Code of Virginia

Property Owners' Association Act

§ 55.1-1800. Definitions

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

"Association" means the property owners' association.

"Board of directors" means the executive body of a property owners' association or a committee

that is exercising the power of the executive body by resolution or bylaw.

"Capital components" means those items, whether or not a part of the common area, for which

the association has the obligation for repair, replacement, or restoration and for which the board

of directors determines funding is necessary.

"Common area" means property within a development which is owned, leased, or required by the

declaration to be maintained or operated by a property owners' association for the use of its

members and designated as a common area in the declaration.

"Common interest community" means the same as that term is defined in § 54.1-2345.

"Common interest community manager" means the same as that term is defined in § 54.1-2345.

"Declarant" means the person or entity signing the declaration and its successors or assigns who

may submit property to a declaration.

"Declaration" means any instrument, however denominated, recorded among the land records of

the county or city in which the development or any part of such development is located, that

either (i) imposes on the association maintenance or operational responsibilities for the common

area or (ii) creates the authority in the association to impose on lots, on the owners or occupants

of such lots, or on any other entity any mandatory payment of money in connection with the

provision of maintenance or services for the benefit of some or all of the lots, the owners or

occupants of the lots, or the common area. "Declaration" includes any amendment or supplement

to the instruments described in this definition. "Declaration" does not include a declaration of a

condominium, real estate cooperative, time-share project, or campground.

"Development" means real property located within the Commonwealth subject to a declaration

which contains both lots, at least some of which are residential or are occupied for recreational

purposes, and common areas with respect to which any person, by virtue of ownership of a lot, is

a member of an association and is obligated to pay assessments provided for in a declaration.

"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.

"Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown

on a recorded subdivision plat for a development or the boundaries of which are described in the

declaration or in a recorded instrument referred to or expressly contemplated by the declaration,

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other than a common area, and (ii) a unit in a condominium association or a unit in a real estate

cooperative if the condominium or cooperative is a part of a development.

"Lot owner" means one or more persons who own a lot, including any purchaser of a lot at a

foreclosure sale, regardless of whether the deed is recorded in the land records where the lot is

located. "Lot owner" does not include any person holding an interest in a lot solely as security for

a debt.

"Professionally managed" means a common interest community that has engaged (i) a common

interest community manager to provide management services to the community or (ii) a person

as an employee for compensation to provide management services to the community, other than

a resident of the community who provides bookkeeping, billing, or recordkeeping services for

that community.

"Property owners' association" or "association" means an incorporated or unincorporated entity

upon which responsibilities are imposed and to which authority is granted in the declaration.

"Resale certificate" means a certificate issued by an association pursuant to §§ 55.1-2309 and

55.1-2310.

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

1989, c. 679, § 55-509; 1991, c. 667; 1996, c. 618;1998, c. 623;2001, c. 715;2002, c. 459;2003, c.

422;2008, cc. 851, 871;2011, c. 334;2015, cc. 93, 410;2019, c. 712;2021, Sp. Sess. I, cc. 9, 494;

2023, cc. 387, 388.

§ 55.1-1801. Applicability

A. This chapter applies to developments subject to a declaration initially recorded after January

1, 1959, associations incorporated or otherwise organized after such date, and all subdivisions

created under the Subdivided Land Sales Act (§ 55.1-2300 et seq.). For the purposes of this

chapter, as used in the Subdivided Land Sales Act, the terms:

"Covenants," "deed restrictions," or "other recorded instruments" for the management,

regulation, and control of a development are deemed to correspond with the term "declaration."

"Developer" is deemed to correspond with the term "declarant."

"Subdivision" is deemed to correspond with the term "development."

B. This chapter supersedes the Subdivided Land Sales Act (§ 55.1-2300 et seq.), and no

development shall be subject to the Subdivided Land Sales Act on or after July 1, 1998.

This chapter shall not be construed to affect the validity of any provision of any declaration

recorded prior to July 1, 1998, provided, however, that this chapter shall be applicable to any

development established prior to the enactment of the Subdivided Land Sales Act (§ 55.1-2300 et

seq.)(i) located in a county with an urban county executive form of government, (ii) containing

500 or more lots, (iii) each lot of which is located within the boundaries of a watershed

improvement district established pursuant to Article 3 (§ 10.1-614 et seq.) of Chapter 6 of Title

10.1, and (iv) each lot of which is subject to substantially similar deed restrictions, which shall be

considered a declaration under this chapter.

