

1 CHAPTER ~~4.1~~ XX [3].2 HORIZONTAL PROPERTY ACT.

3 **Drafting note: Existing Chapter 4.1, Horizontal Property, of Title 55 is retained as**
4 **proposed Chapter XX [3] of Subtitle IV. It is retitled as the Horizontal Property Act based**
5 **on the short title contained in existing § 55-79.1. This proposed chapter is divided into four**
6 **articles for consistency with the other chapters in this subtitle. Numerous existing sections**
7 **are recommended for repeal as obsolete because as of July 1, 1974, Horizontal Property**
8 **Act was superseded by the Virginia Condominium Act (§ 55-79.39 et seq.). Therefore, no**
9 **new developments may be established under a horizontal property regime.**

10 Article 1.11 General Provisions.

12 **Drafting note: Proposed Article 1 contains general provisions for the Horizontal**
13 **Property Act.**

14 ~~§ 55-79.1. Title.~~

15 ~~This chapter shall be known as the "Horizontal Property Act."~~

16 **Drafting note: Existing § 55-79.1 is recommended for repeal on the basis of § 1-244,**
17 **which states that the caption of a subtitle, chapter, or article operates as a short title**
18 **citation. The short title is retained in the title (caption) of the proposed chapter.**

19 ~~§ 55-79.2~~ 55.1-xxx. Definitions.

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

21 ~~(a) "Apartment" means an apartment, apartment dwelling unit, unit, house or home~~
22 which a dwelling that is an enclosed space consisting of one or more rooms occupying all or
23 part of one or more floors in a building ~~or buildings~~ of one or more floors ~~or stories~~ regardless
24 of whether it ~~be~~ is designed or used for residence, for office, for the operation of any industry or
25 business, or for any other type of independent use, or combination of uses, ~~and shall include~~
26 provided that the dwelling has a direct exit to a thoroughfare or to a given common space
27 leading to a thoroughfare. "Apartment" also includes such accessories as may be appurtenant

28 ~~thereto, such as garage space, storage space, balcony, terrace and patio to such dwelling.~~

29 ~~Provided that the apartment has a direct exit to a thoroughfare or to a given common space~~

30 ~~leading to a thoroughfare;~~

31 ~~(b) "Board" means the Common Interest Community Board;~~

32 ~~(c) "Condominium" means the ownership of a single unit in a ~~multiple-unit~~ multiple-unit~~

33 ~~structure with common elements in a condominium project;~~

34 ~~(d) "Condominium project" means ~~a real estate condominium project;~~ a plan or project~~

35 ~~whereby four or more apartments, rooms, office spaces, or other units existing or proposed,~~

36 ~~whether the unit involves a single structure, attached to or detached from other units, or is in one~~

37 ~~or more ~~multiple-unit~~ multiple-unit structures, on contiguous parcels of real estate are offered or~~

38 ~~proposed to be offered for sale;~~

39 ~~(e) "Co-owner" means a person, firm, corporation, partnership, association, trust, or~~

40 ~~other legal entity, or any combination thereof ~~who, that~~ owns an apartment within the building~~

41 ~~or buildings;~~

42 ~~(f) "Council of co-owners" means all of the co-owners ~~as defined in subsection (e) of~~~~

43 ~~this section, acting as a group in accordance with the bylaws of the horizontal property regime;~~

44 ~~(g) "Developer" means a person ~~who that~~ undertakes to develop a real estate~~

45 ~~condominium project;~~

46 ~~(h) "General common elements," unless otherwise provided in the master deed or lease,~~

47 ~~means and includes:~~

48 ~~(1) 1. The land, whether leased or in fee simple, on which the building ~~or buildings stand~~~~

49 ~~stands;~~

50 ~~(2) 2. The foundations, main walls, roofs, halls, lobbies, stairways, and entrances and~~

51 ~~exits or communication ways;~~

52 ~~(3) 3. The basements, flat roofs, yards, and gardens, except as otherwise provided or~~

53 ~~stipulated;~~

54 ~~(4)~~ 4. The premises for the lodging of janitors or persons in charge of the building ~~or~~
55 ~~buildings~~, except as otherwise provided or stipulated;

56 ~~(5)~~ 5. The compartments or installations of central services ~~such as, including~~ power,
57 light, gas, cold and hot water, refrigeration, reservoirs, water tanks, and pumps, ~~and the like~~;

