

1 HOUSE BILL NO. 880
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
 3 (Proposed by the House Committee on General Laws
 4 on _____)
 5 (Patron Prior to Substitute--Delegate Bulova)

6 A BILL to amend and reenact §§ 8.01-463, 55.1-1815, 55.1-1833, 55.1-1945, 55.1-1966, 55.1-2148, 55.1-
 7 2151, and 55.1-2305 of the Code of Virginia, relating to common interest communities;
 8 foreclosure remedy.

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

10 **1. That §§ 8.01-463, 55.1-1815, 55.1-1833, 55.1-1945, 55.1-1966, 55.1-2148, 55.1-2151, and 55.1-2305**
 11 **of the Code of Virginia are amended and reenacted as follows:**

12 **§ 8.01-463. Enforcement of lien when judgment does not exceed \$25,000.**

13 ~~If the amount of the judgment does not exceed \$25,000, exclusive of interest and costs, no~~No bill
 14 to enforce ~~the a~~ a lien, pursuant to § 8.01-462, ~~thereof~~ shall be entertained if the real estate is the judgment
 15 debtor's primary residence and the amount of the judgment exclusive of interest and costs does not exceed
 16 \$25,000. However, if the judgment is for assessments levied by a common interest community association
 17 pursuant to Chapter 18 (§ 55.1-1800 et seq.), 19 (§ 55.1-1900 et seq.), 21 (55.1-2100 et seq.), or 23 (§
 18 55.1-2300 et seq.) of Title 55.1, no bill to enforce a lien shall be entertained if the total amount secured
 19 by one or more judgments exclusive of interest and costs does not exceed \$5,000.

20 **§ 55.1-1815. Access to association records; association meetings; notice.**

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

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

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

32 2. The actual salary of the six highest compensated employees of the association earning over
33 \$75,000 and aggregate salary information of all other employees of the association; however, individual
34 salary information shall not be available for examination and copying during the declarant control period.

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

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

43 1. Personnel matters relating to specific, identified persons or a person's medical records;

44 2. Contracts, leases, and other commercial transactions to purchase or provide goods or services,
45 currently in or under negotiation;

46 3. Pending or probable litigation. For purposes of this subdivision, "probable litigation" means
47 those instances where there has been a specific threat of litigation from a person or the legal counsel of
48 such person;

49 4. Matters involving state or local administrative or other formal proceedings before a government
50 tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to §
51 55.1-1819;

52 5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected
53 by the attorney-client privilege or the attorney work product doctrine;

54 6. Disclosure of information in violation of law;

55 7. Meeting minutes or other confidential records of an executive session of the board of directors
56 held in accordance with subsection C of § 55.1-1816;

57 8. Documentation, correspondence, or management or board reports compiled for or on behalf of
58 the association or the board by its agents or committees for consideration by the board in executive session;
59 or

60 9. Individual lot owner or member files, other than those of the requesting lot owner, including
61 any individual lot owner's or member's files kept by or on behalf of the association.

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

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

76 F. Notwithstanding the provisions of subsections B and C, all books and records of the association,
77 including individual salary information for all employees and payments to independent contractors, shall

78 be available for examination and copying upon request by a member of the board of directors in the
79 discharge of his duties as a director.

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

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

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

102 **§ 55.1-1833. Lien for assessments; foreclosure.**

103 A. The association shall have a lien, once perfected, on every lot for unpaid assessments levied
104 against that lot in accordance with the provisions of this chapter and all lawful provisions of the

105 declaration. The lien, once perfected, shall be prior to all other subsequent liens and encumbrances except
106 (i) real estate tax liens on that lot, (ii) liens and encumbrances recorded prior to the recordation of the
107 declaration, and (iii) sums unpaid on and owing under any mortgage or deed of trust recorded prior to the
108 perfection of such lien. The provisions of this subsection shall not affect the priority of mechanics' and
109 materialmen's liens. Notice of a memorandum of lien to a holder of a credit line deed of trust under § 55.1-
110 318 shall be given in the same fashion as if the association's lien were a judgment.

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

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

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

130 C. Prior to filing a memorandum of lien, a written notice shall be sent to the property owner by
131 certified mail, at the property owner's last known address, informing the property owner that a

132 memorandum of lien will be filed in the circuit court clerk's office of the applicable county or city. The
133 notice shall be sent at least 10 days before the actual filing date of the memorandum of lien.