In addition, any development established prior to July 1, 1978, may specifically provide for the

applicability of the provisions of this chapter.

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C. This chapter shall not be construed to affect the validity of any provision of any prior

declaration; however, to the extent that the declaration is silent, the provisions of this chapter

shall apply. If any one lot in a development is subject to the provisions of this chapter, all lots in

the development shall be subject to the provisions of this chapter notwithstanding the fact that

such lots would otherwise be excluded from the provisions of this chapter. Notwithstanding any

provisions of this chapter, a declaration may specifically provide for the applicability of the

provisions of this chapter. The granting of rights in this chapter shall not be construed to imply

that such rights did not exist with respect to any development created in the Commonwealth

before July 1, 1989.

D. This chapter shall not apply to the (i) provisions of documents of, (ii) operations of any

association governing, or (iii) relationship of a member to any association governing

condominiums created pursuant to the Condominium Act (§ 55.1-1900 et seq.), cooperatives

created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), time-shares

created pursuant to the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), or membership

campgrounds created pursuant to the Virginia Membership Camping Act (§ 59.1-311 et seq.).

This chapter shall not apply to any nonstock, nonprofit, taxable corporation with nonmandatory

membership which, as its primary function, makes available golf, ski, and other recreational

facilities both to its members and to the general public.

1989, c. 679, § 55-508; 1991, c. 667; 1992, c. 677; 1998, cc. 32, 623;2003, c. 422;2005, c. 668;2008,

cc. 851, 871;2018, c. 645;2019, c. 712.

§ 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.

1993, c. 956, § 55-509.1; 2018, c. 733;2019, c. 712;2023, cc. 387, 388.

§ 55.1-1803. Limitation on certain contracts and leases by declarant

A. If entered into any time prior to the expiration of the period of declarant control contemplated

by the declaration, no contract or lease entered into with the declarant or any entity controlled

by the declarant, management contract, or employment contract that is directly or indirectly

made by or on behalf of the association, its board of directors, or the lot owners as a group shall

be entered into for a period in excess of five years. Any such contract or agreement may be

terminated without penalty by the association or its board of directors upon not less than 90

days' written notice to the other party given no later than 60 days after the expiration of the

period of declarant control contemplated by the declaration.

B. If entered into any time prior to the expiration of the period of declarant control contemplated

by the declaration, any contract or lease entered into with the declarant or any entity controlled

by the declarant, management contract, or employment contract that is directly or indirectly

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made by or on behalf of the association, its board of directors, or the lot owners as a group may

be renewed for periods not in excess of five years; however, at the end of any five-year period,

the association or its board of directors may terminate any further renewals or extensions of such

contract or lease.

C. If entered into at any time prior to the expiration of the period of declarant control

contemplated by the declaration, any contract, lease, or agreement, other than those subject to

the provisions of subsection A or B, may be entered into by or on behalf of the association, its

board of directors, or the lot owners as a group if such contract, lease, or agreement is bona fide

and is commercially reasonable to the association at the time entered into under the

circumstances.

D. This section shall be strictly construed to protect the rights of the lot owners.

2012, c. 671, § 55-509.1:1; 2019, c. 712.

§ 55.1-1804. 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 minute books and

rules and regulations and all amendments to such rules and regulations that 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 lot 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 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; (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.

If the association is managed by a common interest community manager in which the declarant,

or its principals, has no pecuniary interest or management role, then such common interest

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community manager shall have the responsibility to provide the documents and information

required by clauses (i), (ii), (vi), and (viii).

1996, c. 618, § 55-509.2; 2008, cc. 851, 871;2012, c. 671;2019, cc. 712, 724.

§ 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 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. 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.

2008, cc. 851, § 55-509.3, 871;2011, c. 334;2014, c. 216;2015, c. 277;2019, c. 712;2020, c. 592;

2023, cc. 387, 388.

§ 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;

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; or

7. Refuse to recognize a person designated by the lot owner as the lot owner's authorized

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.