58 ~~(6)~~ 6. The elevators, garbage incinerators, and, ~~in general~~ all other devices or
59 installations existing for common use; and

60 ~~(7)~~ 7. All other elements of the property rationally of common use or necessary to its
61 existence, upkeep, and safety;

62 (i) "Limited common elements" means ~~and includes~~ those common elements ~~which that~~
63 are agreed upon by all of the co-owners to be reserved for the use of a certain number of
64 apartments to the exclusion of the other apartments, ~~such as including~~ special corridors,
65 stairways and elevators, and sanitary services common to the apartments of a particular floor,
66 ~~and the like~~;

67 (j) "Majority of co-owners" means more than ~~fifty~~ 50 percent of the votes of the co-
68 owners computed in accordance with the bylaws of the horizontal property regime;

69 ~~(k)~~ "Master deed" or "master lease" means the deed or lease recording the property of
70 the horizontal property regime;

71 ~~(l)~~ "Person" means an individual, firm, corporation, partnership, association, trust, or
72 other legal entity or any combination ~~thereto; thereof~~.

73 ~~(m)~~ "Property" means ~~and includes~~ the land, whether ~~leasehold leased~~ or in fee simple,
74 ~~and the building or buildings~~, all improvements and structures ~~thereon~~ on such land, and all
75 easements, rights, and appurtenances belonging ~~thereto; to such land~~.

76 ~~(n)~~ "To record" means to record pursuant to the laws of ~~this~~ the Commonwealth relating
77 to the recordation of deeds.

78 **Drafting note: The definition of "Board" is deleted as unnecessary; all references to**
79 **the Common Interest Community Board are in existing sections that are recommended for**
80 **repeal as obsolete. In the definitions of "apartment," "general common elements," and**

81 "property," the plural "buildings" is stricken on the basis of § 1-227, which states that
82 throughout the Code any word used in the singular includes the plural. Language is
83 updated for modern usage and technical changes are made.

84 ~~§ 55-79.14 55.1-xxx. Laws relating to exemptions made applicable; property~~ Property
85 taxes assessed on individual apartments.

86 ~~The laws relating to exemptions as set out in Title 34 shall be applicable to the~~
87 ~~individual apartments which shall have the benefit of said exemption in those cases the same as~~
88 ~~in ownership of any other property.~~ Property taxes assessed by the Commonwealth or by any
89 municipality locality shall be assessed on and collected on the individual apartments and not on
90 the property, ~~building or buildings~~ as a whole, or on the common elements.

91 **Drafting note: The first sentence is stricken as unnecessary because there is no**
92 **reason the homestead exemptions found in Title 34 would not be available to apartment**
93 **owners. The term "municipality" is updated to the more modern term "locality."**
94 **"Building or buildings" is stricken as unnecessary because those structures are**
95 **encompassed in the term "property" and "or on the common elements" is added for**
96 **consistency with other tax assessment provisions in Subtitle IV and clarifies that local tax**
97 **assessors do not assess taxes against anything other than the individual apartment.**

98 ~~§ 55-79.32 55.1-xxx.~~ Chapter additional and supplemental.

99 The provisions of this chapter shall be in addition and supplemental to all other
100 provisions of law, provided that wherever the application of the provisions of this chapter
101 conflict with the application of such other provisions, this chapter shall prevail.

102 **Drafting note: No change.**

103 [Article 2.](#)

104 [Creation and Alteration of Horizontal Property Regimes.](#)

105 **Drafting note: Proposed Article 2 contains sections related to the creation,**
106 **alteration, and termination of horizontal property regimes.**

107 ~~§ 55-79.3 55.1-xxx.~~ Establishment of horizontal property regime.

108 A. Whenever a horizontal property regime is established when a developer, the sole
109 owner, or the co-owners of a building one or more buildings ~~expressly declare, through the~~
110 ~~recording of record~~ a master deed or lease, which ~~shall set forth~~ includes the particulars
111 enumerated ~~by in~~ § ~~55-79.7~~, ~~their desire to submit their property to the regime established by~~
112 ~~this chapter, there shall be thereby established a horizontal property regime~~ 55.1-xxx.