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

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

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

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

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

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

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

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

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

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

185 4. In addition to the advertisement required by subdivision 5, the association shall give written
186 notice of the time, date, and place of any proposed sale in execution of the lien, including the name,
187 address, and telephone number of the trustee, by hand delivery or by mail to (i) the present owner of the
188 property to be sold at his last known address as such owner and address appear in the records of the
189 association, (ii) any lienholder who holds a note against the property secured by a deed of trust recorded
190 at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii)
191 any assignee of such a note secured by a deed of trust, provided that the assignment and address of the
192 assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the
193 advertisement or the notice containing the same information to the owner by certified or registered mail
194 no less than 14 days prior to such sale and to lienholders and their assigns, at the addresses noted in the
195 memorandum of lien, by United States mail, postage prepaid, no less than 14 days prior to such sale, shall
196 be a sufficient compliance with the requirement of notice.

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

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

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

212 sale and the name of the association. It shall set forth the name, address, and telephone number of the
213 representative, agent, or attorney who may be able to respond to inquiries concerning the sale.

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

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

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

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

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

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

236 c. The ~~property owners'~~ association shall receive and receipt for the proceeds of sale, no purchaser
237 being required to see to the application of the proceeds, and apply the same in the following order: first,
238 to the reasonable expenses of sale, including attorney fees; second, to the satisfaction of all taxes, levies,

239 and assessments, with costs and interest; third, to the satisfaction of the lien for the owners' assessments;
240 fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to
241 pay the residue of the proceeds to the owner or his assigns, provided, however, that, as to the payment of
242 such residue, the association shall not be bound by any inheritance, devise, conveyance, assignment, or
243 lien of or upon the owner's equity, without actual notice thereof prior to distribution.

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

247 10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to
248 § 64.2-1309, and every account of a sale shall be recorded pursuant to § 64.2-1310. In addition, the
249 accounting shall be made available for inspection and copying pursuant to § 55.1-1815 upon the written
250 request of the prior lot owner, the current lot owner, or any holder of a recorded lien against the lot at the
251 time of the sale. The association shall maintain a copy of the accounting for at least 12 months following
252 the foreclosure sale.

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

258 **§ 55.1-1945. Books, minutes, and records; inspection.**

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

266 owners' association shall maintain a record of any recorded lien at least as long as the lien remains
267 effective.

268 B. Subject to the provisions of subsection C, all books and records kept by or on behalf of the unit
269 owners' association, including the unit owners' association membership list, and addresses and aggregate
270 salary information of unit owners' association employees, shall be available for examination and copying
271 by a unit owner in good standing or his authorized agent so long as the request is for a proper purpose
272 related to his membership in the unit owners' association and not for pecuniary gain or commercial
273 solicitation. Notwithstanding any provision of law to the contrary, this right of examination shall exist
274 without reference to the duration of membership and may be exercised (i) only during reasonable business
275 hours or at a mutually convenient time and location and (ii) upon five business days' written notice for a
276 unit owner association managed by a common interest community manager and 10 business days' written
277 notice for a self-managed unit owners' association, which notice shall reasonably identify the purpose for
278 the request and the specific books and records of the unit owners' association requested.

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

- 283 1. Personnel matters relating to specific, identified persons or a person's medical records;
- 284 2. Contracts, leases, and other commercial transactions to purchase or provide goods or services,
285 currently in or under negotiation;
- 286 3. Pending or probable litigation. For purposes of this subdivision, "probable litigation" means
287 those instances where there has been a specific threat of litigation from a person or the legal counsel of
288 such person;
- 289 4. Matters involving state or local administrative or other formal proceedings before a government
290 tribunal for enforcement of the condominium instruments or rules and regulations promulgated by the
291 executive board;

292 5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected
293 by the attorney-client privilege or the attorney work product doctrine;

294 6. Disclosure of information in violation of law;

295 7. Meeting minutes or other confidential records of an executive session of the executive board
296 held pursuant to subsection C of § 55.1-1949;

297 8. Documentation, correspondence or management or executive board reports compiled for or on
298 behalf of the unit owners' association or the executive board by its agents or committees for consideration
299 by the executive board in executive session; or

300 9. Individual unit owner or member files, other than those of the requesting unit owner, including
301 any individual unit owner's files kept by or on behalf of the unit owners' association.

