



Legislative Update: 2007 Session of the Virginia General Assembly

Presented by Andrew G. Elmore

Changes effective July 1, 2007 – These have been signed by the Governor unless noted otherwise.

I. Virginia Condominium Act

A. Declarant's Filing of Surety Bond or Letter of Credit – Section 55-79.95 (House Bill 1850 – Saxman)

1. Provides the authority for the declarant to file a surety bond or letter of credit with the Va. Real Estate Board instead of escrowing deposits.
2. Applies to condominiums of more than 50 units.
3. Full coverage on amounts required for blanket bond or blanket letter of credit.



B. Eliminates Escrow of Deposits for Commercial Condominium – Section 55-79.87 (House Bill 2015 – Suit)

With respect to the disposition of a commercial condominium unit there is no longer a requirement under the Act for the escrowing of deposits.

C. Preservation of Rights of Elderly and Disabled in Conversion Condominiums – Section 55-79.94 (House Bill 2727 – Englin and Senate Bill 968 - Whipple)

1. Subject to local ordinance, if tenant in conversion condominium is elderly or disabled, tenant may assign the right to purchase to government, which shall offer lease to existing tenant.
2. Applicable governmental housing authority owner of units cannot exceed the greater of 1 unit or 5% of the units in the condominium.
3. Implementation of statute cannot impede the conversion process.

II. Similar Changes to the Virginia Condominium Act and Virginia Property Owners' Association Act

A. House Bill 1836 – Amundson (Senate Bill 969 – Whipple)

1. **Restriction on Displaying U.S. Flag – Section 55-79.75:2, Section 55-79.90 and Section 55-513.1.**
 - a. Amendments to Condominium Act and Property Owner's Association Act ("POAA"), to make them similarly apply to limit restrictions on the display of the U.S. flag. The POAA provision was amended so that it no longer applies to U.S. armed forces' flags.
 - b. Association can impose reasonable limits as to the size, place, duration and manner of placement or display of the flag. [Note: federal law prohibits an outright ban on displaying the flag on or within owners' lots or units/exclusive use areas.]
 - c. Restrictions on U.S. flag display (including flagpoles) must be disclosed as part of the condominium resale certificate (this was already required for homeowners associations).



- A. **House Bill 2016 – Suit (Senate Bill 844 – J. Davis)**
 - 1. **Fidelity Bond requirement / No commingling – Section 55-79.81(B), Section 55-79.74:01 and Section 55-514.2**
 - a. Applies to associations collecting assessments for common expenses.
 - b. Minimum of \$10,000 in coverage.
 - c. Covers officers, directors, employees, managing agent and its employees.
 - d. Deposit of funds must be in federally insured account and not commingled with managing agent’s funds.
 - 2. **Resale Disclosure Packet or Certificate – Section 55-79.97 and Section 55-511 and Section 55-512**
 - a. Notice of cancellation options expanded.
 - b. Increase in fee for packet or certificate.
 - i. Applies to associations with managing agents.
 - ii. Up to \$325, with annual increases based on CPI.
 - iii. Fee is to cover actual costs, must be specified in management contract and published on association or agent’s website.
 - iv. Payable to the managing agent, irrespective of closing.
 - v. Deemed an assessment against the member’s unit or lot.
 - c. Requirement that resale certificates now include statement disclosing any association loan balances.
- B. **House Bill 2861 – Moran**
 - 1. **Notice of Amendment to Mortgagees – Section 55-79.73:1**
 - a. Expands notice to all “condominium instruments”
 - 2. **Notice of Association Meetings – Section 55-79.75 and Section 55-510(E)**
 - a. Burden on Owner to provide association with change of address.



III. Other legislation of interest

A. Changes to the Virginia Nonstock Corporation Act – Section 13.1-801 et seq.

- a. Mostly technical, nonsubstantive; but see 2007 statute book for substantive revisions of note.

B. Changes to members of Virginia Fair Housing Board – Section 54.1-2344 (House Bill 2595 – Rapp).

- a. Va.'s Fair Housing Board now includes two (rather than one) representatives from the residential property management industry, at least one of whom must be a member of a property owners' association or unit owners' association.