

# 2024 Legislative Update

## Neighborhood Services, March 16, 2024

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### 2024 Session:

#### HB105

**Resale Disclosure Act; resale certificate; fees.** Adds condominium associations and real estate cooperative associations to the types of associations under the Resale Disclosure Act that are prohibited from collecting certain fees unless, in addition to other requirements, such associations are current in filing the most recent annual report and fee with the Common Interest Community Board.

- Has passed house and senate as of 3/3/24

#### HB 528

**Property Owners' Association Act; managed conservation landscaping; unreasonable restrictions prohibited.** Provides that no association shall prohibit an owner from installing managed conservation landscaping, defined in the bill, upon such owner's property unless such prohibition was recorded in the declaration for the association. The bill allows associations to establish reasonable restrictions concerning the management, design, and aesthetic guidelines for managed conservation landscaping features.

- 02/06/24 House: Continued to 2025 in General Laws by voice vote
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#### HB 723

**Property Owners' Association Act; meetings of the board of directors; inconsistent provisions.** Provides that the provisions of the Property Owners' Association Act govern the conduct of meetings of the board of the directors without regard to whether the property owners' association is incorporated or unincorporated. The bill clarifies that such provisions shall not be interpreted to supersede corporate authorities otherwise established by law or governing documents.

- Passed house and senate as of 3/1/24
- *E. The requirements of this section govern the conduct of meetings of the board of directors without regard to whether the property owners' association is incorporated or unincorporated but shall not be interpreted to supersede corporate authorities otherwise established by law or the governing documents.*

#### HB 876

**Resale Disclosure Act; delivery of resale certificate; remedies.** Provides that failure to deliver a resale certificate within 14 days, as required by the Resale Disclosure Act, deems the resale certificate unavailable. The bill grants a purchaser three days from the date of ratification of the contract or the date of receipt of the resale certificate or notice that such certificate is unavailable, as applicable, to cancel the contract. Additionally, the bill (i) excludes from

the resale certificate requirements of the Act an initial disposition of a lot to a person who is not acquiring the lot for his own residence and (ii) allows a resale certificate to be delivered to a purchaser's agent. Current law excludes the resale certificate requirements of the Act for any initial disposition, regardless of its intended use, and only allows a resale certificate to be delivered to a purchaser. Finally, the bill mandates the seller to be responsible for all fees associated with the preparation and delivery of the financial update but allows the settlement agent or other requesting party to pay such fees up front, regardless of whether such settlement agent or other requesting party requests to be reimbursed for such fees from the seller.

- 03/08/24 Governor: Approved by Governor-Chapter 54 (effective 7/1/24)
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§ [55.1-2308](#). Contract for resale; disclosures.

Unless exempt pursuant to § [55.1-2317](#), any contract for the resale of a unit in a common interest community shall disclose (i) that the unit is located in a common interest community; (ii) that the seller *or the seller's agent* is required to obtain from the association a resale certificate and provide it to the purchaser *or the purchaser's agent*; (iii) the purchaser's right to cancel the contract pursuant to § [55.1-2312](#); (iv) that the purchaser *or the purchaser's agent* may request an updated resale certificate pursuant to § [55.1-2311](#); and (v) that the purchaser's right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement. If the contract does not contain the disclosures required by this section, the purchaser's sole remedy is to cancel the contract prior to settlement.

§ [55.1-2309](#). Resale certificate; delivery.

A. The seller *or the seller's agent* shall ~~be required to~~ obtain the resale certificate from the association and provide such resale certificate to the purchaser *or the purchaser's agent*. *This requirement shall not be waived or changed by agreement.*

B. Unless exempt pursuant to § [55.1-2317](#), the association, the association's managing agent, or any third party preparing the resale certificate on behalf of the association shall deliver such resale certificate within 14 days after a written request by a seller or seller's agent. *If no resale certificate is delivered within 14 days after such request, the resale certificate shall be deemed unavailable.*

C. The association, association's managing agent, or any third party preparing the resale certificate on behalf of the association shall deliver the resale certificate to the seller, or to such person as the seller may direct, either printed or in a generally accepted electronic format as the seller may request.

D. The information contained in the resale certificate shall be current as of a date specified on the resale certificate. The seller or purchaser may request an updated resale certificate as provided in § [55.1-2311](#).

§ [55.1-2310](#). Resale certificate; form and contents.

A. The association shall include the completed resale certificate form, developed by the common interest community board pursuant to subdivision 3 of § [54.1-2350](#), with supporting documentation set out in the following order:

1. The name, address, and phone numbers of the preparer of the resale certificate and any managing agent of the association;
2. A copy of the governing documents and any rules and regulations of the association;

3. A statement disclosing any restraint on the alienability of the unit for which the resale certificate is being issued;
4. A statement of the amount and payment schedules of assessments and any unpaid assessments currently due and payable to the association;
5. A statement of any other fees due and payable by an owner of the unit;
6. A statement of any other entity or facility to which the owner of the unit being sold may be liable for assessments, fees, or other charges due to the ownership of the unit;
7. A statement of the amount and payment schedule of any approved additional or special assessment and any unpaid additional or special assessment currently due and payable;
8. A statement of any capital expenditures approved by the association for the current and succeeding fiscal years;
9. A statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects;
10. The most recent balance sheet and income and expense statement, if any, of the association;
11. The current operating budget of the association;
12. The current reserve study, or a summary of such study;
13. A statement of any unsatisfied judgments against the association and the nature and status of any pending actions in which the association is a party and that could have a material impact on the association, the owners, or the unit being sold;
14. A statement describing any insurance coverage provided by the association for the benefit of the owners, including fidelity coverage, and any insurance coverage recommended or required to be obtained by the owners;
15. A statement as to whether the board has given or received written notice that any existing uses, occupancies, alterations, or improvements in or to the unit being sold or to the limited elements assigned thereto violate any provision of the governing documents or rules and regulations together with copies of any notices provided;
16. A statement as to whether the board has received written notice from a governmental agency of any violation of environmental, health, or building codes with respect to the unit being sold, the limited elements assigned thereto, or any other portion of the common interest community that has not been cured;
17. A copy of any approved minutes of meetings of the board held during the last six months;
18. A copy of any approved or draft minutes of the most recent association meeting;
19. A statement of the remaining term of any leasehold estate affecting a common area or common element, as those terms are defined in §§ [55.1-1800](#), [55.1-1900](#), and [55.1-2100](#), in the common interest community and the provisions governing any extension or renewal of such leasehold;

20. A statement of any limitation in the governing documents on the number or age of persons who may occupy a unit as a dwelling;
21. A statement setting forth any restriction, limitation, or prohibition on the right of an owner to display the flag of the United States, including reasonable restrictions as to the size, time, place, and manner of placement or display of such flag;
22. A statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on the owner's unit or limited element;
23. A statement setting forth any restriction, limitation, or prohibition on the size, placement, or duration of display of political, for sale, or any other signs on the property;
24. A statement identifying any parking or vehicle restriction, limitation, or prohibition in the governing documents or rules and regulations;
25. A statement setting forth any restriction, limitation, or prohibition on the operation of a home-based business that otherwise complies with all applicable local ordinances;
26. A statement setting forth any restriction, limitation, or prohibition on an owner's ability to rent the unit;
27. In a cooperative, ~~an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the owner of real estate taxes and interest paid by the association~~ *a statement setting forth whether the cooperative association is aware of any statute, regulation, or rule applicable to the cooperative that would affect an owner's ability to deduct real estate taxes and interest paid by the cooperative association for federal income tax purposes;*
28. A statement describing any pending sale or encumbrance of common elements;
29. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies; and
30. Certification that the association has filed with the Common Interest Community Board the annual report required by law, which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing.

§ [55.1-2311](#). Updated resale certificate; financial update.

A. If a resale certificate was issued more than 30 days but less than 12 months before settlement, the seller or the purchaser, upon proof of being the contract purchaser of the unit, may request an updated resale certificate. The updated resale certificate shall be delivered to the person requesting it, or as such person may direct, in the format requested. The updated resale certificate shall be delivered within 10 days after the written request.

B. The updated resale certificate shall contain current information for all items that may have changed from the original resale certificate or a statement that there are no changes.

C. A settlement agent **or other third party** authorized by the seller or purchaser may request a financial update and the association shall provide such information within three business days after the written request.

§ **55.1-2312**. Cancellation of contract by purchaser.

~~A. The purchaser may cancel the contract:~~

~~1. Within three days, or up to seven days if extended by the ratified real estate contract, after the ratification date of the contract if the purchaser receives the resale certificate, whether or not complete pursuant to § **55.1-2310**, or a notice that the resale certificate is unavailable on or before the date that the contract is ratified;~~

~~2. Within three days, or up to seven days if extended by the ratified real estate contract, from the date the purchaser receives the resale certificate, whether or not complete pursuant to § **55.1-2310**, or a notice that the resale certificate is unavailable if delivery occurs after the contract is ratified; or~~

~~3. At any time prior to settlement if the resale certificate is not delivered to the purchaser. **If delivery of the resale certificate to the purchaser or purchaser's agent, whether or not complete pursuant to § **55.1-2310**, or a notice that the resale certificate is unavailable, occurs before the contract is ratified, the purchaser may cancel the contract within a time period agreed upon by all parties in the ratified real estate contract. If no time period is specified in the ratified real estate contract, the purchaser shall have three days from the date of ratification to cancel the contract.**~~

~~**B. If delivery of the resale certificate to the purchaser or purchaser's agent, whether or not complete pursuant to § **55.1-2310**, or a notice that such resale certificate is unavailable, occurs after the contract is ratified, the purchaser may cancel the contract within a time period agreed upon by all parties to the real estate contract. If no time period is specified in the ratified real estate contract, the purchaser shall have three days from receipt of the resale certificate or notice that the resale certificate is unavailable to cancel the contract.**~~

~~**C. If the resale certificate or notice that the resale certificate is unavailable has not been delivered to the purchaser, the purchaser or purchaser's agent may cancel the contract at any time prior to settlement.**~~

~~**B. D.**~~ Written notice of cancellation shall be provided to the seller in accordance with the terms of the contract. The purchaser shall have the burden to demonstrate delivery of the notice of cancellation.

~~**C. E.**~~ If the unit is governed by more than one association, the timeframe for the purchaser's right of cancellation shall run from the date of delivery of the last resale certificate.

~~**D. F.**~~ Cancellation shall be without penalty, and the seller shall cause any deposit or escrowed funds to be returned promptly to the purchaser.

§ **55.1-2316**. Resale certificate; fees.

A. An association may charge a post-closing fee and fees for preparation, delivery, and expedited delivery of a resale certificate, an updated resale certificate, or financial update and for the inspection of a unit performed to prepare the resale certificate or updated resale certificate. ~~Unless provided otherwise by the association, the appropriate fees shall be paid when the resale certificate, updated resale certificate, or financial update is requested.~~ The seller shall be responsible for all fees associated with the preparation and delivery of the resale certificate, including any fees for inspection of the unit. The requesting party shall pay any fees for the preparation and delivery of the updated resale

certificate ~~or financial update~~. *The seller shall be responsible for all fees associated with the preparation and delivery of the financial update. However, a settlement agent or other requesting party may pay such fees up front, regardless of whether such settlement agent or other requesting party requests to be reimbursed for such fees from the seller.*

B. *Unless provided otherwise by the association or this section, fees charged by an association for the preparation and delivery of a resale certificate, an updated resale certificate, or a financial update shall be paid when the resale certificate, updated resale certificate, or financial update is requested. However, if the seller agrees to pay the fees for preparation and delivery of the financial update, the association or the association's management agent shall either (i) upon receipt of the request for the financial update, send instructions by electronic means to the seller for electronic payment or (ii) accept payment of such fees at the time of closing.*

C. The Common Interest Community Board shall establish the maximum fees that the association may charge for such post-closing and preparation, delivery, and inspection; such maximum fees shall be commercially reasonable and consistent with the effort required to comply with the resale certificate requirements. The maximum allowable fees, as published by the Common Interest Community Board and effective as of January 12, 2023, shall be adjusted no less than every five years, as of January 1 of that year, in an amount not less than 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 or an equivalent successor index.

~~C-D.~~ The association shall publish and make available a schedule of the applicable fees (i) for preparation and delivery of the resale certificate, updated resale certificate, and financial update; (ii) for the inspection of a unit; and (iii) related to any post-closing costs.

~~D-E.~~ A post-closing fee to be collected at settlement may be imposed on the purchaser of the property for the purpose of establishing the purchaser as the owner of the property in the records of the association.

~~E-F.~~ No association may collect fees authorized by this section unless the association (i) is registered with the Common Interest Community Board; (ii) is current in filing the most recent annual report and fee with the Common Interest Community Board pursuant to § [55.1-1835](#), [55.1-1980](#), or [55.1-2182](#); (iii) is current in paying any assessment made by the Common Interest Community Board pursuant to § [54.1-2354.5](#); and (iv) provides the option to receive the disclosure packet electronically.

§ [55.1-2317](#). Exemptions.

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

1. An initial disposition ~~by a declarant~~ *of a unit to a person or entity that is not acquiring the unit for his own residence or for the construction of a dwelling unit to be occupied as his own residence, unless requested by such person or entity. The person or entity acquiring the unit shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all matters;*

2. A disposition of a unit by gift;

3. A disposition of a unit pursuant to court order if the court so directs;

4. A disposition of a unit by foreclosure or deed in lieu of foreclosure;

5. 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; or

6. A disposition of a unit in a common interest community containing no residential units.

B. 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 association and provide the resale certificate to the purchaser.

## HB 880

**Common interest communities; foreclosure remedy.** Prohibits certain bills to enforce a lien from being entertained if the real estate is the judgment debtor's primary residence and the judgment is for assessments levied by certain common interest community associations if the amount secured by one or more judgments exclusive of interest and costs does not exceed \$5,000. The bill also requires such common interest community associations to maintain individual assessment account records. Finally, the bill requires such associations to maintain records of any recorded lien during the effective duration of such lien. As introduced, the bill was a recommendation of the Virginia Housing Commission. This bill is identical to **SB 341**.

- 03/08/24 Governor: Approved by Governor-Chapter 55 (effective 7/1/24)
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§ **8.01-463**. Enforcement of lien when judgment does not exceed \$25,000.

~~If the amount of the judgment does not exceed \$25,000, exclusive of interest and costs, no~~ ~~bill to~~ enforce ~~the a~~ lien, pursuant to § **8.01-462**, ~~thereof~~ shall be entertained if the real estate is the judgment debtor's primary residence **and the amount of the judgment exclusive of interest and costs does not exceed \$25,000.** *However, if the judgment is for assessments levied by a common interest community association pursuant to Chapter 18 (§ **55.1-1800** et seq.), 19 (§ **55.1-1900** et seq.), 21 (**55.1-2100** et seq.), or 23 (§ **55.1-2300** et seq.) of Title 55.1, no bill to enforce a lien shall be entertained if the total amount secured by one or more judgments exclusive of interest and costs does not exceed \$5,000.*

§ **55.1-1815**. Access to association records; association meetings; notice.