113 B. Pursuant to § 55.1-xxx [55-79.40], this chapter is superseded by the Virginia
114 Condominium Act (§ 55.1-xxx et seq.) as of July 1, 1974. No new developments may be
115 established under the provisions of this chapter after that date.

116 **Drafting note: Language is updated for modern usage. Subsection B is added to**
117 **note that the Horizontal Property Act is superseded by the Virginia Condominium Act (§**
118 **55.1-xxx et seq.) as of July 1, 1974.**

119 § ~~55-79.34~~ 55.1-xxx. Partition.

120 ~~(a)~~ A. The common elements, both general and limited, shall remain undivided. No
121 apartment owner, or any other person, shall bring any suit or other proceeding for partition or
122 division of the co-ownership of the common elements as provided under § ~~55-79.6 of this~~
123 ~~chapter~~ 55.1-xxx.

124 ~~(b)~~ B. Nothing contained in this section shall be construed as a limitation on partition by
125 the owners of one or more apartments in a horizontal property regime as to the individual
126 ownership of such apartment or apartments without terminating the regime or as to the
127 ownership of property outside the regime: ~~Provided, provided~~ that upon partition of any such
128 individual apartment ~~the same it~~ shall be sold as an entity and shall not be partitioned in kind.

129 **Drafting note: Technical changes.**

130 Article 3.

131 Management of Horizontal Property Regimes.

132 **Drafting note: Proposed Article 3 contains sections related to the management of**
133 **horizontal property regimes.**

134 § ~~55-79.4~~ 55.1-xxx. Apartments subject to individual titles and interests; recording;
135 transfer of garage unit.

136 Once the property is ~~submitted to the~~ established as a horizontal property regime, an
137 apartment in the building ~~or buildings~~ is a separate parcel of real property and may be
138 individually conveyed and encumbered ~~and may be the subject of ownership, possession or sale~~
139 ~~and of all types of juridic acts inter vivos or mortis causa, as if it were sole and entirely,~~
140 independent of the other apartments in the building ~~or buildings of which they form a part~~, and
141 the corresponding individual titles and interests shall be recordable. A garage unit sold to a co-
142 owner as a limited common element may be sold or transferred by him to another co-owner in
143 the same horizontal property regime independently of and separately from his apartment.

144 **Drafting note: The plural "buildings" is stricken on the basis of § 1-227, which**
145 **states that throughout the Code any word used in the singular includes the plural.**
146 **Language is updated for modern usage.**

147 § ~~55-79.5~~ 55.1-xxx. Joint or common ownership.

148 Any apartment may be jointly or commonly owned by more than one person.

149 **Drafting note: No change.**

150 § ~~55-79.6~~ 55.1-xxx Exclusive and common rights of owners.

151 An apartment owner ~~shall have~~ has an exclusive right to his apartment and ~~shall have~~ has
152 a common right to a share, with other co-owners, in the common elements of the property.

153 **Drafting note: Technical changes.**

154 § ~~55-79.7~~ 55.1-xxx. Master deed or lease; recordation; particulars.

155 A master deed or lease shall be recorded in the same manner and subject to the same
156 provisions of law as are other deeds; ~~provided;~~ that no state or local recordation tax upon the
157 value of the property transferred shall apply to any such deed ~~or portion thereof~~ recorded solely
158 for the purpose of complying with the provisions of § ~~55-79.3~~ 55.1-xxx.

159 ~~Provisions shall be made for the recordation of the individual apartments on subsequent~~
160 ~~resales, mortgages and other encumbrances, as is done with all other real estate recordation.~~ The

161 master deed or lease ~~to which § 55-79.3 refers~~ required pursuant to § 55-xxx shall ~~express~~
162 include the following particulars:

163 ~~(a)~~ 1. The description of the land, whether leased or in fee simple, and the building ~~or~~
164 buildings, expressing their respective areas;

165 ~~(b)~~ 2. The general description and the number of each apartment, expressing its area,
166 location, and any other data necessary for its identification;

167 ~~(c)~~ 3. The description of the general common elements of the building ~~or buildings~~; and

168 ~~(d)~~ 4. The provisions requiring the council of co-owners to maintain insurance on the
169 horizontal property regime.

170 **Drafting note: Language in the second paragraph is deleted as obsolete. The plural**
171 **"buildings" is stricken on the basis of § 1-227, which states that throughout the Code any**
172 **word used in the singular includes the plural. Technical changes are made.**

173 ~~§ 55-79.8~~ 55.1-xxx. Deeds of individual apartments.