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

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

316 **§ 55.1-1966. Lien for assessments; foreclosure.**

317 A. The unit owners' association shall have a lien on each condominium unit for unpaid assessments
318 levied against that condominium unit in accordance with the provisions of this chapter and all lawful

319 provisions of the condominium instruments. The lien, once perfected, shall be prior to all other liens and
320 encumbrances except (i) real estate tax liens on that condominium unit, (ii) liens and encumbrances
321 recorded prior to the recordation of the declaration, and (iii) sums unpaid on any first mortgages or first
322 deeds of trust recorded prior to the perfection of such lien for assessments and securing institutional
323 lenders. The provisions of this subsection shall not affect the priority of mechanics' and materialmen's
324 liens.

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

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

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

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

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

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

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

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

366 H. Any unit owner or purchaser of a condominium unit, having executed a contract for the
367 disposition of such condominium unit, shall be entitled upon request to a recordable statement setting
368 forth the amount of unpaid assessments currently levied against that unit. Such request shall be in writing,
369 directed to the principal officer of the unit owners' association or to such other officer as the condominium
370 instruments may specify. Failure to furnish or make available such a statement within 10 days of the
371 receipt of such request shall extinguish the lien created by subsection A as to the condominium unit
372 involved. Such statement shall be binding on the unit owners' association, the executive board, and every

373 unit owner. Payment of a fee not exceeding \$10 may be required as a prerequisite to the issuance of such
374 a statement if the condominium instruments so provide.

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

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

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

391 2. After expiration of the 60-day notice period provided in subdivision 1, the unit owners'
392 association may appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the
393 clerk's office of the circuit court in the county or city in which the condominium is located. The clerk in
394 whose office such appointment is filed shall record and index the appointment as provided in subsection
395 C, in the names of the persons identified therein as well as in the name of the unit owners' association.
396 The unit owners' association, at its option, may from time to time remove the trustee and appoint a
397 successor trustee.

398 3. If the unit owner meets the conditions specified in this subdivision prior to the date of the
399 foreclosure sale, the unit owner shall have the right to have enforcement of the perfected lien discontinued

400 prior to the sale of the unit. Those conditions are that the unit owner (a) satisfy the debt secured by lien
401 that is the subject of the nonjudicial foreclosure sale and (b) pays all expenses and costs incurred in
402 perfecting and enforcing the lien, including advertising costs and reasonable attorney fees.

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

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

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

424 b. Such advertisement shall be placed in that section of the newspaper where legal notices appear
425 or where the type of property being sold is generally advertised for sale. The advertisement of sale, in
426 addition to such other matters as the unit owners' association finds appropriate, shall set forth a description

427 of the condominium unit to be sold, which description need not be as extensive as that contained in the
428 deed of trust but shall identify the condominium unit by street address, if any, or, if none, shall give the
429 general location of the condominium unit with reference to streets, routes, or known landmarks. Where
430 available, tax map identification may be used but is not required. The advertisement shall also include the
431 date, time, place, and terms of sale and the name of the unit owners' association. The advertisement shall
432 set forth the name, address, and telephone number of the representative, agent, or attorney who may be
433 able to respond to inquiries concerning the sale.

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

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

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

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

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

452 b. The unit owners' association may require of any bidder at any sale a cash deposit of as much as
453 10 percent of the sale price before his bid is received, which shall be refunded to him if the condominium

454 unit is not sold to him. The deposit of the successful bidder shall be applied to his credit at settlement, or
455 if such bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and
456 expenses of the sale, and the balance, if any, shall be retained by the unit owners' association in connection
457 with that sale.

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

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

470 10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to
471 § 64.2-1309 and every account of a sale shall be recorded pursuant to § 64.2-1310. In addition, the
472 accounting shall be made available for inspection and copying pursuant to § 55.1-1945 upon the written
473 request of the prior unit owner, current unit owner, or any holder of a recorded lien against the unit at the
474 time of the sale. The unit owners' association shall maintain a copy of the accounting for at least 12 months
475 following the foreclosure sale.

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

481 § 55.1-2148. Remedies for nonpayment of assessments; lien; foreclosure.