A. The association shall keep detailed records of receipts and expenditures affecting the operation and administration of the association. All financial books and records shall be kept in accordance with generally accepted accounting practices. **The association shall maintain individual assessment account records. The association shall maintain a record of any recorded lien at least as long as the lien remains effective.**

B. Subject to the provisions of subsection C and so long as the request is for a proper purpose related to his membership in the association, all books and records kept by or on behalf of the association shall be available for examination and copying by a member in good standing or his authorized agent, including:

1. The association's membership list and addresses, which shall not be used for purposes of pecuniary gain or commercial solicitation; and

2. The actual salary of the six highest compensated employees of the association earning over \$75,000 and aggregate salary information of all other employees of the association; however, individual salary information shall not be available for examination and copying during the declarant control period.

Notwithstanding any provision of law to the contrary, this right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five business days' written notice for an association managed by a common interest community manager and 10 business days' written notice for a self-managed association, which notice reasonably identifies the purpose for the request and the specific books and records of the association requested.

C. Books and records kept by or on behalf of an association may be withheld from inspection and copying to the extent that they concern:

1. Personnel matters relating to specific, identified persons or a person's medical records;
2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;
3. Pending or probable litigation. For purposes of this subdivision, "probable litigation" means those instances where there has been a specific threat of litigation from a person or the legal counsel of such person;
4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to § [55.1-1819](#);
5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;
6. Disclosure of information in violation of law;
7. Meeting minutes or other confidential records of an executive session of the board of directors held in accordance with subsection C of § [55.1-1816](#);
8. Documentation, correspondence, or management or board reports compiled for or on behalf of the association or the board by its agents or committees for consideration by the board in executive session; or
9. Individual lot owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.

D. Books and records kept by or on behalf of an association shall be withheld from inspection and copying in their entirety only to the extent that an exclusion from disclosure under subsection C applies to the entire content of such books and records. Otherwise, only those portions of the books and records containing information subject to an exclusion under subsection C may be withheld or redacted, and all portions of the books and records that are not so excluded shall be available for examination and copying, provided that the requesting member shall be responsible to the association for paying or reimbursing the association for any reasonable costs incurred by the association in responding to the request for the books and records and review for redaction of the same.

E. Prior to providing copies of any books and records to a member in good standing under this section, the association may impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs of such materials and labor. Charges may be imposed only in accordance with a cost schedule adopted by the board of directors in accordance with this subsection. The cost schedule shall (i) specify the charges for materials and labor, (ii) apply equally to all members in good standing, and (iii) be provided to such requesting member at the time the request is made.

F. Notwithstanding the provisions of subsections B and C, all books and records of the association, including individual salary information for all employees and payments to independent contractors, shall be available for examination and copying upon request by a member of the board of directors in the discharge of his duties as a director.

G. Meetings of the association shall be held in accordance with the provisions of the bylaws at least once each year after the formation of the association. The bylaws shall specify an officer or his agent who shall, at least 14 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting, send to each member notice of the time, place, and purposes of such meeting. In the event of cancellation of any annual meeting of the association at which directors are elected, the seven-day notice of any subsequent meeting scheduled to elect such directors shall include a statement that the meeting is scheduled for the purpose of the election of directors.

Notice shall be sent by United States mail to all members at the address of their respective lots unless the member has provided to such officer or his agent an address other than the address of the member's lot. In lieu of sending such notice by United States mail, notice may instead be (i) hand delivered by the officer or his agent, provided that the officer or his agent certifies in writing that notice was delivered to the member, or (ii) sent to the member by electronic mail, provided that the member has elected to receive such notice by electronic mail and, in the event that such electronic mail is returned as undeliverable, notice is subsequently sent by United States mail. Except as provided in subdivision C 7, draft minutes of the board of directors shall be open for inspection and copying (a) within 60 days from the conclusion of the meeting to which such minutes appertain or (b) when such minutes are distributed to board members as part of an agenda package for the next meeting of the board of directors, whichever occurs first.

H. Unless expressly prohibited by the governing documents, a member may vote at a meeting of the association in person, by proxy, or by absentee ballot. Such voting may take place by electronic means, provided that the board of directors has adopted guidelines for such voting by electronic means. Members voting by absentee ballot or proxy shall be deemed to be present at the meeting for all purposes.

§ [55.1-1833](#). Lien for assessments; foreclosure.

A. The association shall have a lien, once perfected, on every lot for unpaid assessments levied against that lot in accordance with the provisions of this chapter and all lawful provisions of the declaration. The lien, once perfected, shall be prior to all other subsequent liens and encumbrances except (i) real estate tax liens on that lot, (ii) liens and encumbrances recorded prior to the recordation of the declaration, and (iii) sums unpaid on and owing under any mortgage or deed of trust recorded prior to the perfection of such lien. The provisions of this subsection shall not affect the priority of mechanics' and materialmen's liens. Notice of a memorandum of lien to a holder of a credit line deed of trust under § [55.1-318](#) shall be given in the same fashion as if the association's lien were a judgment.

B. The association, in order to perfect the lien given by this section, shall file, before the expiration of 12 months from the time the first such assessment became due and payable in the clerk's office of the circuit court in the county or city in which such development is situated, a memorandum, verified by the oath of the principal officer of the association or such other officer or officers as the declaration may specify, which contains the following:

1. The name of the development;
2. A description of the lot;
3. The name or names of the persons constituting the owners of that lot;
4. The amount of unpaid assessments currently due or past due relative to such lot together with the date when each fell due;
5. The date of issuance of the memorandum;
6. The name of the association and the name and current address of the person to contact to arrange for payment or release of the lien; and
7. A statement that the association is obtaining a lien in accordance with the provisions of the Property Owners' Association Act as set forth in Chapter 18 (§ [55.1-1800](#) et seq.) of Title 55.1.

It shall be the duty of the clerk in whose office such memorandum is filed as provided in this section to record and index the same as provided in subsection D, in the names of the persons identified in such memorandum as well as in the name of the association. The cost of recording and releasing the memorandum shall be taxed against the person found liable in any judgment or order enforcing such lien.

C. Prior to filing a memorandum of lien, a written notice shall be sent to the property owner by certified mail, at the property owner's last known address, informing the property owner that a memorandum of lien will be filed in the circuit court clerk's office of the applicable county or city. The notice shall be sent at least 10 days before the actual filing date of the memorandum of lien.

D. Notwithstanding any other provision of this section or any other provision of law requiring documents to be recorded in the miscellaneous lien books or the deed books in the clerk's office of any court, on or after July 1, 1989, all memoranda of liens arising under this section shall be recorded in the deed books in the clerk's office. Any memorandum shall be indexed in the general index to deeds, and the general index shall identify the lien as a lien for lot assessments.

E. *Any lien perfected pursuant to subsection B may be enforced by filing a civil action to conduct a judicial foreclosure in the circuit court in the county or city where the lot is located or by nonjudicial foreclosure pursuant to subsections I and J. No ~~action to enforce foreclosure of~~ any lien perfected under ~~subsection B this section~~ shall be ~~brought or action to foreclose any lien perfected under subsection I shall be~~ initiated after ~~36~~ **120** months from the time when the memorandum of lien was recorded; ~~however, the~~. *The filing of a petition, a civil action to enforce any such lien in any action in which the petition may be properly filed by foreclosure through judicial means or issuance of notice of nonjudicial foreclosure under subdivision J 1* shall be regarded as the institution of an action under this section. Nothing in this subsection shall extend the time within which any such lien may be perfected.*

F. The judgment or order in an action brought pursuant to this section shall include reimbursement for costs and reasonable attorney fees of the prevailing party. If the association prevails, it may also recover interest at the legal rate for the sums secured by the lien from the time each such sum became due and payable.

G. When payment or satisfaction is made of a debt secured by ~~the~~ any lien perfected by pursuant to subsection B, ~~the~~ such lien shall be released in accordance with the provisions of § [55.1-339](#). Any lien that is not so released shall subject the lien creditor to the penalty set forth in subdivision B 1 of § [55.1-339](#). For the purposes of § [55.1-339](#), the principal officer of the association, or any other officer or officers as the declaration may specify, shall be deemed the duly authorized agent of the lien creditor.

H. Nothing in this section shall be construed to prohibit actions at law to recover sums for which subsection A creates a lien, maintainable pursuant to § [55.1-1828](#).

~~I. At any time after perfecting the lien pursuant to this section, the property owners' association may sell the lot at public sale, subject to prior liens.~~ *The association may conduct a judicial or nonjudicial foreclosure sale upon a lot against which the association has perfected one or more liens pursuant to this section if the total sums secured are in excess of \$5,000, exclusive of attorney fees and costs.* For purposes of this section, the association shall have the power both to sell and convey the lot and shall be deemed the lot owner's statutory agent for the purpose of transferring title to the lot.

**J.** A nonjudicial foreclosure sale shall be conducted in compliance with the following:

1. The association shall give notice to the lot owner prior to advertisement required by subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is given to the lot owner, by which the debt secured by the lien must be satisfied; and (iv) that failure to satisfy the debt secured by the lien on or before the date specified in the notice may result in the sale of the lot. The notice shall further inform the lot owner of the right to bring a court action in the circuit court of the county or city where the lot is located to assert the nonexistence of a debt or any other defense of the lot owner to the sale.

2. After expiration of the 60-day notice period specified in subdivision 1, the association may appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the circuit court in the county or city in which such development is situated. It shall be the duty of the clerk in whose office such appointment is filed to record and index the same as provided in subsection D, in the names of the persons identified in such appointment as well as in the name of the association. The association, at its option, may from time to time remove the trustee and appoint a successor trustee.

3. If the lot owner meets the conditions specified in this subdivision prior to the date of the foreclosure sale, the lot owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the lot. Those conditions are that the lot owner (i) satisfy the debt secured by lien that is the subject of the nonjudicial foreclosure sale and (ii) pay all expenses and costs incurred in perfecting and enforcing the lien, including advertising costs and reasonable attorney fees.

4. In addition to the advertisement required by subdivision 5, the association shall give written notice of the time, date, and place of any proposed sale in execution of the lien, including the name, address, and telephone number of the trustee, by hand delivery or by mail to (i) the present owner of the property to be sold at his last known address as such owner and address appear in the records of the association, (ii) any lienholder who holds a note against the

property secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii) any assignee of such a note secured by a deed of trust, provided that the assignment and address of the assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the advertisement or the notice containing the same information to the owner by certified or registered mail no less than 14 days prior to such sale and to lienholders and their assigns, at the addresses noted in the memorandum of lien, by United States mail, postage prepaid, no less than 14 days prior to such sale, shall be a sufficient compliance with the requirement of notice.

5. The advertisement of sale by the association shall be in a newspaper having a general circulation in the county or city in which the property to be sold, or any portion of such property, is located pursuant to the following provisions:

a. The association shall advertise once a week for four successive weeks; however, if the property or some portion of such property is located in a city or in a county immediately contiguous to a city, publication of the advertisement on five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement nor more than 30 days following the last advertisement.

b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of property being sold is generally advertised for sale. The advertisement of sale, in addition to such other matters as the association finds appropriate, shall set forth a description of the property to be sold, which description need not be as extensive as that contained in the deed of trust but shall identify the property by street address, if any, or, if none, shall give the general location of the property with reference to streets, routes, or known landmarks. Where available, tax map identification may be used but is not required. The advertisement shall also include the date, time, place, and terms of sale and the name of the association. It shall set forth the name, address, and telephone number of the representative, agent, or attorney who may be able to respond to inquiries concerning the sale.

c. In addition to the advertisement required by subdivisions a and b, the association may further advertise as the association finds appropriate.

6. In the event of postponement of sale, which postponement shall be at the discretion of the association, advertisement of such postponed sale shall be in the same manner as the original advertisement of sale.

7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the property voidable by the court.

8. The association shall have the following powers and duties upon a sale:

a. Written one-price bids may be made and shall be received by the trustee from the association or any person for entry by announcement at the sale. Any person other than the trustee may bid at the foreclosure sale, including a person who has submitted a written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise provided in the declaration, the association may bid to purchase the lot at a foreclosure sale. The association may own, lease, encumber, exchange, sell, or convey the lot. Whenever the written bid of the association is the highest bid submitted at the sale, such written bid shall be filed by the trustee with his account of sale required under subdivision ~~10~~ 10 and § 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the association, its agent, or its attorney.

b. The association may require any bidder at any sale to post a cash deposit of as much as 10 percent of the sale price before his bid is received, which shall be refunded to him if the property is not sold to him. The deposit of the successful bidder shall be applied to his credit at settlement, or, if such bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale, and the balance, if any, shall be retained by the association in connection with that sale.

c. The ~~property owners'~~ association shall receive and receipt for the proceeds of sale, no purchaser being required to see to the application of the proceeds, and apply the same in the following order: first, to the reasonable expenses of sale, including attorney fees; second, to the satisfaction of all taxes, levies, and assessments, with costs and interest; third, to the satisfaction of the lien for the owners' assessments; fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay the residue of the proceeds to the owner or his assigns, provided, however, that, as to the payment of such residue, the association shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the owner's equity, without actual notice thereof prior to distribution.

9. The trustee shall deliver to the purchaser a trustee's deed conveying the lot with special warranty of title. The trustee shall not be required to take possession of the property prior to the sale of such property or to deliver possession of the lot to the purchaser at the sale.

10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to § [64.2-1309](#), and every account of a sale shall be recorded pursuant to § [64.2-1310](#). In addition, the accounting shall be made available for inspection and copying pursuant to § [55.1-1815](#) upon the written request of the prior lot owner, the current lot owner, or any holder of a recorded lien against the lot at the time of the sale. The association shall maintain a copy of the accounting for at least 12 months following the foreclosure sale.

11. If the sale of a lot is made pursuant to subsection I and the accounting is made by the trustee, the title of the purchaser at such sale shall not be disturbed unless within 12 months from the confirmation of the accounting by the commissioner of accounts the sale is set aside by the court or an appeal is filed in the Court of Appeals or granted by the Supreme Court and an order is entered requiring such sale to be set aside.

§ [55.1-1945](#). Books, minutes, and records; inspection.

