing whether the disclosure packet shall be delivered electronically or in hard copy, at the option of the seller or his authorized agent, and shall specify the complete contact information for the parties to whom the disclosure packet shall be delivered. ~~If the seller or his authorized agent specifies that delivery shall be made to the purchaser or his authorized agent or settlement agent, the preparer shall provide the disclosure packet directly to the designated persons, at the same time it is delivered to the seller or his authorized agent.~~

B. A reasonable fee may be charged by the preparer as follows for:

1. The inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration and as required to prepare the association disclosure packet, a fee not to exceed \$100;

2. The preparation and delivery of the disclosure packet in (i) paper format, a fee not to exceed \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125 for an

electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requestor. *The preparer of the disclosure packet shall provide the disclosure packet directly to the designated persons.* Only one fee shall be charged for the preparation and delivery of the disclosure packet;

3. At the option of the seller or his authorized agent, with the consent of the association or the common interest community manager, expediting the inspection, preparation and delivery of the disclosure packet, an additional expedite fee not to exceed \$50;

4. At the option of the seller or his authorized agent, an additional hard copy of the disclosure packet, a fee not to exceed \$25 per hard copy;

5. At the option of the seller or his authorized agent, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service for hand delivery or overnight delivery of the association disclosure packet; and

6. A post-closing fee to the purchaser of the property, collected at settlement, for the purpose of establishing the purchaser as the owner of the property in the records of the association, a fee not to exceed \$50.

Except as otherwise provided in subsection E, neither the association nor its common interest community manager shall require cash, check, certified funds or credit card payments at the time the request for the disclosure packet is made. The disclosure packet shall state that all fees and costs for the disclosure packet shall be the personal obligation of the lot owner and shall be an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55-516, if not paid at settlement or within 45 days of the delivery of the disclosure packet, whichever occurs first.

For purposes of this section, an expedite fee shall only be charged if the inspection and preparation of delivery of the disclosure packet are completed within five business days of the request for a disclosure packet.

C. No fees other than those specified in this section, and as limited by this section, shall be charged by the association or its common interest community manager for compliance with the duties and responsibilities of the association under this chapter. No additional fee shall be charged for access to the association's or common interest community manager's website. The association or its common interest community manager shall publish and make available in paper or electronic format, or both, a schedule of the applicable fees so the seller or his authorized agent will know such fees at the time of requesting the packet.

D. Any fees charged pursuant to this section shall be collected at the time of settlement on the sale of the lot and shall be due and payable out of the settlement proceeds in accordance with this section. *If the association or common interest association manager has been notified in writing of the name of the settlement agent and fails to submit its invoices for payment of such costs at settlement and settlement in fact occurs, the association shall not put a lien on the lot of the new purchaser after settlement.* The seller shall be responsible for all costs associated with the preparation and delivery of the association disclosure packet, except for the costs of any disclosure packet update or financial update, which costs shall be the responsibility of the requestor, payable at settlement. Neither the association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time of the request is made for the association disclosure packet.

E. If settlement does not occur within 45 days of the delivery of the disclosure packet, or funds are not collected at settlement and disbursed to the association or the common interest community manager, all fees, including those costs that would have otherwise been the responsibility of the purchaser or settlement agent, shall be (i) assessed within one year after delivery of the disclosure packet against the lot owner, (ii) the personal obligation of the lot owner, and (iii) an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55-516. The seller may pay the association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the association. The association shall pay the common interest community manager the amount due from the lot owner within 30 days after invoice.

F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

G. If an association disclosure packet has been issued for a lot within the preceding 12-month period, a person specified in the written instructions of the seller or his authorized agent, including the seller or his authorized agent, or the purchaser or his authorized agent may request a disclosure packet update. The requestor shall specify whether the disclosure packet update shall be delivered electronically or in hard copy, and shall specify the complete contact information of the parties to whom the update shall be

428 delivered. The disclosure packet update shall be delivered within 10 days of the written request. *The*
429 *disclosure packet shall not be delivered in hard copy if the requestor has requested delivery of such*
430 *disclosure packet electronically. If the disclosure packet is provided electronically by a website link, the*
431 *preparer shall not cause the website link to expire in less than the subsequent 12-month period and*
432 *shall not charge an additional fee for access to such disclosure packet during such 12-month period.*

433 H. The settlement agent may request a financial update. The requestor shall specify whether the
434 financial update shall be delivered electronically or in hard copy, and shall specify the complete contact
435 information of the parties to whom the update shall be delivered. The financial update shall be delivered
436 within three business days of the written request.

437 I. A reasonable fee for the disclosure packet update or financial update may be charged by the
438 preparer not to exceed \$50. At the option of the purchaser or his authorized agent, the requestor may
439 request that the association or the common interest community manager perform an additional inspection
440 of the exterior of the dwelling unit and the lot, as authorized in the declaration, for a fee not to exceed
441 \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the
442 sale of the property. *If the association or common interest association manager has been notified in*
443 *writing of the name of the settlement agent and fails to submit its invoices for payment of such costs at*
444 *settlement and settlement in fact occurs, the association shall not put a lien on the lot of the new*
445 *purchaser after settlement.* Neither the association nor its common interest community manager, if any,
446 shall require cash, check, certified funds, or credit card payments at the time the request is made for the
447 disclosure packet update. The requestor may request that the specified update be provided in hard copy
448 or in electronic form.

449 J. No association or common interest community manager may require the requestor to request the
450 specified update electronically. The seller or his authorized agent shall continue to have the right to
451 request a hard copy of the specified update in person at the principal place of business of the
452 association. If the requestor asks that the specified update be provided in electronic format, neither the
453 association nor its common interest community manager may require the requester to pay any fees to
454 use the provider's electronic network or system. A copy of the specified update shall be provided to the
455 seller or his authorized agent.

456 K. When an association disclosure packet has been delivered as required by § 55-509.5, the
457 association shall, as to the purchaser, be bound by the statements set forth therein as to the status of the
458 assessment account and the status of the lot with respect to any violation of the declaration, bylaws,
459 rules and regulations, architectural guidelines and articles of incorporation, if any, of the association as
460 of the date of the statement unless the purchaser had actual knowledge that the contents of the
461 disclosure packet were in error.

462 L. If the association or its common interest community manager has been requested in writing to
463 furnish the association disclosure packet required by § 55-509.5, failure to provide the association
464 disclosure packet substantially in the form provided in this section shall be deemed a waiver of any
465 claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or
466 architectural guidelines existing as of the date of the request with respect to the subject lot. The preparer
467 of the association disclosure packet shall be liable to the seller in an amount equal to the actual damages
468 sustained by the seller in an amount not to exceed \$1,000. The purchaser shall nevertheless be obligated
469 to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association
470 as to all matters arising after the date of the settlement of the sale.