B. The association may require the lot owner to provide the association with (i) the names and

contact information of and vehicle information for the tenants and authorized occupants under

such lease and (ii) the name and contact information of any authorized agent of the lot owner.

The association may require the lot owner to provide the association with the tenant's

acknowledgment of and consent to any rules and regulations of the association.

C. The provisions of this section shall not apply to lots owned by the association.

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2015, c. 277, § 55-509.3:1; 2016, c. 471;2019, c. 712;2022, cc. 65, 66.

§ 55.1-1807. Statement of lot owner rights

Every lot owner who is a member in good standing of a property owners' association shall have

the following rights:

1. The right of access to all books and records kept by or on behalf of the association according to

and subject to the provisions of § 55.1-1815, including records of all financial transactions;

2. The right to cast a vote on any matter requiring a vote by the association's membership in

proportion to the lot owner's ownership interest, unless the declaration provides otherwise;

3. The right to have notice of any meeting of the board of directors, to make a record of any such

meeting by audio or visual means, and to participate in any such meeting in accordance with the

provisions of subsection G of § 55.1-1815 and § 55.1-1816;

4. The right to have (i) notice of any proceeding conducted by the board of directors or other

tribunal specified in the declaration against the lot owner to enforce any rule or regulation of the

association and (ii) the opportunity to be heard and represented by counsel at such proceeding,

as provided in § 55.1-1819, and the right of due process in the conduct of that hearing; and

5. The right to serve on the board of directors if duly elected and a member in good standing of

the association, unless the declaration provides otherwise.

The rights enumerated in this section shall be enforceable by any such lot owner pursuant to the

provisions of § 55.1-1828.

2015, c. 286, § 55-509.3:2; 2018, c. 663;2019, c. 712.

§§ 55.1-1808 through 55.1-1814. Repealed

Repealed by Acts 2023, cc. 387 and 388, cl. 2, effective July 1, 2023

§ 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.

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'

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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.

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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.

1989, c. 679, § 55-510; 1991, c. 667; 1992, cc. 69, 71; 1993, cc. 365, 827; 1999, cc. 594, 654, 1029;

2000, cc. 905, 1008;2001, c. 419;2003, c. 442;2004, c. 193;2007, c. 675;2008, cc. 851, 871;2009, c.

665;2011, c. 361;2013, c. 275;2014, c. 207;2018, c. 663;2019, cc. 368, 712;2020, c. 592;2021, Sp.

Sess. I, cc. 9, 494.

§ 55.1-1816. Meetings of the board of directors

A. All meetings of the board of directors, including any subcommittee or other committee of the

board of directors, where the business of the association is discussed or transacted shall be open

to all members of record. The board of directors shall not use work sessions or other informal

gatherings of the board of directors to circumvent the open meeting requirements of this section.

Minutes of the meetings of the board of directors shall be recorded and shall be available as

provided in subsection B of § 55.1-1815.

B. Notice of the time, date, and place of each meeting of the board of directors or of any

subcommittee or other committee of the board of directors shall be published where it is

reasonably calculated to be available to a majority of the lot owners.

A lot owner may make a request to be notified on a continual basis of any such meetings. Such

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request shall be made at least once a year in writing and include the lot owner's name, address,

zip code, and any email address as appropriate. Notice of the time, date, and place shall be sent

to any lot owner requesting notice (i) by first-class mail or email in the case of meetings of the

board of directors or (ii) by email in the case of meetings of any subcommittee or other

committee of the board of directors.

Notice, reasonable under the circumstances, of special or emergency meetings shall be given

contemporaneously with the notice provided to members of the association's board of directors

or any subcommittee or other committee of the board of directors conducting the meeting.

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 an association's board of

directors or subcommittee or other committee of the board of directors for a meeting shall be

made available for inspection by the membership of the association at the same time such

documents are furnished to the members of the board of directors or any subcommittee or

committee of the board of directors.

Any member may record any portion of a meeting that is required to be open. The board of

directors or subcommittee or other committee of the board of directors conducting the meeting

may adopt rules (a) governing the placement and use of equipment necessary for recording a

meeting to prevent interference with the proceedings and (b) requiring the member recording the

meeting to provide notice that the meeting is being recorded.

Except for the election of officers, voting by secret or written ballot in an open meeting shall be a

violation of this chapter.