A. The declarant, managing agent, unit owners' association, or person specified in the bylaws of the association shall keep detailed records of the receipts and expenditures affecting the operation and administration of the condominium and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or on behalf of the association. Subject to the provisions of subsections B, C, and E, upon request, any unit owner shall be provided a copy of such records and minutes. All financial books and records shall be kept in accordance with generally accepted accounting practices. *The unit owners' association shall maintain individual assessment account records. The unit owners' association shall maintain a record of any recorded lien at least as long as the lien remains effective.*

B. Subject to the provisions of subsection C, all books and records kept by or on behalf of the unit owners' association, including the unit owners' association membership list, and addresses and aggregate salary information of unit owners' association employees, shall be available for examination and copying by a unit owner in good standing or his authorized agent so long as the request is for a proper purpose related to his membership in the unit owners' association and not for pecuniary gain or commercial solicitation. Notwithstanding any provision of law to the contrary, this right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five business

days' written notice for a unit owner association managed by a common interest community manager and 10 business days' written notice for a self-managed unit owners' association, which notice shall reasonably identify the purpose for the request and the specific books and records of the unit owners' association requested.

C. Books and records kept by or on behalf of a unit owners' association may be withheld from examination or copying by unit owners and contract purchasers to the extent that they are drafts not yet incorporated into the books and records of the unit owners' association or if such books and records concern:

1. Personnel matters relating to specific, identified persons or a person's medical records;
2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;
3. Pending or probable litigation. For purposes of this subdivision, "probable litigation" means those instances where there has been a specific threat of litigation from a person or the legal counsel of such person;
4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the condominium instruments or rules and regulations promulgated by the executive board;
5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;
6. Disclosure of information in violation of law;
7. Meeting minutes or other confidential records of an executive session of the executive board held pursuant to subsection C of [§ 55.1-1949](#);
8. Documentation, correspondence or management or executive board reports compiled for or on behalf of the unit owners' association or the executive board by its agents or committees for consideration by the executive board in executive session; or
9. Individual unit owner or member files, other than those of the requesting unit owner, including any individual unit owner's files kept by or on behalf of the unit owners' association.

D. Books and records kept by or on behalf of a unit owners' association shall be withheld from examination and copying in their entirety only to the extent that an exclusion from disclosure under subsection C applies to the entire content of such books and records. Otherwise, only those portions of the books and records containing information subject to an exclusion under subsection C may be withheld or redacted, and all portions of the books and records that are not so excluded shall be available for examination and copying, provided that the requesting member shall be responsible to the association for paying or reimbursing the association for any reasonable costs incurred by the association in responding to the request for the books and records and review for redaction of the same.

E. Prior to providing copies of any books and records, the unit owners' association may impose and collect a charge, not to exceed the reasonable costs of materials and labor, incurred to provide such copies. Charges may be imposed only in accordance with a cost schedule adopted by the executive board in accordance with this subsection. The cost schedule shall (i) specify the charges for materials and labor, (ii) apply equally to all unit owners in good standing, and (iii) be provided to such requesting unit owner at the time the request is made.

§ 55.1-1966. Lien for assessments; foreclosure.

A. The unit owners' association shall have a lien on each condominium unit for unpaid assessments levied against that condominium unit in accordance with the provisions of this chapter and all lawful provisions of the condominium instruments. The lien, once perfected, shall be prior to all other liens and encumbrances except (i) real estate tax liens on that condominium unit, (ii) liens and encumbrances recorded prior to the recordation of the declaration, and (iii) sums unpaid on any first mortgages or first deeds of trust recorded prior to the perfection of such lien for assessments and securing institutional lenders. The provisions of this subsection shall not affect the priority of mechanics' and materialmen's liens.

B. Notwithstanding any other provision of this section, or any other provision of law requiring documents to be recorded in the miscellaneous lien books or the deed books in the clerk's office of any court, on or after July 1, 1974, all memoranda of liens arising under this section shall, in the discretion of the clerk, be recorded in the miscellaneous lien books or the deed books in such clerk's office. Any such memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for condominium assessments.

C. In order to perfect the lien given by this section, the unit owners' association shall file a memorandum verified by the oath of the principal officer of the unit owners' association, or such other officer as the condominium instruments may specify, before the expiration of 90 days from the time the first such assessment became due and payable. The memorandum shall be filed in the clerk's office of the circuit court in the county or city in which such condominium is situated. The memorandum shall contain the following:

1. A description of the condominium unit in accordance with the provisions of § 55.1-1909.
2. The name or names of the persons constituting the unit owners of that condominium unit.
3. The amount of unpaid assessments currently due or past due together with the date when each fell due.
4. The date of issuance of the memorandum.

The clerk in whose office such memorandum is filed shall record and index the memorandum as provided in subsection B, in the names of the persons identified in such memorandum as well as in the name of the unit owners' association. The cost of recording such memorandum shall be taxed against the person found liable in any judgment enforcing such lien.

D. *Any lien perfected pursuant to this section may be enforced by filing a civil action to conduct a judicial foreclosure in the circuit court in the county or city where the condominium is or a nonjudicial foreclosure pursuant to subsections I and J.* ~~No action to enforce foreclosure of~~ any lien perfected under ~~subsection C~~ *this section* shall ~~be brought or action to foreclose any lien perfected under subsection I shall~~ be initiated after ~~36~~ *120* months from the time when the memorandum of lien was recorded; ~~however, the~~ *The* filing of a ~~petition~~ *civil action* to enforce any such lien ~~in any action in which such petition may be properly filed~~ *by foreclosure through judicial means or issuance of notice of nonjudicial foreclosure under subdivision J 1* shall be regarded as the institution of an action under this section. Nothing in this subsection shall extend the time within which any such lien may be perfected.

E. The judgment in an action brought pursuant to this section shall include reimbursement for costs and attorney fees of the prevailing party. If the *unit owners'* association prevails, ~~it~~ *such unit owners' association* may also recover interest at the legal rate for the sums secured by the lien from the time each such sum became due and payable.

F. When payment or satisfaction is made of a debt secured by the lien perfected ~~by~~ pursuant to subsection C, such lien shall be released in accordance with the provisions of § 55.1-339. Any lien that is not so released shall subject the lien creditor to the penalty set forth in subdivision B 1 of § 55.1-339. For the purposes of that section, the principal officer of the unit owners' association, or such other officer as the condominium instruments may specify, shall be deemed the duly authorized agent of the lien creditor.

G. Nothing in this section shall be construed to prohibit actions at law to recover sums for which subsection A creates a lien, maintainable pursuant to § 55.1-1915.

H. Any unit owner or purchaser of a condominium unit, having executed a contract for the disposition of such condominium unit, shall be entitled upon request to a recordable statement setting forth the amount of unpaid assessments currently levied against that unit. Such request shall be in writing, directed to the principal officer of the unit owners' association or to such other officer as the condominium instruments may specify. Failure to furnish or make available such a statement within 10 days of the receipt of such request shall extinguish the lien created by subsection A as to the condominium unit involved. Such statement shall be binding on the unit owners' association, the executive board, and every unit owner. Payment of a fee not exceeding \$10 may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

~~I. At any time after perfecting the lien pursuant to this section, the unit owners' association may sell the unit at public sale, subject to prior liens.~~ *The unit owners' association may conduct a judicial or nonjudicial foreclosure sale upon a unit against which the unit owners' association has perfected one or more liens pursuant to this section if the total sums secured are in excess of \$5,000, exclusive of attorney fees and costs.* For purposes of this section, the unit owners' association shall have the power both to sell and convey the unit and shall be deemed the unit owner's statutory agent for the purpose of transferring title to the unit.

**J.** A nonjudicial foreclosure sale shall be conducted in compliance with the following:

1. The unit owners' association shall give notice to the unit owner prior to advertisement required by subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is given to the unit owner, by which the debt secured by the lien must be satisfied; and (iv) that failure to satisfy the debt secured by the lien on or before the date specified in the notice may result in the sale of the unit. The notice shall further inform the unit owner of the right to bring a court action in the circuit court of the county or city where the condominium is located to assert the nonexistence of a debt or any other defense of the unit owner to the sale.
2. After expiration of the 60-day notice period provided in subdivision 1, the unit owners' association may appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the circuit court in the county or city in which the condominium is located. The clerk in whose office such appointment is filed shall record and index the appointment as provided in subsection C, in the names of the persons identified therein as well as in the name of the unit owners' association. The unit owners' association, at its option, may from time to time remove the trustee and appoint a successor trustee.
3. If the unit owner meets the conditions specified in this subdivision prior to the date of the foreclosure sale, the unit owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the unit. Those conditions are that the unit owner (a) satisfy the debt secured by lien that is the subject of the nonjudicial foreclosure sale and (b) pays all expenses and costs incurred in perfecting and enforcing the lien, including advertising costs and reasonable attorney fees.

4. In addition to the advertisement required by subdivision 5, the unit owners' association shall give written notice of the time, date, and place of any proposed sale in execution of the lien, and shall include the name, address, and telephone number of the trustee, by personal delivery or by mail to (i) the present owner of the condominium unit to be sold at his last known address as such owner and address appear in the records of the unit owners' association, (ii) any lienholder who holds a note against the condominium unit secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii) any assignee of such a note secured by a deed of trust provided the assignment and address of the assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the advertisement or the notice containing the same information to the owner by certified or registered mail no less than 14 days prior to such sale and to the lienholders and their assigns, at the addresses noted in the memorandum of lien, by ordinary mail no less than 14 days prior to such sale shall be a sufficient compliance with the requirement of notice.

5. The advertisement of sale by the unit owners' association shall be in a newspaper having a general circulation in the locality in which the condominium unit to be sold, or any portion of such unit, is located pursuant to the following provisions:

a. The unit owners' association shall advertise once a week for four successive weeks; however, if the condominium unit or some portion of such unit is located in a city or in a county immediately contiguous to a city, publication of the advertisement five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement nor more than 30 days following the last advertisement.

b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of property being sold is generally advertised for sale. The advertisement of sale, in addition to such other matters as the unit owners' association finds appropriate, shall set forth a description of the condominium unit to be sold, which description need not be as extensive as that contained in the deed of trust but shall identify the condominium unit by street address, if any, or, if none, shall give the general location of the condominium unit with reference to streets, routes, or known landmarks. Where available, tax map identification may be used but is not required. The advertisement shall also include the date, time, place, and terms of sale and the name of the unit owners' association. The advertisement shall set forth the name, address, and telephone number of the representative, agent, or attorney who may be able to respond to inquiries concerning the sale.

c. In addition to the advertisement required by subdivisions a and b, the unit owners' association may give such other further and different advertisement as the association finds appropriate.

6. In the event of postponement of a sale, which postponement shall be at the discretion of the unit owners' association, advertisement of such postponed sale shall be in the same manner as the original advertisement of sale.

7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the condominium unit voidable by the court.

8. In the event of a sale, the unit owners' association shall have the following powers and duties:

a. Written one-price bids may be made and shall be received by the trustee from the unit owners' association or any person for entry by announcement at the sale. Any person other than the trustee may bid at the foreclosure sale, including a person who has submitted a written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise provided in the

condominium instruments, the unit owners' association may bid to purchase the unit at a foreclosure sale. The unit owners' association may own, lease, encumber, exchange, sell, or convey the unit. Whenever the written bid of the unit owners' association is the highest bid submitted at the sale, such written bid shall be filed by the trustee with his account of sale required under subdivision 10 of this subsection and § [64.2-1309](#). The written bid submitted pursuant to this subsection may be prepared by the unit owners' association or its agent or attorney.

b. The unit owners' association may require of any bidder at any sale a cash deposit of as much as 10 percent of the sale price before his bid is received, which shall be refunded to him if the condominium unit is not sold to him. The deposit of the successful bidder shall be applied to his credit at settlement, or if such bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale, and the balance, if any, shall be retained by the unit owners' association in connection with that sale.

c. The unit owners' association shall receive and receipt for the proceeds of sale, no purchaser being required to see to the application of the proceeds, and apply the same in the following order: first, to the reasonable expenses of sale, including reasonable attorney fees; second, to the satisfaction of all taxes, levies, and assessments, with costs and interest; third, to the satisfaction of the lien for the unit owners' assessments; fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay the residue of the proceeds to the unit owner or his assigns, provided, however, that the association as to such residue shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the unit owner's equity, without actual notice of such encumbrance prior to distribution.

9. The trustee shall deliver to the purchaser a trustee's deed conveying the unit with special warranty of title. The trustee shall not be required to take possession of the condominium unit prior to the sale or to deliver possession of the unit to the purchaser at the sale.

10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to § [64.2-1309](#) and every account of a sale shall be recorded pursuant to § [64.2-1310](#). In addition, the accounting shall be made available for inspection and copying pursuant to § [55.1-1945](#) upon the written request of the prior unit owner, current unit owner, or any holder of a recorded lien against the unit at the time of the sale. The unit owners' association shall maintain a copy of the accounting for at least 12 months following the foreclosure sale.

11. If the sale of a unit is made pursuant to this subsection and the accounting is made by the trustee, the title of the purchaser at such sale shall not be disturbed unless within 12 months from the confirmation of the accounting by the commissioner of accounts, the sale is set aside by the court or an appeal is filed in the Court of Appeals or granted by the Supreme Court and an order is entered requiring such sale to be set aside.

§ [55.1-2148](#). Remedies for nonpayment of assessments; lien; foreclosure.

A. The association has a lien on a cooperative interest for any assessment levied against that cooperative interest or fines imposed against its owner from the time the assessment or fines become due. Unless the declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to subdivisions A 11 and 12 of § [55.1-2133](#) are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment becomes due. Upon nonpayment of the assessment, the proprietary lessee may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and the lien may be foreclosed as provided by this section. The association's lien may be foreclosed (i) by judicial sale in like manner as a mortgage on real estate or (ii) by power of sale as provided in subsection I.

B. A lien under this section is prior to all other liens and encumbrances on a cooperative interest except (i) liens and encumbrances on the cooperative that the association creates, assumes, or takes subject to; (ii) any first security interest encumbering only the cooperative interest of a proprietary lessee and perfected before the date on which the assessment sought to be enforced became delinquent; and (iii) liens for real estate taxes and other governmental assessments or charges against the cooperative or the cooperative interest. The lien is also prior to the security interests described in clause (ii) to the extent of the common expense assessments based on the periodic budget adopted by the association pursuant to subsection A of § [55.1-2133](#) that would have become due in the absence of acceleration during the six months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the association. The lien under this section is not subject to homestead or other exemptions.

C. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

D. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation or filing of any claim of lien for assessment under this section is required.

E. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within ~~three years~~ **120 months** after the full amount of the assessment becomes due.

F. This section does not prohibit actions to recover sums for which subsection A creates a lien or prohibit an association from taking a transfer in lieu of foreclosure.

G. A judgment in any action brought under this section shall include costs and reasonable attorney fees for the prevailing party.

H. Upon written request, the association shall furnish to a proprietary lessee a statement setting forth the amount of unpaid assessments against his cooperative interest. The statement shall be in recordable form. The statement shall be furnished within 10 business days after receipt of the request and is binding on the association, the executive board, and every proprietary lessee.

