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HOUSE BILL NO. 548

Offered January 13, 2016

Prefiled January 9, 2016

A BILL to amend and reenact § 55-509.7 of the Code of Virginia, relating to the Property Owners' Association Act; fees for disclosure packets.

 Patron—Watts

 Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 55-509.7 of the Code of Virginia is amended and reenacted as follows:****§ 55-509.7. Fees for disclosure packets; associations not professionally managed.**

A. An association that is not professionally managed may charge a fee for the preparation and issuance of the association disclosure packet required by § 55-509.5. Any fee shall reflect the actual cost of the preparation of the association disclosure packet, but shall not exceed \$0.10 per page of copying costs or a total of \$100 for all costs incurred in preparing the association disclosure packet a fee not to exceed \$150 for no more than two hard copies or a fee not to exceed a total of \$125 for an association disclosure packet provided in electronic format. The seller or his authorized agent shall specify whether the association disclosure packet shall be delivered electronically or in hard copy and shall specify the complete contact information of 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, 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. The association shall advise the requestor if electronic delivery of the disclosure packet or the disclosure packet update or financial update is not available, if electronic delivery has been requested by the seller or his authorized agent.

B. No fees other than those specified in this section shall be charged by the association for compliance with its duties and responsibilities under this section. Any fees charged pursuant to this section shall be collected at the time of delivery of the disclosure packet. If unpaid, any such fees shall be 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.

C. 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 specified update shall be delivered. The disclosure packet update shall be delivered within 10 days of the written request therefor.

D. 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 therefor.

E. A reasonable fee for the disclosure packet update or a financial update may be charged by the preparer not to exceed \$50 \$100. At the option of the purchaser or his authorized agent, the requestor may request that the association perform an additional inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration, for a fee not to exceed \$50 \$100. Any fees charged for the specified update shall be collected at the time of delivery of the update. The association shall not require cash, check, certified funds, or credit card payments at the time the request is made for the disclosure packet update. The requestor may request that the specified update be provided in hard copy or in electronic form.

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. No association 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 association. If the requestor asks that the specified update be provided in electronic format, the association shall not require the requester to pay any fees to

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59 use the provider's electronic network or system. If the requestor asks that the specified update be
60 provided in electronic format, the requestor may designate no more than two additional recipients to
61 receive the specified update in electronic format at no additional charge. A copy of the specified update
62 shall be provided to the seller or his authorized agent.

63 ~~G.~~ *H.* When a disclosure packet has been delivered as required by § 55-509.5, the association shall,
64 as to the purchaser, be bound by the statements set forth therein as to the status of the assessment
65 account and the status of the lot with respect to any violation of the declaration, bylaws, rules and
66 regulations, architectural guidelines and articles of incorporation, if any, of the association as of the date
67 of the statement unless the purchaser had actual knowledge that the contents of the disclosure packet
68 were in error.

69 ~~H.~~ *I.* If the association has been requested to furnish the association disclosure packet required by
70 this section, failure to provide the association disclosure packet substantially in the form provided in this
71 section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the
72 declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the
73 request with respect to the subject lot. The association shall be liable to the seller in an amount equal to
74 the actual damages sustained by the seller in an amount not to exceed \$500. The purchaser shall
75 nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural
76 guidelines of the association as to all matters arising after the date of the settlement of the sale.