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; 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.

D. Subject to reasonable rules adopted by the board of directors, the board of directors shall

provide a designated period during each meeting to allow members an opportunity to comment

on any matter relating to the association. During a meeting at which the agenda is limited to

specific topics or at a special meeting, the board of directors may limit the comments of members

to the topics listed on the meeting agenda.

1999, c. 1029, § 55-510.1; 2000, c. 905;2001, c. 715;2003, c. 404;2004, c. 333;2005, c. 353;2019, c.

712;2021, Sp. Sess. I, cc. 9, 494;2023, cc. 387, 388.

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§ 55.1-1817. Distribution of information by members

The board of directors shall establish a reasonable, effective, and free method, appropriate to the

size and nature of the association, for lot owners to communicate among themselves and with

the board of directors regarding any matter concerning the association.

2001, c. 715, § 55-510.2; 2019, c. 712.

§ 55.1-1818. Common areas; notice of pesticide application

The association shall post notice of all pesticide applications in or upon the common areas. Such

notice shall consist of conspicuous signs placed in or upon the common areas where the pesticide

will be applied at least 48 hours prior to the application.

2011, c. 264, § 55-510.3; 2019, c. 712.

§ 55.1-1819. Adoption and enforcement of rules

A. Except as otherwise provided in this chapter, the board of directors shall have the power to

establish, adopt, and enforce rules and regulations with respect to use of the common areas and

with respect to such other areas of responsibility assigned to the association by the declaration,

except where expressly reserved by the declaration to the members. Rules and regulations may be

adopted by resolution and shall be reasonably published or distributed throughout the

development. At a special meeting of the association convened in accordance with the provisions

of the association's bylaws, a majority of votes cast at such meeting may repeal or amend any rule

or regulation adopted by the board of directors. Rules and regulations may be enforced by any

method normally available to the owner of private property in Virginia, including application for

injunctive relief or actual damages, during which the court shall award to the prevailing party

court costs and reasonable attorney fees.

B. The board of directors shall also have the power, to the extent the declaration or rules and

regulations duly adopted pursuant to such declaration expressly so provide, to (i) suspend a

member's right to use facilities or services, including utility services, provided directly through

the association for nonpayment of assessments that are more than 60 days past due, to the

extent that access to the lot through the common areas is not precluded and provided that such

suspension shall not endanger the health, safety, or property of any owner, tenant, or occupant,

and (ii) assess charges against any member for any violation of the declaration or rules and

regulations for which the member or his family members, tenants, guests, or other invitees are

responsible.

C. Before any action authorized in this section is taken, the member shall be given a reasonable

opportunity to correct the alleged violation after written notice of the alleged violation to the

member at the address required for notices of meetings pursuant to § 55.1-1815. If the violation

remains uncorrected, the member shall be given an opportunity to be heard and to be

represented by counsel before the board of directors or other tribunal specified in the documents.

Notice of a hearing, including the actions that may be taken by the association in accordance

with this section, shall be hand delivered or mailed by registered or certified mail, return receipt

requested, to the member at the address of record with the association at least 14 days prior to

the hearing. Within seven days of the hearing, the hearing result shall be hand delivered or

mailed by registered or certified mail, return receipt requested, to the member at the address of

record with the association.

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D. The amount of any charges so assessed shall not be limited to the expense or damage to the

association caused by the violation, but shall not exceed $50 for a single offense or $10 per day

for any offense of a continuing nature, and shall be treated as an assessment against the

member's lot for the purposes of § 55.1-1833. However, the total charges for any offense of a

continuing nature shall not be assessed for a period exceeding 90 days.

E. The board of directors may file or defend legal action in general district or circuit court that

seeks relief, including injunctive relief arising from any violation of the declaration or duly

adopted rules and regulations.

F. After the date an action is filed in the general district or circuit court by (i) the association, by

and through its counsel, to collect the charges or obtain injunctive relief and correct the violation

or (ii) the lot owner challenging any such charges, no additional charges shall accrue. If the court

rules in favor of the association, the association shall be entitled to collect such charges from the

date the action was filed as well as all other charges assessed pursuant to this section against the

lot owner prior to the action. In addition, if the court finds that the violation remains

uncorrected, the court may order the lot owner to abate or remedy the violation.