I. ~~The association, upon nonpayment of assessments and compliance with this subsection, may sell the cooperative interest~~ **The association may conduct a judicial or nonjudicial foreclosure sale of the cooperative interest against which the association has perfected one or more liens pursuant to this section if the total sums secured are in excess of \$5,000, exclusive of attorney fees and costs.** Sale may be at a public sale or by private negotiation and at any time and place, but every aspect of the sale, including the method, advertising, time, place, and terms, must be reasonable. The association shall give to the proprietary lessee and any sublessees of the proprietary lessee reasonable written notice of the time and place of any public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time after which a private disposition may be made. The same notice must also be sent to any other person who has a recorded interest in the cooperative interest that would be cut off by the sale, but only if the interest was on record seven weeks before the date specified in the notice as the date of any public sale or seven weeks before the date specified in the notice as the date after which a private sale may be made. The notices required by this subsection may be sent to any address reasonable in the circumstances. Sale may not be held until five weeks after the sending of the notice. The association may buy at any public sale and, if the sale is conducted by a fiduciary or other person not related to the association, at a private sale.

J. The proceeds of a sale under subsection I shall be applied in the following order:

1. The reasonable expenses of sale;
2. The reasonable expenses of securing possession before sale; holding, maintaining, and preparing the cooperative interest for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by agreement between the association and the proprietary lessee, reasonable attorney fees and other legal expenses incurred by the association;
3. Satisfaction in the order of priority of any prior claims of record;
4. Satisfaction of the association's lien;
5. Satisfaction in the order of priority of any subordinate claim of record; and
6. Remittance of any excess to the proprietary lessee. Unless otherwise agreed, the proprietary lessee is liable for any deficiency.

K. If a cooperative interest is sold under subsection I, a good faith purchaser for value acquires the proprietary lessee's interest in the cooperative interest free of the association's debt that gave rise to the lien under which the sale occurred and any subordinate interest, even though the association or other person conducting the sale failed to comply with the requirements of this section. The person conducting the sale under subsection I shall execute a conveyance to the purchaser sufficient to convey the cooperative interest that states that the conveyance is executed by him, after a foreclosure by power of sale of the association's lien and that he has power to make the sale. Signature and title or authority of the person signing the conveyance as grantor and a recital of the facts of nonpayment of the assessment and of the giving of the notices required by subsection I are sufficient proof of the facts recited and of his authority to sign. Further proof of authority is not required even though the association is named as grantee in the conveyance.

L. At any time before the association has disposed of the cooperative interest or entered into a contract for its disposition under the power of sale, the proprietary lessee or the holder of any subordinate security interest may cure the proprietary lessee's default and prevent sale or other disposition by tendering the performance due under the security agreement, including any amounts due because of exercise of a right to accelerate, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorney fees of the creditor.

§ [55.1-2151](#). Association records.

The association shall keep financial records sufficiently detailed to enable the association to comply with § [55.1-2309](#). All financial and other records shall be made reasonably available for examination by any proprietary lessee and his authorized agents. *The association shall maintain a record of any recorded lien at least as long as the lien remains effective.*

§ [55.1-2305](#). Management, regulation, and control of subdivisions with common facilities or property owners' associations; assessments; liens.

A. The covenants, deed restrictions, articles of incorporation, bylaws, or other instruments for the management, regulation, and control of subdivisions that include facilities or amenities for which the lot owners are assessed on a

regular or special basis for the use, enjoyment, and maintenance of such facilities or amenities shall provide for at a minimum:

1. Formation of an association to be composed of lot owners within the subdivision, such formation occurring prior to the sale of the first lot within the subdivision by the developer;
2. A description of the areas or interests to be owned or controlled by the association, including those facilities or amenities for which the lot owners are subject to regular or special assessments;
3. The transfer of title, control, and maintenance responsibilities of common areas and common facilities to the association, which transfer is to take place no later than at such time as the developer transfers legal or equitable ownership of at least 75 percent of the lots within the subdivision to purchasers of such lots or when all of the amenities and facilities are completed, whichever occurs first, but in no event any sooner than two years from the date the developer sells his first lot within the subdivision should the developer elect to retain title to the common areas and common facilities for such period. The transfer of such title, control, and maintenance responsibilities required of the developer shall not exonerate the developer from the responsibility of completion of the common areas and facilities once the transfer takes place.

Nothing in this section shall preclude the developer from transferring the common areas and common facilities for consideration, provided that (i) such consideration does not exceed the lesser of the fair market value of such common areas and common facilities at the time of transfer or the actual cost expended by the developer for such common areas and common facilities and (ii) the developer affirmatively discloses the following information to the purchaser, in writing, at the time the initial contract of purchase is signed:

- a. That the common areas and common facilities will be transferred only upon payment of consideration by the association;
- b. The terms upon which such transfer will be made; and
- c. An estimate of the amount of consideration to be paid by the association.

In the event the developer seeks payment for the areas or facilities transferred, the association shall have the option of deferring such payment, evidence by a deed of trust note covering a period of not less than five years at the legal rate of interest allowed in the Commonwealth and secured by a deed of trust covering the areas or facilities transferred;

4. Procedures for determining and collecting regular assessments to defray expenses attributable to the ownership, use, enjoyment, and operation of common areas and facilities transferred to the association;
5. Procedures for establishing and collecting special assessments for capital improvements or other purposes;
6. Procedures to be employed upon the annexation of additional land to the existing subdivision that shall disclose whether or not per capita assessments on account of such annexation shall be subject to an increase, in the event additional amenities or common facilities are provided lot owners within the subdivision;

7. Such procedures and restrictions, if any, that apply to the voluntary or involuntary resale of a lot within a subdivision by a purchaser or his agent, which shall be established prior to the sale of the first lot by the developer within the subdivision;

8. Monetary penalties or use privilege and voting suspension of members for breaches of the restrictions, bylaws, or other instruments for management and control of the subdivision, or for nonpayment of regular or special assessments, with procedures for hearings for the disciplined members;

9. Creation of a board of directors or other governing body for the association with the members of the board or body to be elected by a vote of members of the association in good standing at an annual meeting or special meeting to be held not later than six months after the transfer of the areas of facilities provided for in subdivision 3;

10. Enumeration of the power of the board of directors or governing body that is consistent with and not otherwise provided by law;

11. The preparation of an annual balance sheet and operating statement for each fiscal year with provision for distribution of a copy of the reports to each member of the association in good standing within 90 days after the end of the fiscal year;

12. Quorum requirements for meetings of members of the association who are in good standing; and

13. Such other provisions as may be required by the Virginia Nonstock Corporation Act (§ [13.1-801](#) et seq.) if the association is a Virginia nonstock corporation.

B. Any developer of a subdivision, successor or otherwise, when such subdivision is subject to the provisions of this chapter, shall be obligated to complete the facilities and amenities as promised and outlined in subsection A by the initial developer of the subdivision subject to the transfer of title, control, and maintenance responsibilities of common areas and common facilities to the lot owners' association. The foregoing shall not be deemed to apply to any purchaser at foreclosure or grantee in a deed in lieu of foreclosure, provided that the purchaser or grantee is a financial institution and the mortgagee, creditor, or beneficiary under the instrument being foreclosed or giving rise to the deed in lieu of foreclosure. For the purposes of this subsection, "financial institution" means a bank, savings institution, real estate investment trust, insurance company, pension or profit sharing trust, or other institution regularly engaged in the business of making real estate loans. For purposes of this subsection, the lot owners' association shall not be deemed a developer if at a meeting of its members in good standing a vote is taken and at least 50 percent of the members vote to be exempt from the requirements of this subsection.

C. The association, once formed and in existence, and the title owner of the common areas and common facilities within the subdivision and which has been in existence for a period of at least five years shall have the authority to pass special assessments against and raise the annual assessments of the members of the association and to collect such assessments from such members according to law, if the purpose in so doing is for the maintenance of such common areas and common facilities. The authority granted and conferred upon the association by this subsection exists only where the restrictions and covenants of record do not contain specific language that precludes the adoption of special assessments or increases the annual dues or assessments.

D. The association shall have a lien on every lot within its subdivision for unpaid regular or special assessments levied against such lot in accordance with the provisions of this chapter. The lien, once perfected, shall be prior to all other liens and encumbrances except (i) real estate tax liens on such lot, (ii) liens and encumbrances recorded prior

to the perfected lien, and (iii) any sums unpaid on any first mortgages or first deeds of trust recorded prior to the perfection of the lien for regular or special assessments and securing institutional lenders. The provisions of this subsection shall not affect the priority of mechanics' and materialmen's liens.

Notwithstanding any other provision of this chapter, or any other provisions of law requiring documents to be recorded in the miscellaneous lien books or the deed books of the clerk's office of any court, from July 1, 1978, all memoranda of liens arising under this subsection shall, in the discretion of the clerk, be recorded in the miscellaneous lien books or the deed books in such clerk's office. Any memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for subdivision regular or special assessments.

The association, in order to perfect the lien given by this subsection, shall file before the expiration of 90 days from the time such regular or special assessment became due and payable in the clerk's office of the county or city in which the subdivision is situated a memorandum, verified by the oath of the president of the association, which shall contain:

1. A description of the subdivision;
2. The name or names of the owners of the lot;
3. The amount of unpaid regular or special assessments currently due or past due applicable to the lot, together with the date when each fell due; and
4. The date of issuance of the memorandum.

The clerk in whose office the memorandum is filed shall record and index such memorandum as provided in this subsection, in the names of the persons identified in such memorandum, as well as in the name of the association. The cost of recording the memorandum shall be taxed against the person found liable for any judgment or order enforcing such lien. It is lawful for the memorandum to be filed as one statement listing the information required in subdivisions 1 through 4 and each of the lot owners whose property within the subdivision is liened. The cost of filing shall be as provided in subdivision A 2 of § [17.1-275](#).

*Any lien perfected pursuant to this section may be enforced by filing a civil action to conduct a judicial foreclosure in the circuit court in the county or city where the lot is located or a nonjudicial foreclosure. No ~~action to enforce foreclosure of~~ any lien perfected under this ~~subsection~~ ~~section~~ shall be ~~brought~~ ~~initiated~~ after ~~one year~~ ~~120 months~~ from the time when the memorandum of lien was recorded; ~~however, the~~ ~~The~~ filing of a ~~petition~~ ~~civil action~~ to enforce any such lien ~~in any action in which such petition may be properly filed by foreclosure through judicial means or issuance of notice of nonjudicial foreclosure~~ shall be regarded as the institution of an action under this subsection. Nothing in this subsection shall be construed to extend the time within which any such lien may be perfected. Nothing shall preclude the association from filing a single action listing all unpaid delinquent and enumerated lot owners as defendants and obtaining judgment against those so adjudicated by the court hearing the action. ~~The association may conduct a judicial or nonjudicial foreclosure sale upon a lot against which the association has perfected one or more liens pursuant to this section if the total sums secured are in excess of \$5,000, exclusive of attorney fees and costs.~~*

The judgment in an action brought pursuant to this subsection shall include, without limitation, reimbursement for costs and attorney fees, together with the interest at the maximum lawful rate for the sums secured by the lien from the time each sum became due and payable.

When payment or satisfaction is made of a debt secured by the lien perfected by this subsection, the lien shall be released in accordance with the provisions of § [55.1-339](#). For the purposes of § [55.1-339](#), the president or secretary of the association is the duly authorized agent of the lien creditor.

Nothing in this subsection shall be construed to prohibit the recovery of sums for which this subsection creates a lien.

Any lot owner within the subdivision having executed a contract for the disposition of the lot is entitled, upon request, to a recordable statement setting forth the amount of unpaid regular or special assessments currently levied against that lot. Such request shall be in writing, directed to the president of the association, and delivered to the principal office of the association. Failure of the association to furnish or make available such a statement within five business days from the receipt of such written request shall extinguish the lien created by this subsection as to the lot involved. Payment of a fee not exceeding \$15 may be required as a prerequisite to the issuance of such a statement if the bylaws of the association so provide.

E. If, upon July 1, 1978, and a subdivision becoming subject to the terms and requirements outlined in subdivisions A 1 through 8 have not been performed, then the requirements shall have to be fully complied with within a period of 90 days from July 1, 1978, and upon failure to fully perform all of such requirements within the 90-day period the failure so to do shall constitute a violation of this subsection.

F. Each lot owner within a subdivision that falls within the scope of this chapter shall be responsible for his pro rata share of the cost of maintaining the common facilities and common areas owned by the association. For purposes of this subsection, "common facilities and common areas" means only the roads and lakes within the subdivision, and "maintaining" includes any orderly program for the continued upkeep and improvement of such roads and lakes. The association has the responsibility of determining the pro rata share assessed against each lot owner, and such amount assessed shall be in addition to the annual or special assessment otherwise obligated by each member of the association.

G. If a subdivision of land meets the requirement in subdivision 2 of the definition of subdivision as provided in § [55.1-2300](#), then the property owners' association of the subject subdivision has the powers and duties enumerated in subsections C, D, and F as well as the rights and authority to establish those procedures outlined in subdivisions A 4, 5, and 6 and the penalties in subdivision A 8, and also has the obligations imposed by such subdivisions and those of subdivisions A 9 through 12.

## HB 922

**Common interest communities; pesticides; prohibition on use.** Clarifies that common interest community associations may ban the use of pesticides in or upon any common area or common element, as defined in relevant law. The bill also allows such associations to establish reasonable restrictions on the use of pesticides within the common interest community if such use might reasonably affect any lot, common area, unit, or common element.

- 01/30/24 House: Continued to 2025 in General Laws by voice vote
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## HB 1209

**Common interest communities; reserve studies; special assessment rescission or reduction.** Removes certain provisions of the Property Owners' Association Act and the Virginia Condominium Act that authorize associations governed by such Acts to rescind or reduce certain assessments necessary for the maintenance and upkeep of the common area or other association responsibilities, including maintenance, repair, and replacement of capital components. The bill also authorizes such associations to borrow money for certain purposes and assign all revenues to be received by such association to its creditors. Finally, the bill defines the term "reserve study" as a capital budget planning tool used to determine the physical status and estimated repair or replacement cost of capital components and an analysis of association funding capacity to maintain, repair, and replace capital components.

- Passed house and senate as of 3/1/24

*"Reserve study" means a capital budget planning tool used to determine the physical status and estimated repair or replacement cost of capital components and an analysis of association funding capacity to maintain, repair, and replace capital components.*

"Settlement agent" means the same as that term is defined in § [55.1-1000](#).

§ [55.1-1825](#). Authority to levy additional assessments; authority to borrow.

