

# VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

## CHAPTER 441

*An Act to amend and reenact §§ 55.1-1809 and 55.1-1814 of the Code of Virginia, relating to Property Owners' Association Act; notice of restrictions on display of political signs.*

[H 720]

Approved March 25, 2020

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

**1. That §§ 55.1-1809 and 55.1-1814 of the Code of Virginia are amended and reenacted as follows:**

**§ 55.1-1809. Contents of association disclosure packet; delivery of packet.**

A. Within 14 days after receipt of a written request and instructions by a seller or the seller's authorized agent, the association shall deliver 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 the Commonwealth;

2. A statement of any expenditure of funds approved by the association or the board of directors that requires 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 of such report, 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 of such budget, 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 action or unpaid judgment (i) to which the association is a party and (ii) that 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 the insurance coverage that is provided for all lot owners by the association, including the fidelity coverage maintained by the association, and any additional insurance that is required or recommended for each lot owner;

9. A statement that any improvement or alteration made to the lot, or uses made of the lot or common area assigned to such lot, is or is 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 display any flag on the owner's lot, including 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;

12. A statement setting forth any restrictions as to the size, place, duration, or manner of placement or display of political signs by a lot owner on his lot;

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

~~13.~~ 14. 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.~~ 15. 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;

~~15.~~ 16. A copy of the notice given to the lot owner by the association of any current or pending rule or architectural violation;

~~16.~~ 17. A copy of the fully completed form developed by the Common Interest Community Board

pursuant to § 54.1-2350;

~~17.~~ 18. Certification that the association has filed with the Common Interest Community Board the annual report required by § 55.1-1835. Such certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing; and

~~18.~~ 19. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies.

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

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

D. The seller or the seller's authorized agent may request that the disclosure packet be provided in hard copy or in electronic form. An association or common interest community manager may provide the disclosure packet electronically; however, the seller or the seller's authorized agent shall have the right to request that the association disclosure packet be provided in hard copy. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the disclosure packet in person at the principal place of business of the association. If the seller or the seller's authorized agent requests that the disclosure packet be provided in electronic format, neither the association nor its common interest community manager may require the seller or the seller's authorized agent to pay any fees to use the provider's electronic network or system. The disclosure packet shall not be delivered in hard copy if the requester has requested delivery of such disclosure packet electronically. If the disclosure packet is provided electronically by a website link, the preparer shall not cause the website link to expire within the subsequent 90-day period. The preparer shall not charge another fee during the subsequent 12-month period, except that the preparer may charge an update fee for a financial update or for an inspection as provided in § 55.1-1810. If the seller or the seller's authorized agent asks that the disclosure packet be provided in electronic format, the seller or the seller's authorized agent may 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 requester. If so requested, the property owners' association or its common interest community manager may require the seller or the seller's authorized agent to pay the fee specified in § 55.1-1810. Regardless of whether the disclosure packet is delivered in paper form or electronically, the preparer of the disclosure packet shall provide such disclosure packet directly to the persons designated by the requester to the addresses or, if applicable, the email addresses provided by the requester.

**§ 55.1-1814. Exceptions to disclosure requirements.**

A. The contract disclosures required by § 55.1-1808 and the association disclosure packet required by § 55.1-1809 shall not be provided in the case of:

1. A disposition of a lot by gift;
2. A disposition of a lot pursuant to court order if the court so directs;
3. A disposition of a lot by foreclosure or deed in lieu of foreclosure;
4. A disposition of a lot by a sale at an auction, where the association disclosure packet was made available as part of an auction package for prospective purchasers prior to the auction sale; or
5. A disposition of a lot to a person or entity who is not acquiring the lot for his own residence or for the construction thereon of a dwelling unit to be occupied as his own residence, unless requested by such person or entity. If such disclosures are not requested, a statement in the contract of sale that the purchaser is not acquiring the lot for such purpose shall be conclusive and may be relied upon by the seller of the lot. The person or entity acquiring the lot shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all matters.

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

C. In the case of an initial disposition of a lot by the declarant, the association disclosure packet required by § 55.1-1809 need not include the information referenced in subdivisions A 2, 3, 5, or 9 of § 55.1-1809, and it shall include the information referenced in subdivision A ~~17~~ 18 of § 55.1-1809 only if the association has filed an annual report prior to the date of such disclosure packet.