G. In any action filed in general district court pursuant to this section, the court may enter

default judgment against the lot owner on the association's sworn affidavit.

1989, c. 679, § 55-513; 1991, c. 667; 1993, c. 956; 1994, c. 368;1997, cc. 173, 417;2000, cc. 846,

905;2002, c. 509;2008, cc. 851, 871;2011, cc. 372, 378;2014, c. 784;2019, c. 712;2021, Sp. Sess. I, c.

131.

§ 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.

2021, Sp. Sess. I, c. 131.

§ 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.

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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 resale certificate as required by § 55.1-2310.

2000, c. 891, § 55-513.1; 2007, cc. 854, 910;2008, cc. 851, 871;2010, cc. 166, 453;2019, c. 712;

2023, cc. 387, 388.

§ 55.1-1820.1. Installation of solar energy collection devices

A. As used in this section, "solar energy collection device" means any device manufactured and

sold for the sole purpose of facilitating the collection and beneficial use of solar energy,

including passive heating panels or building components and solar photovoltaic apparatus.

B. No association shall prohibit an owner from installing a solar energy collection device on that

owner's property unless the recorded declaration for the association establishes such a

prohibition. However, an 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 issued pursuant to § 55.1-

2309 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.

C. 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

association to show that the restriction is not reasonable according to the criteria established in

this subsection.

D. The 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

association. An 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.

2006, c. 939, §§ 67-700, 67-701; 2008, c. 881;2009, c. 866;2013, c. 357;2014, c. 525;2020, cc. 272,

795;2021, Sp. Sess. I, c. 387;2023, cc. 387, 388.

§ 55.1-1821. Home-based businesses permitted; compliance with local ordinances

A. Except to the extent that 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.

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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.

2013, c. 310, § 55-513.2; 2019, cc. 2, 30, 712.

§ 55.1-1822. Use of for sale signs in connection with sale

Except as expressly authorized in this chapter or in the declaration or as otherwise provided by

law, no association shall require the use of any for sale sign that is (i) an association sign or (ii) a

real estate sign that does not comply with the requirements of the Real Estate Board. An

association may, however, prohibit the placement of signs in the common area and establish

reasonable rules and regulations that regulate (a) the number of real estate signs to be located on

real property upon which the owner has a separate ownership interest or a right of exclusive

possession, so long as at least one real estate sign is permitted; (b) the geographical location of

real estate signs on real property in which the owner has a separate ownership interest or a right

of exclusive possession, so long as the location of the real estate signs complies with the

requirements of the Real Estate Board; (c) the manner in which real estate signs are affixed to

real property; and (d) the period of time after settlement when the real estate signs on such real

property shall be removed.

2008, cc. 851, 871, § 55-509.4; 2010, c. 165;2014, c. 216;2016, c. 471;2017, cc. 387, 405;2018, c.

226;2019, c. 712;2023, cc. 387, 388.

§ 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 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 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.

2008, cc. 851, 871, § 55-509.4; 2010, c. 165;2014, c. 216;2016, c. 471;2017, cc. 387, 405;2018, c.

226;2019, c. 712;2022, cc. 65, 66;2023, cc. 387, 388.

§ 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

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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.

2020, c. 1012.

§ 55.1-1824. Assessments; late fees

Except to the extent that the declaration or any rules or regulations promulgated pursuant to

such declaration provide otherwise, the board may impose a late fee that does not exceed the

penalty provided in § 58.1-3915 for any assessment or installment that is not paid within 60 days

of the due date for payment of such assessment.

2013, c. 256, § 55-513.3; 2014, c. 239;2019, c. 712.

§ 55.1-1825. Authority to levy special assessments

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 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 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.

B. The failure of a member to pay the special 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 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.

1989, c. 679, § 55-514; 1991, c. 667; 1992, c. 450; 1998, cc. 32, 751;2008, cc. 851, 871;2019, c. 712.

§ 55.1-1826. 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.

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B. Except to the extent otherwise provided in the declaration and unless the declaration imposes

more stringent requirements, 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 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.

2002, c. 459, § 55-514.1; 2019, cc. 33, 44, 712.