A. In addition to all other assessments that are authorized in the declaration, the board of directors shall have the power to levy ~~a special~~ **an additional** assessment against its members if (i) the purpose in so doing is found by the board to be in the best interests of the association and (ii) the proceeds of the assessment are used primarily for the maintenance and upkeep of the common area and such other areas of association responsibility ~~expressly provided for in the declaration~~, including **maintenance, repair, and replacement** capital ~~expenditures~~. ~~A majority of votes cast, in person or by proxy, at a meeting of the membership convened in accordance with the provisions of the association's bylaws within 60 days of promulgation of the notice of the assessment shall rescind or reduce the special assessment. No director or officer of the association shall be liable for failure to perform his fiduciary duty if a special assessment for the funds necessary for the director or officer to perform his fiduciary duty is rescinded by the owners pursuant to this section, and the association shall indemnify such director or officer against any damage resulting from any such claimed breach of fiduciary duty~~ **components**.

B. The failure of a member to pay the ~~special~~ **additional** assessment allowed by subsection A shall entitle the association to the lien provided by § [55.1-1833](#) as well as any other rights afforded a creditor under law.

C. The failure of a member to pay the ~~special~~ **additional** assessment allowed by subsection A will provide the association with the right to deny the member access to any or all of the common areas. However, the member shall not be denied direct access to the member's lot over ~~any road within the development that is~~ a common area.

*D. Unless the declaration provides otherwise, the board of directors may borrow money on behalf of the association for any valid purpose and shall have the right and power to assign and pledge all revenues to be received by the association, including annual and additional assessments to secure the repayment of any sums borrowed by the association from time to time.*

§ [55.1-1826](#). Annual budget; reserve study; reserves for capital components.

A. ~~Except to the extent provided in the declaration, the board of directors shall, prior~~ **Prior** to the commencement of the fiscal year, **the board of directors shall** make available to lot owners either (i) the annual budget of the association or (ii) a summary of such annual budget.

B. ~~Except to the extent otherwise provided in the declaration and unless the declaration imposes more stringent requirements, the~~ **The** board of directors shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components as defined in § [55.1-1800](#);
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments **to the annual budget and annual assessment** the board of directors deems necessary to maintain reserves, as appropriate.

C. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components as defined in § [55.1-1800](#);
2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore capital components and the amount of the expected contribution to the reserve fund for that year;
3. A statement describing the procedures used for estimation and accumulation of cash reserves pursuant to this section; and
4. A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.

***D. The board of directors shall have the discretion to meet repair and replacement requirements through replacement reserves, additional assessments, or borrowed funds.***

SB 972

**Property Owners' Association Act; Virginia Condominium Act; assessments for legal obligations of associations.** Clarifies that neither the Property Owners' Association Act or the Virginia Condominium Act (the Acts) shall be construed to prevent any association organized pursuant to such Acts from levying or using assessments, charges, or fees to pay the association's contractual or other legal obligations in the exercise of the association's duties and responsibilities. The bill also restricts such associations from imposing charges against one or more but less than all unit owners unless otherwise specifically authorized by the Act. Current law prohibits such charges or assessments from being imposed upon any unit or lot owner unless otherwise specifically authorized by the Acts.

- Passed house and senate as of 3/7/24

§ [55.1-1805](#). Association charges.

Except as expressly authorized in this chapter, in the declaration, or otherwise provided by law, no association shall ~~(i) make an assessment or~~ impose a charge against ~~a lot or a lot owner~~ *one or more but less than all lot owners* unless the charge is *(i) a fee for services provided or, (ii) related to use of the common area,* or ~~(iii) charge (iii) a fee related to the issuance of a resale certificate pursuant to § 55.1-2309 or 55.1-2311 except as expressly authorized in § 55.1-2316.~~ *Nothing in this chapter shall be construed to authorize an association or common interest community manager to charge an inspection fee for an unimproved or improved lot except as provided in § 55.1-2316. Nothing in this chapter shall be construed to prevent an association from levying or using assessments, charges, or fees to pay the association's contractual or other legal obligations in the exercise of the association's duties and responsibilities.* The Common Interest Community Board may assess a monetary penalty for a violation of this section against any (a) association pursuant to § [54.1-2351](#) or (b) common interest community manager pursuant to § [54.1-2349](#), and may issue a cease and desist order pursuant to § [54.1-2352](#).

§ [55.1-1904](#). Association charges.

Except as expressly authorized in this chapter, in the condominium instruments, or as otherwise provided by law, no unit owners' association may ~~make an assessment or~~ impose a charge against ~~a unit owner~~ *one or more but less than all unit owners* unless the charge is (i) authorized under § [55.1-1964](#), (ii) a fee for services provided, or (iii) ~~related to the provisions set out in~~ *a fee expressly authorized by § 55.1-2316.* *Nothing in this chapter shall be construed to prevent a unit owners' association from using assessments, charges, or fees to pay the unit owners' association's contractual or other legal obligations in the exercise of the unit owners' association's duties and responsibilities.* The Common Interest Community Board may assess a monetary penalty for a violation of this section against any (a) unit owners' association pursuant to § [54.1-2351](#) or (b) common interest community manager pursuant to § [54.1-2349](#) and may issue a cease and desist order pursuant to § [54.1-2352](#).

## 2023 Session:

HB1519

**Common interest communities; professionally managed associations.** Provides with respect to the Property Owners' Association Act and the Virginia Condominium Act that a management contract that contains an automatic renewal provision may be terminated by the association or unit owners' association, as the case may be, or the common interest community manager of either such association at any time without cause upon not less than 60 days' written notice.

§ [55.1-1837](#). *Termination and duration of certain management contracts.*

*A management contract that contains an automatic renewal provision may be terminated by the association or the common interest community manager at any time without cause upon not less than 60 days' written notice.*

§ [55.1-1940.1](#). *Termination and duration of certain management contracts.*

*A management contract that contains an automatic renewal provision may be terminated by the unit owners' association or the common interest community manager at any time without cause upon not less than 60 days' written notice.*

## **HB 2235: Resale Disclosure Act:**

**Common interest communities; Resale Disclosure Act.** Establishes the Resale Disclosure Act, which sets out disclosure requirements and authorized fees relating to contracts for the resale of property located within common interest communities and provides for the issuance of resale certificates or financial updates. The bill repeals the existing disclosure requirements and authorized fees relating to association disclosure packets under the Property Owners' Association Act and resale certificates under the Virginia Condominium Act. The bill requires a seller to obtain a resale certificate and provide the certificate to the purchaser. The bill does not apply to contracts ratified prior to July 1, 2023. This bill is identical to **SB 1222**.

### 55-1800 – Definitions –

- Removed definitions of “Disclosure Packet Update” and “Financial Update” and their references to 55.1-1809 *because* new resale disclosure act
- ~~“Disclosure packet update” means an update of the financial information referenced in subdivisions A 2 through 9 of § 55.1-1809. The update shall include a copy of the original disclosure packet.~~
- ~~“Financial update” means an update of the financial information referenced in subdivisions A 2 through 7 of § 55.1-1809.~~
- Added a definition of “Resale Certificate”
- *“Resale certificate” means a certificate issued by an association pursuant to §§ 55.1-2309 and 55.1-2310.*

§ **55.1-1802**. Developer to register and file annual report; payment of real estate taxes attributable to the common area.

A. Unless control of the association has been transferred to the members, the developer shall register the association with the Common Interest Community Board within 30 days after recordation of the declaration and thereafter shall ensure that the report required pursuant to § **55.1-1835** *and any required update* has been filed.

B. Upon the transfer of the common area to the association, the developer shall pay all real estate taxes attributable to the open or common space as defined in § **58.1-3284.1** through the date of the transfer to the association.

§ **55.1-1805**. Association charges.

Except as expressly authorized in this chapter, in the declaration, or otherwise provided by law, no association shall (i) make an assessment or impose a charge against a lot or a lot owner unless the charge is a fee for services provided or related to use of the common area or (ii) charge a fee related to the ~~provisions set out in § 55.1-1810 or 55.1-1811 that is not~~ *issuance of a resale certificate pursuant to § 55.1-2309 or 55.1-2311 except as expressly authorized in those sections § 55.1-2316*. Nothing in this chapter shall be construed to authorize an association or common interest community manager to charge an inspection fee for an unimproved or improved lot except as provided in § ~~55.1-1810 or 55.1-1811~~ **55.1-2316**. The Common Interest Community Board may assess a monetary penalty for a violation of this section against any (a) association pursuant to § **54.1-2351** or (b) common

interest community manager pursuant to § [54.1-2349](#), and may issue a cease and desist order pursuant to § [54.1-2352](#).

§ [55.1-1816](#). Meetings of the board of directors.

C. The board of directors or any subcommittee or other committee of the board of directors may (i) convene in executive session to consider personnel matters; (ii) consult with legal counsel; (iii) discuss and consider contracts, pending or probable litigation, and matters involving violations of the declaration or rules and regulations ~~adopted pursuant to such declaration for which a member or his family members, tenants, guests, or other invitees are responsible~~; or (iv) discuss and consider the personal liability of members to the association, upon the affirmative vote in an open meeting to assemble in executive session. The motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes. The board of directors shall restrict the consideration of matters during such portions of meetings to only those purposes specifically exempted and stated in the motion. No contract, motion, or other action adopted, passed, or agreed to in executive session shall become effective unless the board of directors or subcommittee or other committee of the board of directors, following the executive session, reconvenes in open meeting and takes a vote on such contract, motion, or other action, which shall have its substance reasonably identified in the open meeting. The requirements of this section shall not require the disclosure of information in violation of law.

§ [55.1-1820](#). Display of the flag of the United States; necessary supporting structures; affirmative defense.

A. In accordance with the federal Freedom to Display the American Flag Act of 2005 (P.L. [109-243](#)), no association shall prohibit any lot owner from displaying upon property to which the lot owner has a separate ownership interest or a right to exclusive possession or use the flag of the United States whenever such display is in compliance with Chapter 1 of Title 4 of the United States Code (4 U.S.C. § 1 et seq.), or any rule or custom pertaining to the proper display of the flag. The association may, however, establish reasonable restrictions as to the size, place, duration, and manner of placement or display of the flag on such property, provided that such restrictions are necessary to protect a substantial interest of the association.

B. The association may restrict the display of such flag in the common areas.

C. In any action brought by the association under § [55.1-1819](#) for violation of a flag restriction, the association shall bear the burden of proof that the restrictions as to the size, place, duration, and manner of placement or display of such flag are necessary to protect a substantial interest of the association.

D. In any action brought by the association under § [55.1-1819](#), the lot owner shall be entitled to assert as an affirmative defense that the required disclosure of any limitations pertaining to the display of flags or any flagpole or similar structure necessary to display such flags was not contained in the ~~disclosure packet~~ **resale certificate** as required ~~pursuant to~~ **by** § [55.1-1809](#) [55.1-2310](#).

**- generalized change to the new statutory reference to 55.1-2309 regarding resale certificates.**

**CHAPTER 23.1.**  
**RESALE DISCLOSURE ACT.**

§ [55.1-2307](#). **Definitions.**

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

"Agent" means the authorized agent designated by the purchaser or seller in a ratified real estate contract, listing agreement, or other writing designating such agent.

"Association" means an association created pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), or the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or a council of co-owners created pursuant to the Horizontal Property Act (§ 55.1-2000 et seq.).

"Board" means the board of directors or executive board, of an association, except that in the case of a horizontal property regime created pursuant to the Horizontal Property Act (§ 55.1-2000 et seq.), "board" means the council of co-owners.

"Common interest community" means a condominium created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.) or the Horizontal Property Act (§ 55.1-2000 et seq.), a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or a property owners' association subject to the Property Owners' Association Act (§ 55.1-1800 et seq.).

"Days" means calendar days.

"Declarant" means the same as that term is defined in §§ 55.1-1800 and 55.1-1900.

"Financial update" means updated financial information for the unit, including information required by subdivisions A 4 and 5 of § 55.1-2310.

"Governing documents" means, to the extent applicable, the declaration, bylaws, organizing articles, and any other foundational documents of the association and all amendments to such documents.

"Limited elements" means the limited common elements appurtenant to a condominium unit or cooperative unit or the limited common area appurtenant to a lot.

"Managing agent" means a licensee who performs management services as defined in § 54.1-2345.

"Purchaser" means the person or entity acquiring the unit.

"Ratified real estate contract" or "contract" means the contract to purchase the unit and any addenda to such contract.

"Resale certificate" means the information listed in § 55.1-2310.

"Rules and regulations" means restrictions or limitations adopted by the board or authorized committee addressing the use, operation, appearance, or design of a portion of the common interest community.

"Seller" means the person or entity selling the unit.

"Settlement agent" means the same as that term is defined in § 55.1-1000.

"Unit" means a condominium unit in a condominium, a cooperative unit in a real estate cooperative, or a lot in a community governed by an association.

"Updated resale certificate" means an update of the resale certificate referenced in § [55.1-2311](#).

§ [55.1-2308](#). Contract for resale; disclosures.

Unless exempt pursuant to § [55.1-2317](#), any contract for the resale of a unit in a common interest community shall disclose (i) that the unit is located in a common interest community; (ii) that the seller is required to obtain from the association a resale certificate and provide it to the purchaser; (iii) the purchaser's right to cancel the contract pursuant to § [55.1-2312](#); (iv) that the purchaser may request an updated resale certificate pursuant to § [55.1-2311](#); and (v) that the purchaser's right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement. If the contract does not contain the disclosures required by this section, the purchaser's sole remedy is to cancel the contract prior to settlement.

§ [55.1-2309](#). Resale certificate; delivery.

A. The seller shall be required to obtain the resale certificate from the association and provide such resale certificate to the purchaser.

B. Unless exempt pursuant to § [55.1-2317](#), the association, the association's managing agent, or any third party preparing the resale certificate on behalf of the association shall deliver such resale certificate within 14 days after a written request by a seller or seller's agent.

C. The association, association's managing agent, or any third party preparing the resale certificate on behalf of the association shall deliver the resale certificate to the seller, or to such person as the seller may direct, either printed or in a generally accepted electronic format as the seller may request.

D. The information contained in the resale certificate shall be current as of a date specified on the resale certificate. The seller or purchaser may request an updated resale certificate as provided in § [55.1-2311](#).

§ [55.1-2310](#). Resale certificate; form and contents.