174 The deed of each individual apartment shall express the particulars prescribed under ~~(a)~~
175 ~~and (b)~~ subdivisions 1 and 2 of ~~§ 55-79.7~~ 55.1-xxx relative to the apartments concerned and
176 shall also express all encumbrances ~~thereon~~ on such apartments.

177 **Drafting note: Technical changes.**

178 ~~§ 55-79.9~~ 55.1-xxx. Regrouping or merger of estates with principal property.

179 All of the co-owners or such lesser percentage as may be authorized in the master deed,
180 or the sole owner of a building ~~or buildings~~ constituted into a horizontal property regime, may
181 by deed waive this regime and regroup, amend the master deed, or merge the records of the filial
182 estates with the principal property, provided, that the filial estates are unencumbered, or if they
183 are encumbered, that the creditors in whose behalf the encumbrances are recorded accept as
184 security the undivided portions of the property owned by the debtors.

185 **Drafting note: The plural "buildings" is stricken on the basis of § 1-227, which**
186 **states that throughout the Code any word used in the singular includes the plural. A**
187 **technical change is made.**

188 § ~~55-79.10~~ 55.1-xxx. Merger not to bar subsequent ~~horizontal property regime~~
189 condominium.

190 The merger provided for in § ~~55-79.9~~ 55.1-xxx shall ~~in no way not~~ bar the subsequent
191 constitution of the property into ~~another horizontal property regime~~ a condominium whenever
192 so desired ~~and upon observance of~~, provided that the ~~provisions~~ requirements of ~~this chapter~~ the
193 Virginia Condominium Act (§ 55.1-xxx et seq.) are met.

194 **Drafting note: "Horizontal property regime" is updated to "condominium"**
195 **because as of July 1, 1974, no new developments may be established under a horizontal**
196 **property regime. Technical changes are made.**

197 § ~~55-79.11~~ 55.1-xxx. Bylaws governing administration of buildings.

198 The administration of every building ~~or buildings constituted into~~ established as a
199 horizontal property regime shall be governed by bylaws approved and adopted by the council of
200 co-owners. The bylaws may be amended from time to time by the council or the governing
201 board provided for in the council's bylaws.

202 **Drafting note: The plural "buildings" is stricken on the basis of § 1-227, which**
203 **states that throughout the Code any word used in the singular includes the plural.**
204 **Technical changes are made.**

205 § ~~55-79.12~~ 55.1-xxx. Books and records; inspection; audit.

206 The administrator, ~~or~~ board of administration, ~~or the~~ person appointed by the bylaws of
207 the regime, shall keep a book with a detailed account of the receipts and expenditures affecting
208 the building and its administration and specifying the maintenance and repair expenses of the
209 common elements and any other expenses incurred by or ~~in~~ on behalf of the regime. Both the
210 book and vouchers accrediting the entries made ~~thereon~~ in the book shall be available for
211 examination by all the co-owners ~~at convenient hours on working days~~ during business hours
212 that shall be set and announced for general knowledge. All books and records shall be kept in
213 accordance with good accounting procedures and be audited at least once a year by an auditor
214 outside of the organization.

215 **Drafting note: Technical changes.**

216 § ~~55-79.13~~ 55.1-xxx. Contributions by co-owners.

217 All co-owners are bound to contribute pro rata toward the expenses of administration
218 and of maintenance and repairs of the general common elements, and, in the ~~proper~~ appropriate
219 case, of the limited common elements of the building ~~or buildings~~, and toward any other
220 expenses lawfully agreed upon by the council of co-owners.

221 If a co-owner fails to contribute his share as ~~set forth above~~ provided in this section, the
222 manager or board of directors of the council of co-owners, or, in a proper case, an aggrieved co-
223 owner, may maintain an action at law on behalf of the council of co-owners to recover sums
224 due, for damages, ~~and or~~ in equity for injunctive relief.

225 No co-owner shall be exempt from contributing toward such expenses by waiver or
226 nonuse of the use or enjoyment of the common elements, both general and limited, or by
227 abandonment of the apartment belonging to him.