§ 55.1-1827. Deposit of funds; fidelity bond

A. All funds deposited with a managing agent shall be handled in a fiduciary capacity and shall be

kept in a fiduciary trust account in a federally insured financial institution separate from other

assets of the managing agent. The funds shall be the property of the association and shall be

segregated for each account in the managing agent's records in a manner that permits the funds

to be identified on an individual association basis.

B. Any association collecting assessments for common expenses shall obtain and maintain a

blanket fidelity bond or employee dishonesty insurance policy insuring the association against

losses resulting from theft or dishonesty committed by the officers, directors, or persons

employed by the association or committed by any managing agent or employees of the managing

agent. Such bond or insurance policy shall provide coverage in an amount equal to the lesser of

$1 million or the amount of the reserve balances of the association plus one-fourth of the

aggregate annual assessment income of such association. The minimum coverage amount shall

be $10,000. The board of directors or managing agent may obtain such bond or insurance on

behalf of the association.

2007, cc. 696, 712, § 55-514.2; 2008, cc. 851, 871;2019, c. 712.

§ 55.1-1828. Compliance with declaration

A. Every lot owner, and all those entitled to occupy a lot, shall comply with all lawful provisions

of this chapter and all provisions of the declaration. Any lack of such compliance shall be

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grounds for an action to recover sums due, for damages or injunctive relief, or for any other

remedy available at law or in equity, maintainable by the association or by its board of directors

or any managing agent on behalf of such association or, in any proper case, by one or more

aggrieved lot owners on their own behalf or as a class action. Except as provided in subsection B,

the prevailing party shall be entitled to recover reasonable attorney fees, costs expended in the

matter, and interest on the judgment as provided in § 8.01-382. This section shall not preclude

an action against the association and authorizes the recovery by the prevailing party in any such

action of reasonable attorney fees, costs expended in the matter, and interest on the judgment as

provided in § 8.01-382 in such actions.

B. In actions against a lot owner for nonpayment of assessments in which the lot owner has failed

to pay assessments levied by the association on more than one lot or in which such lot owner has

had legal actions taken against him for nonpayment of any prior assessment, and the prevailing

party is the association or its board of directors or any managing agent on behalf of the

association, the prevailing party shall be awarded reasonable attorney fees, costs expended in the

matter, and interest on the judgment as provided in subsection A, even if the proceeding is

settled prior to judgment. The delinquent owner shall be personally responsible for reasonable

attorney fees and costs expended in the matter by the association, whether any judicial

proceedings are filed.

C. A declaration may provide for arbitration of disputes or other means of alternative dispute

resolution. Any such arbitration held in accordance with this subsection shall be consistent with

the provisions of this chapter and Chapter 21 (§ 8.01-577 et seq.) of Title 8.01. The place of any

such arbitration or alternative dispute resolution shall be in the county or city in which the

development is located, or as mutually agreed to by the parties.

1989, c. 679, § 55-515; 1993, c. 956; 2012, c. 758;2014, c. 569;2019, c. 712.

§ 55.1-1829. Amendment to declaration and bylaws; consent of mortgagee

A. In the event that any provision in the declaration requires the written consent of a mortgagee

in order to amend the bylaws or the declaration, the association shall be deemed to have received

the written consent of a mortgagee if the association sends the text of the proposed amendment

by certified mail, return receipt requested, or by regular mail with proof of mailing to the

mortgagee at the address supplied by such mortgagee in a written request to the association to

receive notice of proposed amendments to the declaration 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 association, unless the declaration expressly provides otherwise. If the

mortgagee has not supplied an address to the association, the association shall be deemed to

have received the written consent of a mortgagee if the 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 association, unless the declaration expressly provides otherwise.

B. Subsection A shall not apply to amendments that alter the priority of the lien of the mortgagee

or that materially impair or affect a lot as collateral or the right of the mortgagee to foreclose on

a lot as collateral.

C. Where the declaration is silent on the need for mortgagee consent, no mortgagee consent shall

be required if the amendment to the declaration does not specifically affect mortgagee rights.

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D. Except as otherwise provided in the declaration, a declaration may be amended by a twothirds

vote of the lot owners.

E. An action to challenge the validity of an amendment adopted by the association may not be

brought more than one year after the amendment is effective.