A. The association shall include the completed resale certificate form, developed by the common interest community board pursuant to subdivision 3 of § [54.1-2350](#), with supporting documentation set out in the following order:

1. The name, address, and phone numbers of the preparer of the resale certificate and any managing agent of the association;

2. A copy of the governing documents and any rules and regulations of the association;

3. A statement disclosing any restraint on the alienability of the unit for which the resale certificate is being issued;

4. A statement of the amount and payment schedules of assessments and any unpaid assessments currently due and payable to the association;

5. A statement of any other fees due and payable by an owner of the unit;

6. A statement of any other entity or facility to which the owner of the unit being sold may be liable for assessments, fees, or other charges due to the ownership of the unit;

7. A statement of the amount and payment schedule of any approved additional or special assessment and any unpaid additional or special assessment currently due and payable;
8. A statement of any capital expenditures approved by the association for the current and succeeding fiscal years;
9. A statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects;
10. The most recent balance sheet and income and expense statement, if any, of the association;
11. The current operating budget of the association;
12. The current reserve study, or a summary of such study;
13. A statement of any unsatisfied judgments against the association and the nature and status of any pending actions in which the association is a party and that could have a material impact on the association, the owners, or the unit being sold;
14. A statement describing any insurance coverage provided by the association for the benefit of the owners, including fidelity coverage, and any insurance coverage recommended or required to be obtained by the owners;
15. A statement as to whether the board has given or received written notice that any existing uses, occupancies, alterations, or improvements in or to the unit being sold or to the limited elements assigned thereto violate any provision of the governing documents or rules and regulations together with copies of any notices provided;
16. A statement as to whether the board has received written notice from a governmental agency of any violation of environmental, health, or building codes with respect to the unit being sold, the limited elements assigned thereto, or any other portion of the common interest community that has not been cured;
17. A copy of any approved minutes of meetings of the board held during the last six months;
18. A copy of any approved or draft minutes of the most recent association meeting;
19. A statement of the remaining term of any leasehold estate affecting a common area or common element, as those terms are defined in §§ 55.1-1800, 55.1-1900, and 55.1-2100, in the common interest community and the provisions governing any extension or renewal of such leasehold;
20. A statement of any limitation in the governing documents on the number or age of persons who may occupy a unit as a dwelling;
21. A statement setting forth any restriction, limitation, or prohibition on the right of an owner to display the flag of the United States, including reasonable restrictions as to the size, time, place, and manner of placement or display of such flag;
22. A statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on the owner's unit or limited element;

23. A statement setting forth any restriction, limitation, or prohibition on the size, placement, or duration of display of political, for sale, or any other signs on the property;

24. A statement identifying any parking or vehicle restriction, limitation, or prohibition in the governing documents or rules and regulations;

25. A statement setting forth any restriction, limitation, or prohibition on the operation of a home-based business that otherwise complies with all applicable local ordinances;

26. A statement setting forth any restriction, limitation, or prohibition on an owner's ability to rent the unit;

27. In a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the owner of real estate taxes and interest paid by the association;

28. A statement describing any pending sale or encumbrance of common elements;

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

30. Certification that the association has filed with the Common Interest Community Board the annual report required by law, which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing.

**§ 55.1-2311. Updated resale certificate.**

A. If a resale certificate was issued more than 30 days but less than 12 months before settlement, the seller or the purchaser, upon proof of being the contract purchaser of the unit, may request an updated resale certificate. The updated resale certificate shall be delivered to the person requesting it, or as such person may direct, in the format requested. The updated resale certificate shall be delivered within 10 days after the written request.

B. The updated resale certificate shall contain current information for all items that may have changed from the original resale certificate or a statement that there are no changes.

C. A settlement agent authorized by the seller or purchaser may request a financial update and the association shall provide such information within three business days after the written request.

**§ 55.1-2312. Cancellation of contract by purchaser.**

A. The purchaser may cancel the contract:

1. Within three days, or up to seven days if extended by the ratified real estate contract, after the ratification date of the contract if the purchaser receives the resale certificate, whether or not complete pursuant to § 55.1-2310, or a notice that the resale certificate is unavailable on or before the date that the contract is ratified;

2. Within three days, or up to seven days if extended by the ratified real estate contract, from the date the purchaser receives the resale certificate, whether or not complete pursuant to § 55.1-2310, or a notice that the resale certificate is unavailable if delivery occurs after the contract is ratified; or

3. At any time prior to settlement if the resale certificate is not delivered to the purchaser.

B. Written notice of cancellation shall be provided to the seller in accordance with the terms of the contract. The purchaser shall have the burden to demonstrate delivery of the notice of cancellation.

C. If the unit is governed by more than one association, the timeframe for the purchaser's right of cancellation shall run from the date of delivery of the last resale certificate.

D. Cancellation shall be without penalty, and the seller shall cause any deposit or escrowed funds to be returned promptly to the purchaser.

**§ 55.1-2313. Liability for resale certificate.**

A. A seller providing a resale certificate pursuant to § 55.1-2310 or 55.1-2311 shall not be liable to the purchaser for any erroneous information provided by the association and included in the certificate or for the failure or delay of the association to provide the resale certificate in a timely manner.

B. A purchaser shall not be liable for any unpaid assessment or fee greater than the amount set forth in the resale certificate, updated resale certificate, or financial update. The association shall, as to the purchaser, be bound by the information provided in the resale certificate or updated resale certificate as to the amounts of current assessments, including any approved special or additional assessments, and any violation of the governing documents or rules and regulations as of the date of the resale certificate, updated resale certificate, or financial update unless the purchaser had actual knowledge that the contents of the resale certificate were in error.

**§ 55.1-2314. Failure to provide resale certificate; no waiver.**

A. If an association, the association's managing agent, or any third party preparing a resale certificate fails to comply with § 55.1-2310 or 55.1-2311, the purchaser shall not be required to pay any delinquent assessments or remedy any violation of the governing documents or rules and regulations existing as of the date of the resale certificate or updated resale certificate. The association may only enforce a violation incurred by a previous owner against a purchaser if (i) such violation has been properly noted in the resale certificate or updated resale certificate or (ii) the seller failed to provide the resale certificate to the purchaser as required by § 55.1-2309.

B. The purchaser shall abide by the governing documents and rules and regulations as to all matters arising after acquiring the unit regardless of whether such purchaser received a resale certificate.

C. The preparer of the resale certificate or updated 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.

D. The Common Interest Community Board may assess a monetary penalty for failure to deliver the resale certificate or updated resale certificate as required against any (i) association pursuant to § 54.1-2351 or (ii) common interest community manager pursuant to § 54.1-2349 and regulations promulgated thereto, and may issue a cease and desist order pursuant to § 54.1-2349 or 54.1-2352.

**§ 55.1-2315. Properties subject to more than one declaration.**

If the unit is subject to more than one common interest community, each association, the association's managing agent, or any third party preparing a resale certificate on behalf of an association shall provide a resale certificate for that association and may charge the appropriate fees.

**§ 55.1-2316. Resale certificate; fees.**

A. An association may charge a post-closing fee and fees for preparation, delivery, and expedited delivery of a resale certificate, an updated resale certificate, or financial update and for the inspection of a unit performed to prepare the resale certificate or updated resale certificate. Unless provided otherwise by the association, the appropriate fees shall be paid when the resale certificate, updated resale certificate, or financial update is requested. The seller shall be responsible for all fees associated with the preparation and delivery of the resale certificate, including any fees for inspection of the unit. The requesting party shall pay any fees for the preparation and delivery of the updated resale certificate or financial update.

B. The Common Interest Community Board shall establish the maximum fees that the association may charge for such post-closing and preparation, delivery, and inspection; such maximum fees shall be commercially reasonable and consistent with the effort required to comply with the resale certificate requirements. The maximum allowable fees, as published by the Common Interest Community Board and effective as of January 12, 2023, shall be adjusted no less than every five years, as of January 1 of that year, in an amount not less than 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 or an equivalent successor index.

C. The association shall publish and make available a schedule of the applicable fees (i) for preparation and delivery of the resale certificate, updated resale certificate, and financial update; (ii) for the inspection of a unit; and (iii) related to any post-closing costs.

D. A post-closing fee to be collected at settlement may be imposed on the purchaser of the property for the purpose of establishing the purchaser as the owner of the property in the records of the association.

E. No association may collect fees authorized by this section unless the association (i) is registered with the Common Interest Community Board; (ii) is current in filing the most recent annual report and fee with the Common Interest Community Board pursuant to § 55.1-1835; (iii) is current in paying any assessment made by the Common Interest Community Board pursuant to § 54.1-2354.5; and (iv) provides the option to receive the disclosure packet electronically.

**§ 55.1-2317. Exemptions.**

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

1. An initial disposition by a declarant;
2. A disposition of a unit by gift;
3. A disposition of a unit pursuant to court order if the court so directs;
4. A disposition of a unit by foreclosure or deed in lieu of foreclosure;

5. 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; or

6. A disposition of a unit in a common interest community containing no residential units.

B. 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 association and provide the resale certificate to the purchaser.

**DOES NOT APPLY TO ANY CONTRACT RATIFIED PRIOR TO JULY 1 2023**

## 2022 Session:

**HB 470: Common interest communities; prohibition on refusal to recognize a licensed real estate broker.** Clarifies the prohibition on property owners' associations and unit owners' associations pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.) and the Virginia Condominium Act (§ 55.1-1900 et seq.), as the case may be, refusing to recognize a licensed real estate broker that is designated by the lot owner or unit owner as such lot owner's or unit owner's authorized representative, provided that the property owners' association or unit owners' association is given a written authorization signed by the lot owner or unit owner designating such licensed individual as his authorized representative and containing certain information for such designated representative. The bill also expands the list of authorized persons to whom a seller or seller's authorized agent may provide a written request for the delivery of the association disclosure packet or resale certificate. The bill contains a technical amendment. This bill is identical to [SB 197](#).

§ [55.1-1806](#). Rental of lots.

A. Except as expressly authorized in this chapter, in the declaration, or as otherwise provided by law, no association shall:

1. Condition or prohibit the rental to a tenant of a lot by a lot owner or make an assessment or impose a charge except as provided in § [55.1-1805](#);

2. Charge a rental fee, application fee, or other processing fee of any kind in excess of \$50 during the term of any lease;

3. Charge an annual or monthly rental fee or any other fee not expressly authorized in § [55.1-1805](#);

4. Require the lot owner to use a lease or an addendum to the lease prepared by the association;

5. Charge any deposit from the lot owner or the tenant of the lot owner; ~~or~~

6. Have the authority to evict a tenant of any lot owner or to require any lot owner to execute a power of attorney authorizing the association to evict such a tenant. ~~However, if the lot owner designates; or~~

7. Refuse to recognize a person licensed under the provisions of § 54.1-2106.1 designated by the lot owner as the lot owner's authorized representative ~~with respect to any lease, the association shall recognize such representation without a formal power of attorney, provided that the association is given a written authorization signed by the lot owner designating such representative~~ under the provisions of § 55.1-1823. Notwithstanding the foregoing, the requirements of § 55.1-1828 and the declaration shall be satisfied before any such representative may exercise a vote on behalf of a lot owner as a proxy.

§ 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, *the association's managing agent, or any third party preparing an association disclosure packet on behalf of 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:

§ 55.1-1823. Designation of authorized representative.

Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no property owners' association shall require any lot owner to execute a formal power of attorney if the lot owner designates a person licensed under the provisions of § 54.1-2106.1 as the lot owner's authorized representative, and the association shall recognize such representation without a formal power of attorney, provided that the association is given a written authorization ~~signed by the lot owner designating such representative~~ *that includes the designated representative's name, contact information, and license number and the lot owner's signature*. Notwithstanding the foregoing, the requirements of § 13.1-849 of the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) and the association's declaration, bylaws, and articles of incorporation shall be satisfied before any such representative may exercise a vote on behalf of a lot owner as a proxy.

## 2021 Special Session I:

HB1842

**Property Owners' Association Act; Condominium Act; rulemaking authority of property owners' associations and unit owners' associations; smoking.** Permits (i) except to the extent that the declaration provides otherwise, the board of directors of a property owners' association to establish reasonable rules that restrict smoking in the development, including (a) rules that prohibit smoking in the common areas and, (b) for developments that include attached private dwelling units, rules that prohibit smoking within such dwelling units, and (ii) except to the extent that the condominium instruments provide otherwise, the executive board of a condominium unit owners' association to establish reasonable rules that restrict smoking in the condominium, including rules that prohibit smoking in the common elements and within units. The bill clarifies the authority of executive boards of condominium unit owners' associations to establish, adopt, and enforce rules and regulations with respect to the use of the common elements of the condominium and with respect to such other areas of responsibility assigned to the unit owners' association by the condominium instruments, except where expressly reserved by the condominium instruments to the unit owners.

The bill also permits unit owners, by a majority of votes cast at a meeting of the unit owners' association, to repeal or amend any rule or regulation adopted by the executive board. This bill is a recommendation of the Virginia Housing Commission.

**§ 55.1-1819.1. Limitation of smoking in development.**

*Except to the extent that the declaration provides otherwise, the board of directors may establish reasonable rules that restrict smoking in the development, including rules that prohibit smoking in the common areas. For developments that include attached private dwelling units, such rules may prohibit smoking within such dwelling units. Rules adopted pursuant to this section may be enforced in accordance with § 55.1-1819.*

**§ 55.1-1959.** Suspension of services for failure to pay assessments; corrective action; assessment of charges for violations; notice; hearing; adoption and enforcement of rules and regulations.

A. *Except as otherwise provided in this chapter, the executive board shall have the power to establish, adopt, and enforce rules and regulations with respect to use of the common elements and with respect to such other areas of responsibility assigned to the unit owners' association by the condominium instruments, except where expressly reserved by the condominium instruments to the unit owners. Rules and regulations may be adopted by resolution and shall be reasonably published or distributed to the unit owners. At a special meeting of the unit owners' association convened in accordance with the provisions of the condominium instruments, a majority of the votes cast at such meeting may repeal or amend any rule or regulation adopted by the executive board. Rules and regulations may be enforced by any method authorized by this chapter.*

HB1816

**Property Owners' Association Act; Condominium Act; use of electronic means for meetings and voting.** Allows meetings of property owners' associations, boards of directors, unit owners' associations, executive boards, and committees to be held entirely or partially by electronic means, provided that the board of directors or executive board, as applicable, has adopted guidelines for the use of electronic means for such meetings. The bill requires that such guidelines ensure that persons accessing such meetings are authorized to do so and that persons entitled to participate in such meetings have an opportunity to do so. The bill grants authority for determining whether any such meeting may be held entirely or partially by electronic means to the board of directors or executive board, as applicable. Under current law, if a meeting of a board of directors or executive board is conducted by telephone conference or video conference, at least two members of the board of directors or executive board, as applicable, are required to be physically present at the meeting place included in the meeting notice. The bill amends the definition of "electronic means" to provide that a meeting conducted by electronic means includes a meeting conducted via teleconference, videoconference, Internet exchange, or other electronic methods. The bill allows members of property owners' associations or unit owners' associations to vote at meetings of such associations by absentee ballot, and allows such members to vote in person, by proxy, or by absentee ballot by electronic means, provided that the board of directors or executive board, as applicable, has adopted guidelines for such voting. Finally, the bill provides that if a vote, consent, or approval required to be obtained by secret ballot is accomplished through electronic means, the electronic means shall protect the identity of the voter, and provides that if the electronic means cannot protect the identity of the voter, another means of voting shall be used. This bill is identical to **SB 1183**.