228 Said-Such contributions may be determined and a lien, as the master deed may provide
229 upon default in the payment of any such contribution, may be perfected by filing in the clerk's
230 office ~~wherein in which~~ the master deed is recorded a memorandum showing the name of the
231 delinquent co-owner, the name of the council of co-owners as claimant of the lien, the amount
232 of the claim, and a description of the property on which a lien is claimed verified by oath of the
233 agent of the council of co-owners. The clerk shall record and index such lien as provided in §
234 43-4.1 and shall charge such fees as are provided by law. Such lien shall be released as provided
235 in §§ ~~55-66.3~~ 55.1-xxx through ~~55-66.6~~ 55.1-xxx upon payment ~~of by~~ by the co-owner of his
236 contributions.

237 **Drafting note: The plural "buildings" is stricken on the basis of § 1-227, which**
238 **states that throughout the Code any word used in the singular includes the plural.**

239 **Technical changes are made.**

240 § ~~55-79.15~~ 55.1-xxx. Payment of assessments upon conveyance of apartment: priority.

241 Upon the sale or conveyance of an apartment, all unpaid assessments against a co-owner
242 for his pro rata share in the expenses ~~to which § 55-79.13 refers~~ provided for in § 55.1-xxx shall
243 first be paid out of the sale price or by the purchaser in ~~preference~~ priority over any other
244 assessments or charges of whatever nature except the following:

245 (a) ~~1.~~ Assessments, liens, and charges in favor of the Commonwealth or any
246 municipality locality for taxes past due and unpaid on the apartment; and

247 (b) ~~2.~~ Payments due under mortgages duly recorded.

248 **Drafting note: The term "preference" is changed to the more legally appropriate**
249 **term "priority." The term "municipality" is updated to the more modern term "locality."**
250 **Technical changes are made.**

251 § ~~55-79.35~~ 55.1-xxx. Liens or encumbrances.

252 (a) ~~A.~~ Subsequent to establishment of a horizontal property regime as provided in this
253 chapter, and while the property remains subject to this chapter, no lien shall ~~thereafter~~
254 be effective against the property as a whole or against the common elements. During such
255 period, liens or encumbrances shall arise or be created and enforced only against each apartment
256 and the percentage of undivided interest in the common areas and facilities appurtenant to such
257 apartment in the same manner and under the same conditions in every respect as liens or
258 encumbrances may arise or be created upon or against any other separate parcel of real property
259 subject to individual ownership; ~~provided,~~ that no labor performed or materials furnished with
260 the consent or at the request of an apartment owner or ~~his~~ such owner's agent ~~or his,~~
261 or subcontractor, shall be the basis for the filing of a mechanic's lien against the apartment or
262 any other property of any other apartment owner not expressly consenting to or requesting the
263 same, except that such express consent shall be deemed to be given by the owner of any
264 apartment in the case of emergency repairs ~~thereto~~ to such apartment. Labor performed or
265 materials furnished for the common ~~areas~~ elements and facilities, if duly authorized by the
266 council of co-owners, the manager, or the board of directors in accordance with this chapter, the
267 master deed, or the bylaws, shall be deemed to be performed or furnished with the express

268 consent of each apartment owner and shall be the basis for the filing of a mechanic's lien against
269 each of the apartments and shall be subject to the provisions of ~~subparagraph (b) hereunder~~
270 subsection B. Notice of ~~said such~~ lien may be served on the manager or the board of directors of
271 the council of co-owners.

272 ~~(b) In the event of filing of B. If~~ a lien is filed against two or more apartments and their
273 respective percentage interest in the common elements, the apartment owners of the separate
274 apartments may remove their ~~apartment~~ apartments and their percentage ~~interest~~ interests in the
275 common elements appurtenant ~~thereto~~ to such apartments from ~~said the~~ lien by payment of the
276 fractional or proportional amounts attributable to each of the apartments affected, or they may
277 file a written undertaking with surety approved by the court ~~of the fractional or proportional~~
278 ~~amounts attributable to each of the apartments affected~~. Said Such individual payment, or
279 amount of bond, shall be computed by reference to the percentage established pursuant to the
280 bylaws of the horizontal property regime. After such partial payment, filing of bond, partial
281 discharge, or release, or other satisfaction, the apartment and its percentage interest in the
282 common elements shall ~~thereafter~~ be free and clear of such lien. Such partial payment,
283 indemnity, satisfaction, or discharge shall not prevent the lienor from proceeding to enforce ~~his~~
284 its rights against any apartment and its percentage interest in the common elements not so paid,
285 indemnified, satisfied, or discharged.