F. Agreement of the required majority of lot owners to any amendment of the declaration

adopted pursuant to subsection D shall be evidenced by their execution of the amendment, or

ratifications of such amendment, and the same shall become effective when a copy of the

amendment is recorded together with a certification, signed by the principal officer of the

association or by such other officer or officers as the declaration may specify, that the requisite

majority of the lot owners signed the amendment or ratifications of such amendment.

G. Subsections D and F shall not be construed to affect the validity of any amendment recorded

prior to July 1, 2017.

1997, c. 887, § 55-515.1; 1998, c. 32;1999, c. 805;2003, cc. 59, 74;2017, c. 374;2019, c. 712.

§ 55.1-1830. Validity of declaration; corrective amendments

A. All provisions of a declaration shall be deemed severable, and any unlawful provision of the

declaration shall be void.

B. No provision of a declaration shall be deemed void by reason of the rule against perpetuities.

C. No restraint on alienation shall discriminate or be used to discriminate on any basis prohibited

under the Virginia Fair Housing Law (§ 36-96.1 et seq.).

D. Subject to the provisions of subsection C, the rule of property law known as the rule restricting

unreasonable restraints on alienation shall not be applied to defeat any provision of a declaration

restraining the alienation of lots other than such lots as may be restricted to residential use only.

E. The rule of property law known as the doctrine of merger shall not apply to any easement

included in or granted pursuant to a right reserved in a declaration.

F. The declarant may unilaterally execute and record a corrective amendment or supplement to

the declaration to correct a mathematical mistake, an inconsistency, or a scrivener's error or

clarify an ambiguity in the declaration with respect to an objectively verifiable fact, including

recalculating the liability for assessments or the number of votes in the association appertaining

to a lot, within five years after the recordation of the declaration containing or creating such

mistake, inconsistency, error, or ambiguity. No such amendment or supplement may materially

reduce what the obligations of the declarant would have been if the mistake, inconsistency, error,

or ambiguity had not occurred. Regardless of the date of recordation of the declaration, the

principal officer of the association may also unilaterally execute and record such a corrective

amendment or supplement upon a vote of two-thirds of the members of the board of directors.

All corrective amendments and supplements recorded prior to July 1, 1997, are hereby validated

to the extent that such corrective amendments and supplements would have been permitted by

this subsection.

1998, c. 32, § 55-515.2; 2001, c. 271;2019, c. 712.

§ 55.1-1831. Reformation of declaration; judicial procedure

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A. An association may petition the circuit court in the county or city in which the development or

the greater part of the development is located to reform a declaration where the association,

acting through its board of directors, has attempted to amend the declaration regarding

ownership of legal title of the common areas or real property using provisions outlined in such

declaration to resolve (i) ambiguities or inconsistencies in the declaration that are the source of

legal and other disputes pertaining to the legal rights and responsibilities of the association or

individual lot owners or (ii) scrivener's errors, including incorrectly identifying the association,

incorrectly identifying an entity other than the association, or errors arising from oversight or

from an inadvertent omission or mathematical mistake.

B. The court shall have jurisdiction over matters set forth in subsection A regarding ownership of

legal title of the common areas or real property to:

1. Reform, in whole or in part, any provision of a declaration; and

2. Correct any mistake or other error in the declaration that may exist with respect to the

declaration for any other purpose.

C. A petition filed by the association with the court setting forth any inconsistency or error made

in the declaration, or the necessity for any change in the declaration, shall be deemed sufficient

basis for the reformation, in whole or in part, of the declaration, provided that:

1. The association has made three good faith attempts to convene a duly called meeting of the

association to present for consideration amendments to the declaration for the reasons specified

in subsection A, which attempts have proven unsuccessful as evidenced by an affidavit verified

by oath of the principal officer of the association;

2. There is no adequate remedy at law as practical and effective to attain the ends of justice as

may be accomplished in the circuit court;

3. Where the declarant of the development still owns a lot or other property in the development,

the declarant joins in the petition of the association;

4. A copy of the petition is sent to all owners at least 30 days before the petition is filed as

evidenced by an affidavit verified by oath of the principal officer of the association; and

5. A copy of the petition is sent to all mortgagees at least 30 days before the petition is filed as

evidenced by an affidavit verified by oath of the principal officer of the association.