**§ 55.1-1800.** Definitions.

"Electronic means" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication. *A meeting conducted by electronic means includes a meeting conducted via teleconference, videoconference, Internet exchange, or other electronic methods.* Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act shall have the meaning set forth in such section.

§ 55.1-1815. Access to association records; association meetings; notice.

*H. Unless expressly prohibited by the governing documents, a member may vote at a meeting of the association in person, by proxy, or by absentee ballot. Such voting may take place by electronic means, provided that the board of directors has adopted guidelines for such voting by electronic means. Members voting by absentee ballot or proxy shall be deemed to be present at the meeting for all purposes.*

§ 55.1-1816. Meetings of the board of directors.

~~If a meeting is conducted by telephone conference or video conference or similar electronic means, at least two members of the board of directors shall be physically present at the meeting place included in the notice. The audio equipment shall be sufficient for any member in attendance to hear what is said by any member of the board of directors participating in the meeting who is not physically present.~~

§ 55.1-1935. Use of technology.

A. Unless expressly prohibited by the condominium instruments ~~expressly provide otherwise~~, (i) any notice required to be sent or received or (ii) any signature, vote, consent, or approval required to be obtained under any condominium instrument or any provision of this chapter may be accomplished using electronic means.

B. The unit owners' association, unit owners, and other persons entitled to occupy a unit may perform any obligation or exercise any right under any condominium instrument or any provision of this chapter by use of electronic means.

C. An electronic signature meeting the requirements of applicable law shall satisfy any requirement for a signature under any condominium instrument or any provision of this chapter.

D. Voting, consent to, and approval of any matter under any condominium instrument or any provision of this chapter may be accomplished by electronic means provided that a record is created as evidence of such vote, consent, or approval and maintained as long as such record would be required to be maintained in nonelectronic form. *If the vote, consent, or approval is required to be obtained by secret ballot, the electronic means shall protect the identity of the voter. If the electronic means cannot protect the identity of the voter, another means of voting shall be used.*

E. Subject to other provisions of law, no action required or permitted by any condominium instrument or any provision of this chapter need be acknowledged before a notary public if the identity and signature of such person can otherwise be authenticated to the satisfaction of the executive board.

*F. Any meeting of the unit owners' association, the executive board, or any committee may be held entirely or partially by electronic means, provided that the executive board has adopted guidelines for the use of electronic means for such meetings. Such guidelines shall ensure that persons accessing such meetings are authorized to do so and that persons entitled to participate in such meetings have an opportunity to do so. The executive board shall determine whether any such meeting may be held entirely or partially by electronic means.*

*G.* If any person does not have the capability or desire to conduct business using electronic means, the unit owners' association shall make *available a* reasonable ~~accommodation~~ *alternative*, at its expense, for such person to conduct business with the unit owners' association without use of such electronic means.

~~G-H.~~ This section shall not apply to any notice related to an enforcement action by the unit owners' association, an assessment lien, or foreclosure proceedings in enforcement of an assessment lien.

§ 55.1-1949. Meetings of unit owners' association and executive board.

A. 1. Meetings of the unit owners' association shall be held in accordance with the provisions of the condominium instruments at least once each year after the formation of the association. The bylaws shall specify an officer or his agent who shall, at least 21 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting, send to each unit owner notice of the time, place, and purposes of such meeting. In the event of cancellation of any annual meeting of the unit owners' association at which directors are elected, the seven-day notice of any subsequent meeting scheduled to elect such directors shall include a statement that the meeting is scheduled for the purpose of the election of directors.

2. Notice shall be sent by United States mail to all unit owners of record at the address of their respective units, unless the unit owner has provided to such officer or his agent an address other than the address of the unit, or notice may be hand delivered by the officer or his agent, provided that the officer or his agent certifies in writing that notice was delivered to the person of the unit owner.

3. In lieu of delivering notice as specified in subdivision 2, such officer or his agent may, ~~to the extent that the condominium instruments or the condominium's rules and regulations expressly provide,~~ send notice by electronic means if consented to by the unit owner to whom the notice is given, provided that the officer or his agent certifies in writing that notice was sent *and, if such electronic mail was returned as undeliverable, notice was subsequently sent by United States mail.*

B. 1. Except as otherwise provided in the condominium instruments, the provisions of this subsection shall apply to executive board meetings at which business of the unit owners' association is transacted or discussed. All meetings of the unit owners' association or the executive board, including any subcommittee or other committee of such association or board, shall be open to all unit owners of record. The executive board shall not use work sessions or other informal gatherings of the executive board to circumvent the open meeting requirements of this section. ~~The unit owners' association may, to the extent that the condominium instruments or adopted rules expressly provide, send notice by electronic means if consented to by the officer to whom the notice is given.~~ Minutes of the meetings of the executive board shall be recorded and shall be available as provided in § [55.1-1945](#).

2. Notice of the time, date, and place of each meeting of the executive board or of any subcommittee or other committee of the executive board, and of each meeting of a subcommittee or other committee of the unit owners' association, shall be published where it is reasonably calculated to be available to a majority of the unit owners.

A unit owner may make a request to be notified on a continual basis of any such meetings, which request shall be made at least once a year in writing and include the unit owners' name, address, zip code, and any email address as appropriate. Notice of the time, date, and place shall be sent to any unit owner requesting notice (i) by first-class mail or email in the case of meetings of the executive board or (ii) by email in the case of meetings of any subcommittee or other committee of the executive board or of a subcommittee or other committee of the unit owners' association.

Notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided to members of the (i) executive board or any subcommittee or other committee of such board or (ii) subcommittee or other committee of the unit owners' association conducting the meeting.

3. Unless otherwise exempt as relating to an executive session pursuant to subsection C, at least one copy of all agenda packets and materials furnished to members of the executive board or subcommittee or other committee of the executive board for a meeting shall be made available for inspection by the membership of the unit owners' association at the same time such documents are furnished to the members of the executive board.

4. Any unit owner may record any portion of a meeting required to be open. The executive board or subcommittee or other committee of the executive board conducting the meeting may adopt rules (i) governing the placement and use of equipment necessary for recording a meeting to prevent interference with the proceedings and (ii) requiring the unit owner recording the meeting to provide notice that the meeting is being recorded.

~~If a meeting of the executive board is conducted by telephone conference or video conference or similar electronic means, at least two board members shall be physically present at the meeting place included in the notice. The audio equipment shall be sufficient for any member in attendance to hear what is said by any board member participating in the meeting who is not physically present.~~

## 2020 Session:

SB504

**Virginia Energy Plan; covenants regarding solar power; reasonable restrictions.** Provides that a restriction on solar energy collection devices is not reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed installation. The owner shall provide documentation prepared by an independent solar panel design specialist that is satisfactory to the community association to show that the restriction is not reasonable according to the criteria established in the bill. This bill is identical to **HB 414**.

§ **67-701**. Covenants regarding solar power.

A. No community association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for that community association establishes such a prohibition. However a community association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use. Any resale certificate pursuant to § **55.1-1990** and any disclosure packet pursuant to § **55.1-1809**, as applicable, given to a purchaser shall contain a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on his property.

B. *A restriction shall be deemed not to be reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed installation. The owner shall provide documentation prepared by an independent solar panel design specialist, who is certified by the North American Board of Certified Energy Practitioners and is licensed in Virginia, that is satisfactory to the community association to show that the restriction is not reasonable according to the criteria established in this subsection.*

C. The community association may prohibit or restrict the installation of solar energy collection devices on the common elements or common area within the real estate development served by the community association. A community association may establish reasonable restrictions as to the **number**, size, place, and manner of placement or installation of any solar energy collection device installed on the common elements or common area.

## HB 1548

**Common interest communities; Virginia Condominium Act; termination of condominium; respective interests of unit owners.** Provides that the respective interests of condominium unit owners upon the termination of a condominium shall be as set forth in the termination agreement, unless the method of determining such respective interests is other than the relative fair market values, in which case the association shall provide each unit owner with a notice stating the result of that method for the unit owner's unit and, no later than 30 days after transmission of that notice, any unit owner disputing the interest to be distributed to his unit may require that the association obtain an independent appraisal of the condominium units. The bill provides a method of adjusting the respective interests of the unit owners if the amount of such independent appraisal of an objecting unit owner's unit is at least 10 percent more than the amount stated in the association's notice.

§ 55.1-1937. Termination of condominium.

A. If there is no unit owner other than the declarant, the declarant may unilaterally terminate the condominium. An instrument terminating a condominium signed by the declarant is effective upon recordation of such instrument. But this section shall not be construed to nullify, limit, or otherwise affect the validity or enforceability of any agreement renouncing or to renounce, in whole or in part, the right hereby conferred.

B. Except in the case of a taking of all the units by eminent domain, if any of the units in the condominium is restricted exclusively to residential use and there is any unit owner other than the declarant, the condominium may be terminated only by the agreement of unit owners of units to which four-fifths of the votes in the unit owners' association appertain, or such larger majority as the condominium instruments may specify. If none of the units in the condominium is restricted exclusively to residential use, the condominium instruments may specify a majority smaller than the minimum specified in this subsection.

C. Agreement of the required majority of unit owners to termination of the condominium shall be evidenced by their execution of a termination agreement, or ratifications of such agreement, and such agreement is effective when a copy of the termination agreement is recorded together with a certification, signed by the principal officer of the unit owners' association or by such other officer as the condominium instruments may specify, that the requisite majority of the unit owners signed the termination agreement or ratifications. Unless the termination agreement otherwise provides, prior to recordation of the termination agreement, a unit owner's prior agreement to terminate the condominium may be revoked only with the approval of unit owners of units to which a majority of the votes in the unit owners' association appertain. *Any unit owner acquiring a unit subsequent to approval of a termination agreement but prior to recordation of the termination agreement shall be deemed to have consented to the termination agreement. Upon approval of a termination agreement and until recordation of the termination agreement, a copy of the termination agreement shall be included with the resale certificate required by § 55.1-1990.* The termination agreement shall specify a date after which the termination agreement is void if the termination agreement is not recorded. For the purposes of this section, an instrument terminating a condominium and any ratification of such instrument shall be deemed a condominium instrument subject to the provisions of § 55.1-1911.

D. ~~In the case of a condominium that contains only units having horizontal boundaries described in the condominium instruments, a~~ A termination agreement may provide that all of the common elements and units of the condominium shall be sold *or otherwise disposed of* following termination. If, pursuant to the termination agreement, any property in

the condominium is sold *or disposed of* following termination, the termination agreement shall set forth the minimum terms of the sale *or disposition*.

~~E. In the case of a condominium that contains any units not having horizontal boundaries described in the condominium instruments, a termination agreement may provide for sale of the common elements. The termination agreement may not require that the units be sold following termination, unless the condominium instruments as originally recorded provide otherwise or all the unit owners consent to the sale.~~ In the case of a master condominium that contains a unit that is a part of another condominium, a termination agreement for the master condominium shall not terminate the other condominium.

F. On behalf of the unit owners, the unit owners' association may contract for the disposition of property in the condominium, but the contract shall not be binding on the unit owners until approved pursuant to subsections B and C. If the termination agreement requires that any property in the condominium be sold *or otherwise disposed of* following termination, title to the property, upon termination, shall vest in the unit owners' association as trustee for the holders of all interest in the units. Thereafter, the unit owners' association shall have powers necessary and appropriate to effect the sale *or disposition*. Until the termination has been concluded and the proceeds have been distributed, the unit owners' association shall continue in existence with all the powers the unit owners' association had before termination. Proceeds of the sale shall be distributed to unit owners and lien holders as their interests may appear, in proportion to the respective interests of the unit owners as provided in subsection I. Unless otherwise specified in the termination agreement, for as long as the unit owners' association holds title to the property, each unit owner or his successor in interest shall have an exclusive right to occupancy of the portion of the property that formerly constituted his unit. During the period ~~of occupancy by that~~ the unit owner or his successor in interest *has the right to occupancy*, each unit owner or his successor in interest shall remain liable for any assessment or other obligation imposed on the unit owner by this chapter or the condominium instruments.

G. If the property that constitutes the condominium is not sold *or otherwise disposed of* following termination, title to ~~the common elements and, in the case of a condominium containing only units that have horizontal boundaries described in the condominium instruments, title to~~ all the property in the condominium shall vest in the unit owners, upon termination, as tenants in common in proportion to the unit owners' respective interests as provided in subsection I. ~~Any~~ *In such an event, any* liens on ~~the units~~ *a unit* shall shift accordingly, *and a lien may be enforced only against a unit owner's tenancy in common interest, but the lien shall not encumber the entire property formerly constituting the condominium.* While the tenancy in common exists, each unit owner or his successor in interest shall have the exclusive right to occupancy of the portion of the property that formerly constituted the unit owner's unit.

H. Following termination of the condominium, the proceeds of any sale of property, together with the assets of the unit owners' association, shall be held by the unit owners' association as trustee for unit owners or lien holders on the units as their interests may appear. Following termination, any creditor of the unit owners' association who holds a lien on the unit that was recorded before termination may enforce the lien in the same manner as any lien holder. Any other creditor of the unit owners' association shall be treated as if he had perfected a lien on the units immediately before termination.

I. Unless the condominium instruments as originally recorded or as amended by 100 percent of the unit owners provide otherwise, the respective interests of unit owners referred to in subsections F, G, and H shall be as follows:

1. *Except as provided in subdivision 3, the respective interests of the unit owners shall be as set forth in the termination agreement.*

2. Except as provided in subdivision ~~2~~ 3, if the respective interests of the unit owners ~~shall be the~~ are based on the respective fair market values of their units, limited common elements, and common element interests immediately before the termination, ~~as the fair market values shall be~~ determined by one or more independent appraisers selected by the unit owners' association. The decision of the independent appraisers shall be distributed to the unit owners and become final unless disapproved within 30 days after distribution by unit owners of units to which one quarter of the votes in the unit owners' association appertain. The proportion of any unit owner's interest to the interest of all unit owners is determined by dividing the fair market value of that unit owner's unit and common element interest by the total fair market values of all the units and their common element interests.

3. If the method of determining the respective interests of the unit owners in the proceeds of sale or disposition is other than the fair market values, then the association shall provide each unit owner with a notice stating the result of that method for his unit and, no later than 30 days after transmission of that notice, if 10 percent of the unit owners dispute the interest to be distributed to their units, those unit owners may require the association to obtain an independent appraisal of the condominium units. If the fair market value of the units of the objecting unit owners is at least 10 percent more than the amount that the unit owners would have received using the method agreed upon by the membership, then the association shall adjust the respective interests of the unit owners so that each unit owner's share is based on the fair market value for each unit. If the fair market value is less than 10 percent more than the amount that the objecting unit owners would have received using the agreed-upon method, then the agreed-upon method shall be implemented and the objecting unit owners shall receive the distribution less their pro rata share of the cost of their appraisal.