286 **Drafting note: In subsection A, "as a whole or against the common elements" is**
287 **added for consistency with other tax assessment provisions in Subtitle IV and clarifies that**
288 **local tax assessors do not assess taxes against anything other than the individual**
289 **apartment. In subsection A, the term "common areas" is updated to use the term,**
290 **"common elements," because "common elements" is used in the defined terms "general**
291 **common elements" and "limited common elements." Technical changes are made.**

292 § ~~55-79.36~~ 55.1-xxx. Rule against perpetuities; rule restricting unreasonable restraints on
293 alienation.

294 The ~~rule~~ rules of property law known as the rule against perpetuities, and ~~the rule of~~
295 ~~property law known as~~ the rule restricting unreasonable restraints on alienation, shall not be
296 applied to defeat any of the provisions of this chapter or of any provisions of any master deed or
297 lease, bylaws, or other document executed in accordance with this chapter as to the
298 ~~condominium project~~ horizontal property regime. This exemption shall not apply to estates in
299 the individual ~~condominiums~~ apartments.

300 **Drafting note: The term "condominium project" is changed to "horizontal**
301 **property regime" and the term "condominiums" is changed to "apartments" because the**
302 **rules for condominium projects are found in the Virginia Condominium Act (§ 55.1-xxx et**
303 **seq.).**

304 § ~~55-79.37~~ 55.1-xxx. Liability of owner.

305 ~~(1) A.~~ The liability of the owner of an apartment for pro rata expenses shall be limited to
306 the amounts ~~for which he is~~ assessed from time to time in accordance with this chapter, the
307 master deed or lease ~~and, or~~ the bylaws.

308 ~~(2) B.~~ The owner of an apartment shall not be personally liable with respect to the
309 negligence of any other co-owner except insofar as the negligent co-owner is acting for the
310 council of co-owners.

311 **Drafting note: Technical changes.**

312 § ~~55-79.38~~ 55.1-xxx. Compliance by co-owner with bylaws and administrative rules and
313 regulations.

314 Each co-owner shall comply ~~strictly~~ with the bylaws of the horizontal property regime
315 and with the administrative rules and regulations adopted pursuant ~~thereto to such bylaws~~, as
316 ~~either of the same~~ may be ~~lawfully~~ amended from time to time, and with the covenants,
317 conditions ~~and, or~~ restrictions set forth in the deed ~~of his to the~~ individual apartment. Failure to
318 comply with any ~~of the same shall be ground~~ such bylaws, rules and regulations, or covenants,
319 conditions, or restrictions is grounds for an action by the manager or board of directors of the

320 council of co-owners, or, in a proper case, an aggrieved owner, on behalf of the council of co-
321 owners to recover sums due, for damages and for injunctive relief.

322 **Drafting note: Technical changes.**

323 Article 4.

324 Protection of Purchasers.

325 **Drafting note: Proposed Article 4 contains a section related to the protection of**
326 **horizontal property purchasers.**

327 ~~§ 55-79.21-1~~ § 55.1-xxx. Deposits to be held in escrow.

328 Any deposit made with a reservation to purchase or a contract to purchase shall be held
329 in escrow in a separate fund for such deposits designated as such until the deed for which a
330 deposit was made is delivered to the depositor.

331 **Drafting note: No change.**

332 ~~§ 55-79.16. Developer to notify Board prior to offering project for sale.~~

333 ~~Prior to the time when a condominium project is to be offered for sale in this~~
334 ~~Commonwealth, the developer shall notify the Board in writing of his intention to sell such~~
335 ~~offerings.~~

336 **Drafting note: Recommended for repeal as obsolete.**

337 ~~§ 55-79.17. Notice to be accompanied by fee and questionnaire.~~

338 ~~The notice of intention shall be accompanied by a fee of \$100 and by a verified copy of~~
339 ~~a questionnaire properly filled in. The questionnaire will be in such form and content as will~~
340 ~~require full disclosure of all material facts reasonably available.~~

341 **Drafting note: Recommended for repeal as obsolete.**

342 ~~§ 55-79.18. Inspection of project by Board.~~

343 ~~After appropriate notification has been made pursuant to §§ 55-79.16 and 55-79.17, an~~
344 ~~inspection of the condominium project may be made by the Board.~~