D. Any mortgagee of a lot in the development shall have standing to participate in the

reformation proceedings before the court. No reformation pursuant to this section shall affect

mortgagee rights, alter the priority of the lien of any mortgage, materially impair or affect any lot

as collateral for a mortgage, or affect a mortgagee's right to foreclose on a lot as collateral

without the prior written consent of the mortgagee. Consent of a mortgagee required by this

section may be deemed received pursuant to § 55.1-1829.

2014, c. 659, § 55-515.2:1; 2019, c. 712.

§ 55.1-1832. Use of technology

A. Unless expressly prohibited by the declaration, (i) any notice required to be sent or received or

(ii) any signature, vote, consent, or approval required to be obtained under any declaration or

bylaw provision or any provision of this chapter may be accomplished using electronic means.

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B. The association, the lot owners, and those entitled to occupy a lot may perform any obligation

or exercise any right under any declaration or bylaw provision 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 declaration or bylaw provision or any provision of this

chapter.

D. Voting on, consent to, and approval of any matter under any declaration or bylaw provision 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 declaration or bylaw

provision 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

board of directors.

F. Any meeting of the association, the board of directors, or any committee may be held entirely

or partially by electronic means, provided that the board of directors 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 board of directors 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 association shall make available a reasonable alternative, at its expense, for such

person to conduct business with the association without use of such electronic means.

H. This section shall not apply to any notice related to an enforcement action by the association,

an assessment lien, or foreclosure proceedings in enforcement of an assessment lien.

2010, c. 432, § 55-515.3; 2019, c. 712;2021, Sp. Sess. I, cc. 9, 494.

§ 55.1-1833. Lien for assessments

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

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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. No action to enforce any lien perfected under subsection B shall be brought or action to

foreclose any lien perfected under subsection I shall be initiated after 36 months from the time

when the memorandum of lien was recorded; however, the filing of a petition to enforce any such

lien in any action in which the petition may be properly filed 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 lien perfected by subsection B,

the 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.

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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. 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. 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.

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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 I 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

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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.

1989, c. 679, § 55-516; 1991, c. 667; 1997, cc. 760, 766;2000, c. 905;2004, cc. 778, 779, 786;2019,

c. 712;2021, Sp. Sess. I, c. 489.

§ 55.1-1834. Notice of sale under deed of trust

In accordance with the provisions of § 15.2-979, the association shall be given notice whenever a

lot becomes subject to a sale under a deed of trust. Upon receipt of such notice, the board of

directors, on behalf of the association, shall exercise whatever due diligence it deems necessary

with respect to the lot subject to a sale under a deed of trust to protect the interests of the

association.

2015, cc. 93, 410, § 55-516.01; 2019, c. 712.

§ 55.1-1835. Annual report by association

The association shall file an annual report in a form and at such time as prescribed by regulations

of the Common Interest Community Board. The annual report shall be accompanied by a fee in

an amount established by the Board, which shall be paid into the state treasury and credited to

the Common Interest Community Management Information Fund established pursuant to § 54.1-

2354.2.

1993, c. 958, § 55-516.1; 2008, cc. 851, 871;2009, c. 557;2012, cc. 481, 797;2019, cc. 391, 712.

§ 55.1-1836. Condemnation of common area; procedure

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When any portion of the common area is taken or damaged under the power of eminent domain,

any award or payment for such portion shall be paid to the association, which shall be a party in

interest in the condemnation proceeding. The common area that is affected shall be valued on

the basis of the common area's highest and best use as though it were free from restriction to

sole use as a common area.

Except to the extent that the declaration or any rules and regulations duly adopted pursuant to

such declaration otherwise provide, the board of directors shall have the authority to negotiate

with the condemning authority, agree to an award or payment amount with the condemning

authority without instituting condemnation proceedings, and, upon such agreement, convey the

subject common area to the condemning authority. Thereafter, the president of the association

may unilaterally execute and record the deed of conveyance to the condemning authority.

A member of the association, by virtue of his membership, shall be estopped from contesting the

action of the association in any proceeding held pursuant to this section.

1995, c. 377, § 55-516.2; 1998, c. 32;2016, c. 719;2019, c. 712.

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