~~2-4.~~ If the method of determining the respective interests of the unit owners cannot be implemented because any unit or limited common element is destroyed ~~to the extent that an appraisal of the fair market value of such unit or limited common element before destruction cannot be made~~, the interests of all unit owners are the unit owners' respective common element interests immediately before the termination.

5. Unless the termination agreement provides otherwise, each unit owner shall satisfy and cause the release of any mortgage, deed of trust, lease, or other lien or encumbrance on his unit at the time required by the termination agreement.

J. Except as provided in subsection K, foreclosure or enforcement of a mortgage, deed of trust, or other lien or encumbrance against the entire condominium shall not alone terminate the condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium, other than withdrawable land, shall not withdraw that portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable land shall not alone withdraw the land from the condominium, but the person who takes title to the withdrawable land shall have the right to require from the unit owners' association, upon request, an amendment that excludes the land from the condominium.

K. If a lien or encumbrance against a portion of the property that comprises the condominium has priority over the condominium instruments and the lien or encumbrance has not been partially released, upon foreclosure, the parties foreclosing the lien or encumbrance may record an instrument that excludes the property subject to the lien or encumbrance from the condominium.

~~L. The foreclosure of any mortgage, deed of trust, or other lien shall not be deemed, ex proprio vigore, to terminate the condominium.~~

§ 55.1-1941. Amendment to condominium instruments; consent of mortgagee.

A. If any provision in the condominium instruments requires the written consent of a mortgagee in order to amend the condominium instruments, the unit owners' association shall be deemed to have received the written consent of a mortgagee if the unit owners' association sends the text of the proposed amendment by certified mail, return receipt requested, to the mortgagee at the address supplied by such mortgagee in a written request to the unit owners' association to receive notice of proposed amendments to the condominium instruments and receives no written objection to the adoption of the amendment from the mortgagee within 60 days of the date that the notice of amendment is sent by the unit owners' association, unless the condominium instruments expressly provide otherwise. If the mortgagee has not supplied an address to the unit owners' association, the unit owners' association shall be deemed to have received the written consent of a mortgagee if the unit owners' association sends the text of the proposed amendment by certified mail, return receipt requested, to the mortgagee at the address filed in the land records or with the local tax assessor's office and receives no written objection to the adoption of the amendment from the mortgagee within 60 days of the date that the notice of amendment is sent by the unit owners' association, unless the condominium instruments expressly provide otherwise.

B. *Any amendment adopted without the required consent of a mortgagee shall be voidable only by an institutional lender that was entitled to notice and an opportunity to consent. An action to void an amendment shall be subject to the one-year statute of limitations set forth in subsection C of § 55.1-1934 beginning on the date of recordation of the amendment.*

C. Subsection A shall not apply to amendments that alter the priority of the lien of the mortgagee or that materially impair or affect the unit as collateral or the right of the mortgagee to foreclose on a unit as collateral.

~~G.~~ D. Where the condominium instruments are silent on the need for mortgagee consent, no mortgagee consent shall be required if the amendment to the condominium instruments does not specifically affect mortgagee rights.

## SB 630

**Common interest communities; electric vehicle charging stations permitted.** Prohibits certain common interest community associations from prohibiting the installation of an electric vehicle charging station within the boundaries of a member's unit or limited common element parking space appurtenant to the unit owned by the unit owner or, in the case of a property owners' association, a lot owner's property, and sets forth provisions governing the installation and removal of such charging stations. The bill also requires the association member installing an electric vehicle charging station to indemnify and hold the association harmless from all liability resulting from a claim arising out of the installation, maintenance, operation, or use of such charging station.

### § 55.1-1823.1. Electric vehicle charging stations permitted.

A. *Except to the extent that the declaration or other recorded governing document provides otherwise, no association shall prohibit any lot owner from installing an electric vehicle charging station for the lot owner's personal use on property owned by the lot owner. An association may establish reasonable restrictions concerning the number, size, place, and manner of placement or installation of such electric vehicle charging station on the exterior of property owned by the lot owner.*

B. *An association may prohibit or restrict the installation of electric vehicle charging stations on the common area within the development served by the association and may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of electric vehicle charging stations on the common area.*

C. Any lot owner installing an electric vehicle charging station shall indemnify and hold the association harmless from all liability, including reasonable attorney fees incurred by the association resulting from a claim, arising out of the installation, maintenance, operation, or use of such electric charging station. An association may require the lot owner to obtain and maintain insurance covering claims and defenses of claims related to the installation, maintenance, operation, or use of the electric vehicle charging station and require the association to be included as a named insured on such policy.

§ 55.1-1962.1. Electric vehicle charging stations permitted.

A. Except to the extent that the condominium instruments provide otherwise, no unit owners' association shall prohibit any unit owner from installing an electric vehicle charging station for the unit owner's personal use within the boundaries of a unit or limited common element parking space appurtenant to the unit owned by the unit owner.

B. Notwithstanding any other provision of this chapter or the condominium instruments, the unit owners' association may prohibit a unit owner from installing an electric vehicle charging station if installation of the electric vehicle charging station is not technically feasible or reasonably practicable due to safety risks, structural issues, or engineering conditions.

C. The unit owners' association may require as a condition of approving installation of an electric vehicle charging station that the unit owner:

1. Provide detailed plans and drawings for installation of an electric vehicle charging station prepared by a licensed and registered electrical contractor or engineer familiar with the installation and core requirements of an electric vehicle charging station.

2. Comply with applicable building codes or recognized safety standards.

3. Comply with reasonable architectural standards adopted by the unit owners' association that govern the dimensions, placement, or external appearance of the electric vehicle charging station.

4. Pay the costs of installation, maintenance, operation, and use of the electric vehicle charging station.

5. Indemnify and hold the unit owners' association harmless from any claim made by a contractor or supplier pursuant to Title 43.

6. Pay the cost of removal of the electric vehicle charging station and restoration of the area if the unit owner decides there is no longer a need for the electric vehicle charging station.

7. Separately meter, at the unit owner's sole expense, the utilities associated with such electric vehicle charging station and pay the cost of electricity and other associated utilities.

8. Engage the services of a licensed electrician or engineer familiar with the installation and core requirements of an electric vehicle charging station to install the electric vehicle charging station.

9. Obtain and maintain insurance covering claims and defenses of claims related to the installation, maintenance, operation, and use of the electric vehicle charging station and provide a certificate of insurance naming the unit owners' association as an additional insured on the unit owner's insurance policy for any claim related to the

installation, maintenance, operation, or use of the electric vehicle charging station within 14 days after receiving the unit owners' association's approval to install such charging station.

10. Reimburse the unit owners' association for any increase in common expenses specifically attributable to the electric vehicle charging station installation, including the actual cost of any increased insurance premium amount, within 14 days' notice from the unit owners' association.

D. The conditions imposed pursuant to this section on unit owners for installation of an electric vehicle charging station shall run with title to the unit to which the limited common element parking space is appurtenant.

E. Any unit owner installing an electric vehicle charging station in a unit or on a limited common element parking space appurtenant to the unit owned by the unit owner shall indemnify and hold the unit owners' association harmless from all liability, including reasonable attorney fees incurred by the association resulting from a claim, arising out of the installation, maintenance, operation, or use of such electric charging station. A unit owners' association may require the unit owner to obtain and maintain insurance covering claims and defenses of claims related to the installation, maintenance, operation, or use of the electric vehicle charging station and require the unit owners' association to be included as a named insured on such policy.

## 2019 Session

HB2030

**Common interest communities; dissemination of annual budget; reserve for capital components.** Requires common interest communities under the Condominium Act, the Property Owners' Association Act, and the Virginia Real Estate Cooperative Act (the Acts) to make available to members either the common interest community's annual budget or a summary of the annual budget prior to the beginning of each fiscal year. The bill requires that the five-year cash reserve study required under the Acts include a statement that outlines the amount of the reserves recommended in such study as well as the amount of current cash available for replacement of the reserves. The bill also requires the Common Interest Community Board to prepare guidelines for the development of reserve studies for capital components. This bill is identical to **SB 1538**.

§ **55-471.1**. Annual budget; reserves for capital components.

A. Except to the extent provided in the declaration, the board of directors shall, prior to the commencement of the fiscal year, make available to lot owners either (i) the annual budget of the association or (ii) a summary of such annual budget.

B. Except to the extent otherwise provided in the declaration ~~and unless the declaration imposes more stringent requirements~~, the executive board shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components as defined in § 55-426;
2. Review the results of that study at least annually to determine if reserves are sufficient; and

3. Make any adjustments the executive board deems necessary to maintain reserves, as appropriate.

~~B-C.~~ To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include, without limitations:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components *as defined in § 55-426*;

2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year; ~~and~~

3. A ~~general~~ statement describing the procedures used for ~~the~~ estimation and accumulation of cash reserves pursuant to this section and the extent to which the association is funding its reserve obligations consistent with the study currently in effect; *and*

*4. A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.*

SB 1756

**Virginia Condominium Act; Virginia Property Owners' Association Act; stormwater facilities; transfer of control of management, maintenance, repair, or replacement.** Requires a declarant to deliver to the president of the unit owners' association or his designated agent, or in the case of a property-owners' association, the board of directors or their designee, an inventory and description of stormwater facilities located on their premises. The bill requires the delivery of final site plans and applicable recorded easements and agreements regarding the inventory and description of stormwater management facilities located on common elements of a condominium or property owners' association property so that such associations are aware of the requirements for the maintenance, repair, or replacement of the stormwater facilities.

§ 55-509.2. Documents to be provided by declarant upon transfer of control.

Unless previously provided to the board of directors of the association, once the majority of the members of the board of directors other than the declarant are owners of improved lots in the association and the declarant no longer holds a majority of the votes in the association, the declarant shall provide to the board of directors or its designated agent the following: (i) all association books and records held by or controlled by the declarant, including without limitation, minute books and rules and regulations and all amendments thereto which may have been promulgated; (ii) a statement of receipts and expenditures from the date of the recording of the association documents to the end of the regular accounting period immediately succeeding the first election of the board of directors by the home owners, not to exceed 60 days after the date of the election, such statement being prepared in an accurate and complete manner, utilizing the accrual method of accounting; (iii) the number of lots subject to the declaration; (iv) the number of lots that may be subject to the declaration upon completion of development; (v) a copy of the latest available approved plans and specifications for all improvements in the project or as-built plans if available; (vi) all association insurance policies ~~which~~ *that* are currently in force; (vii) written unexpired warranties of the contractors, subcontractors, suppliers, and manufacturers, if any, relative to all common area improvements, *including stormwater facilities*; ~~and~~ (viii) any contracts in which the association is a contracting party; (ix) a list of manufacturers of paints, roofing materials and other similar materials if specified for use on the association property; (x) the number of

members of the board of directors and number of such directors appointed by the declarant together with names and contact information of members of the board of directors; *and (xi) an inventory and description of stormwater facilities located on the common area or which otherwise serve the development and for which the association has, or subsequently may have, maintenance, repair, or replacement responsibility, together with the requirements for maintenance thereof.*

*The requirement for delivery of stormwater facility information required by clause (xi) shall be deemed satisfied by delivery to the association of a final site plan or final construction drawings showing stormwater facilities as approved by a local government jurisdiction and applicable recorded easements or agreements, if any, containing requirements for the maintenance, repair, or replacement of the stormwater facilities.*

HB2081

**Common Interest Community Board; association fees; Common Interest Community Management Information Fund.** Eliminates annual assessments levied by the Common Interest Community Board. The bill allows for the collection of application, renewal, and annual reporting fees set by the Board in accordance with a biennial assessment of the Common Interest Community Management Information Fund similar to the assessment required by the Callahan Act (§ 54.1-113), but at no time shall such fee exceed \$25 unless such fee is based on the number of units or lots in the association.

§ [54.1-2349](#). Powers and duties of the Board.

A. The Board shall administer and enforce the provisions of this chapter. In addition to the provisions of §§ [54.1-201](#) and [54.1-202](#), the Board shall:

1. Promulgate regulations necessary to carry out the requirements of this chapter in accordance with the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) to include ~~but not be limited to~~ the prescription of fees, procedures, and qualifications for the issuance and renewal of common interest community manager licenses. ~~The Board shall annually assess each common interest community manager an amount equal to the lesser of (i) \$1,000, or such other amount as the Board may establish by regulation, or (ii) five hundredths of one percent (0.05%) of the gross receipts from common interest community management during the preceding year. For the purposes of clause (ii), no minimum payment shall be less than \$10. The annual payment shall be remitted to the State Treasurer and~~ *Upon application for license and each renewal thereof, the applicant shall pay a fee established by the Board, which shall be placed to the credit of the Common Interest Community Management Information Fund established pursuant to § [55-529](#);*

§ [55-504.1](#). Annual report by associations.

A. The association shall file an annual report in a form and at such time as prescribed by regulations of the agency. The filing of the annual report required by this section shall commence upon the termination of any declarant control period reserved pursuant to § [55-460](#). The annual report shall be accompanied by a ~~fixed~~ fee in an amount established by the agency, *which shall be paid into the state treasury and credited to the Common Interest Community Management Information Fund established pursuant to § [55-529](#).*

B. The agency may accept copies of forms submitted to other state agencies to satisfy the requirements of this section if such forms contain substantially the same information required by the agency.

~~C. The association shall also remit to the agency an annual payment as follows:~~

~~1. The lesser of:~~

~~a. \$1,000 or such other amount as established by agency regulation; or~~

~~b. Five hundredths of one percent (0.05%) of the association's gross assessment income during the preceding year.~~

~~2. For the purposes of subdivision 1 b, no minimum payment shall be less than \$10.00.~~

~~D. The annual payment shall be remitted to the State Treasurer and shall be placed to the credit of the Common Interest Community Management Fund established pursuant to § 55-529.~~

## HB 1853

**Virginia Property Owners' Association Act; home-based businesses.** Provides that if a development is located in a locality classifying home-based child care services as an accessory or ancillary residential use under the locality's zoning ordinance, the provision of home-based child care services in a personal residence shall be deemed a residential use unless (i) expressly prohibited or restricted by the declaration or (ii) restricted by the association's bylaws or rules. The bill is a recommendation of the Virginia Housing Commission. This bill is identical to **SB 1537**.

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

**A.** Except to the extent the declaration provides otherwise, no association shall prohibit any lot owner from operating a home-based business within his personal residence. The association may, however, establish (i) reasonable restrictions as to the time, place, and manner of the operation of a home-based business and (ii) reasonable restrictions as to the size, place, duration, and manner of the placement or display of any signs on the owner's lot related to such home-based business. Any home-based business shall comply with all applicable local ordinances.

**B.** *If a development is located in a locality that classifies home-based child care services as an accessory or ancillary residential use under the locality's zoning ordinance, the provision of home-based child care services in a personal residence shall be deemed a residential use unless expressly (i) prohibited or restricted by the declaration or (ii) restricted by the association's bylaws or rules as provided in subsection A.*