345 **Drafting note: Recommended for repeal as obsolete.**

346 ~~§ 55-79.19. Fee for inspection.~~

347 ~~When an inspection is to be made of projects, the notice of intention shall be~~
348 ~~accompanied by the filing fee, together with an amount estimated by the Board to be necessary~~
349 ~~to cover the actual expenses of such inspection, not to exceed seventy five dollars a day for each~~
350 ~~day consumed in the examination of the project plus reasonable first class transportation~~
351 ~~expenses, which shall be paid as a fee to the commissioner inspecting such project from the~~
352 ~~special fund established in § 55-79.31.~~

353 **Drafting note: Recommended for repeal as obsolete.**

354 ~~§ 55-79.20. Waiver of initial inspection.~~

355 ~~The Board may waive initial inspection when in its opinion, a preliminary or final public~~
356 ~~report can be substantially drafted and issued from the contents of the questionnaire and other or~~
357 ~~subsequent inquiries. Failure of the Board to notify the developer of its intent to inspect his~~
358 ~~project within ten days after notification of intention is properly filed pursuant to §§ 55-79.16~~
359 ~~and 55-79.17 will be construed a waiver of such inspection.~~

360 **Drafting note: Recommended for repeal as obsolete.**

361 ~~§ 55-79.21. Public reports by Board of examinations.~~

362 ~~When the Board makes an examination of any project, it shall make a public report of its~~
363 ~~findings, which shall contain all material facts reasonably available. A public report shall neither~~
364 ~~be construed to be an approval nor disapproval of a project. No unit in a condominium project~~
365 ~~shall be offered for sale until the Board shall have issued a final or substitute public report~~
366 ~~thereon, nor shall reservations to purchase be taken until the Board has issued a preliminary,~~
367 ~~final or substitute public report.~~

368 **Drafting note: Recommended for repeal as obsolete.**

369 ~~§ 55-79.21:2. Management contract of developer limited to five years.~~

370 ~~No management contract for management of all or part of a condominium project may~~
371 ~~be entered into by a developer for a period of longer than five years.~~

372 **Drafting note: Recommended for repeal as obsolete.**

373 ~~§ 55-79.22. When preliminary report may be issued.~~

374 ~~A preliminary public report may be issued by the Board upon receipt of a notice of~~
375 ~~intention filing which is complete except for some particular requirement, or requirements,~~
376 ~~which is, or are, at the time not fulfilled, but which may reasonably be expected to be~~
377 ~~completed.~~

378 **Drafting note: Recommended for repeal as obsolete.**

379 ~~§ 55-79.23. Prerequisites to sale of units by developer; purchasers' receipts for reports.~~

380 ~~The developer shall not enter into a binding contract or agreement for the sale of any~~
381 ~~unit in a condominium project until~~

382 ~~(a) A true copy of the Board's final or substitute public report thereon with all~~
383 ~~supplementary public reports, if any has been issued, has been given to the prospective~~
384 ~~purchaser,~~

385 ~~(b) The latter has been given an opportunity to read same, and,~~

386 ~~(c) His receipt taken therefor.~~

387 ~~Receipts taken for any public report shall be kept on file in possession of the developer~~
388 ~~subject to inspection at a reasonable time by the Board or its deputies, for a period of three years~~
389 ~~from the date the receipt was taken.~~

390 **Drafting note: Recommended for repeal as obsolete.**

391 ~~§ 55-79.24. Subsequent investigations by Board; reports.~~

392 ~~If, after a final or substitute public report has been issued, the Board shall deem it~~
393 ~~necessary to conduct further inquiries or investigations in order to protect the general public in~~
394 ~~its real estate transactions, the Board may issue a supplementary public report describing the~~
395 ~~findings thereof. Upon the issuance of a supplementary public report, it shall be the duty of the~~
396 ~~developer to issue a true copy thereof to all purchasers.~~

397 **Drafting note: Recommended for repeal as obsolete.**

398 ~~§ 55-79.25. Copies of Board's public report.~~

399 ~~The true copies of the Board's public report shall be an exact reproduction of those~~
400 ~~prepared by the Board.~~

401 **Drafting note: Recommended for repeal as obsolete.**

402 ~~§ 55-79.26. Notice by developer of change in project.~~

403 ~~It is unlawful for the developer of the project, after it is submitted to the Board, to~~
404 ~~materially change the setup or value or use of such offering without first notifying the Board in~~
405 ~~writing of such intended change and substantially notifying all purchasers and prospective~~
406 ~~purchasers of such change.~~

407 **Drafting note: Recommended for repeal as obsolete.**

408 ~~§ 55-79.27. Hearings by Board.~~

409 ~~When a final, preliminary or substitute public report is not issued within a reasonable~~
410 ~~time after notice of intention is properly filed pursuant to §§ 55-79.16 and 55-79.17, or if the~~
411 ~~developer is materially grieved by the form or content of a public report, the developer may, in~~
412 ~~writing, request and shall be given a hearing by the Board within a reasonable time after receipt~~
413 ~~of request.~~

414 **Drafting note: Recommended for repeal as obsolete.**

415 ~~§ 55-79.28. False statements or representations; violation of statute or order of Board.~~

416 ~~Every officer, agent or employee of any company, and every other person who~~
417 ~~knowingly authorizes, directs or aids in the publication, advertisement, distribution or~~
418 ~~circulation of any false statement or representation concerning any project offered for sale or~~
419 ~~lease, and every person who, with knowledge that any advertisement, pamphlet, prospectus or~~
420 ~~letter concerning any said project contains any written statement that is false or fraudulent,~~
421 ~~issues, circulates, publishes or distributes the same, or causes it to be issued, circulated,~~
422 ~~published or distributed, or who, in any other respect, violates or fails to comply with any of the~~
423 ~~provisions set forth in §§ 55-79.16 through 55-79.29, or who in any other respect violates or~~
424 ~~fails, omits, or neglects to obey, observe or comply with any order, decision, demand or~~
425 ~~requirement of the Board under §§ 55-79.16 through 55-79.29, shall be punished by a fine not~~
426 ~~exceeding \$2,500 or by confinement for a term not exceeding one year, or both.~~

427 **Drafting note: Recommended for repeal as obsolete.**

428 ~~§ 55-79.29. Investigation by Board upon belief of violation by developer; examination of~~
429 ~~records, etc.~~

430 ~~If the Board has reason to believe that a developer is violating any provision set forth in~~
431 ~~§§ 55-79.16 to 55-79.29, or the rules and regulations of the Board made pursuant thereto, the~~
432 ~~Board may investigate the developer's project and examine the books, accounts, records and~~
433 ~~files used in the project of the developer. For the purposes of examination, the developer is~~
434 ~~required to keep and maintain records of all sales transactions and of the funds received by him~~
435 ~~pursuant thereto, and to make them accessible to the Board upon reasonable notice and demand.~~

436 **Drafting note: Recommended for repeal as obsolete.**

437 ~~§ 55-79.30. Enjoining violations.~~

438 ~~Whenever the Board believes from satisfactory evidence that any person has violated~~
439 ~~any of the provisions of §§ 55-79.16 to 55-79.29, or the rules and regulations of the Board made~~
440 ~~pursuant thereto, it may conduct an investigation on such matter, and bring an action in the~~
441 ~~name of the people of the Commonwealth of Virginia in any court of competent jurisdiction~~
442 ~~against such person to enjoin such person from continuing such violation or engaging therein or~~
443 ~~doing any act or acts in furtherance thereof.~~

444 **Drafting note: Recommended for repeal as obsolete.**

445 ~~§ 55-79.31. Fees credited to special fund; expenditure.~~

446 ~~All fees collected under this chapter shall be remitted by the Board to the Treasurer of~~
447 ~~this Commonwealth, and shall be placed to the credit of the special fund of the Real Estate~~
448 ~~Board, which is hereby established and shall be expended solely for compliance with the~~
449 ~~provisions of this chapter.~~

450 **Drafting note: Recommended for repeal as obsolete.**

451 ~~§ 55-79.33. Supplemental rules and regulations by planning and zoning commissions.~~

452 ~~Whenever they deem it proper, the planning and zoning commission of any county or~~
453 ~~municipality may adopt supplemental rules and regulations not inconsistent with general law~~

454 ~~governing a horizontal property regime established under this chapter in order to implement this~~
455 ~~program.~~

456 **Drafting note: Recommended for repeal as obsolete.**

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