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

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

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

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

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

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

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

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

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

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

533 1. The reasonable expenses of sale;

534 2. The reasonable expenses of securing possession before sale; holding, maintaining, and preparing
535 the cooperative interest for sale, including payment of taxes and other governmental charges, premiums
536 on hazard and liability insurance, and, to the extent provided for by agreement between the association
537 and the proprietary lessee, reasonable attorney fees and other legal expenses incurred by the association;

538 3. Satisfaction in the order of priority of any prior claims of record;

539 4. Satisfaction of the association's lien;

540 5. Satisfaction in the order of priority of any subordinate claim of record; and

541 6. Remittance of any excess to the proprietary lessee. Unless otherwise agreed, the proprietary
542 lessee is liable for any deficiency.

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

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

560 **§ 55.1-2151. Association records.**

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

565 **§ 55.1-2305. Management, regulation, and control of subdivisions with common facilities or**
566 **property owners' associations; assessments; liens.**

567 A. The covenants, deed restrictions, articles of incorporation, bylaws, or other instruments for the
568 management, regulation, and control of subdivisions that include facilities or amenities for which the lot
569 owners are assessed on a regular or special basis for the use, enjoyment, and maintenance of such facilities
570 or amenities shall provide for at a minimum:

571 1. Formation of an association to be composed of lot owners within the subdivision, such formation
572 occurring prior to the sale of the first lot within the subdivision by the developer;

573 2. A description of the areas or interests to be owned or controlled by the association, including
574 those facilities or amenities for which the lot owners are subject to regular or special assessments;

575 3. The transfer of title, control, and maintenance responsibilities of common areas and common
576 facilities to the association, which transfer is to take place no later than at such time as the developer
577 transfers legal or equitable ownership of at least 75 percent of the lots within the subdivision to purchasers
578 of such lots or when all of the amenities and facilities are completed, whichever occurs first, but in no
579 event any sooner than two years from the date the developer sells his first lot within the subdivision should
580 the developer elect to retain title to the common areas and common facilities for such period. The transfer
581 of such title, control, and maintenance responsibilities required of the developer shall not exonerate the
582 developer from the responsibility of completion of the common areas and facilities once the transfer takes
583 place.

584 Nothing in this section shall preclude the developer from transferring the common areas and
585 common facilities for consideration, provided that (i) such consideration does not exceed the lesser of the
586 fair market value of such common areas and common facilities at the time of transfer or the actual cost
587 expended by the developer for such common areas and common facilities and (ii) the developer

588 affirmatively discloses the following information to the purchaser, in writing, at the time the initial
589 contract of purchase is signed:

590 a. That the common areas and common facilities will be transferred only upon payment of
591 consideration by the association;

592 b. The terms upon which such transfer will be made; and

593 c. An estimate of the amount of consideration to be paid by the association.

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

598 4. Procedures for determining and collecting regular assessments to defray expenses attributable
599 to the ownership, use, enjoyment, and operation of common areas and facilities transferred to the
600 association;

601 5. Procedures for establishing and collecting special assessments for capital improvements or other
602 purposes;

603 6. Procedures to be employed upon the annexation of additional land to the existing subdivision
604 that shall disclose whether or not per capita assessments on account of such annexation shall be subject to
605 an increase, in the event additional amenities or common facilities are provided lot owners within the
606 subdivision;

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

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

613 9. Creation of a board of directors or other governing body for the association with the members
614 of the board or body to be elected by a vote of members of the association in good standing at an annual

615 meeting or special meeting to be held not later than six months after the transfer of the areas of facilities
616 provided for in subdivision 3;

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

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

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

624 13. Such other provisions as may be required by the Virginia Nonstock Corporation Act (§ 13.1-
625 801 et seq.) if the association is a Virginia nonstock corporation.

626 B. Any developer of a subdivision, successor or otherwise, when such subdivision is subject to the
627 provisions of this chapter, shall be obligated to complete the facilities and amenities as promised and
628 outlined in subsection A by the initial developer of the subdivision subject to the transfer of title, control,
629 and maintenance responsibilities of common areas and common facilities to the lot owners' association.
630 The foregoing shall not be deemed to apply to any purchaser at foreclosure or grantee in a deed in lieu of
631 foreclosure, provided that the purchaser or grantee is a financial institution and the mortgagee, creditor,
632 or beneficiary under the instrument being foreclosed or giving rise to the deed in lieu of foreclosure. For
633 the purposes of this subsection, "financial institution" means a bank, savings institution, real estate
634 investment trust, insurance company, pension or profit sharing trust, or other institution regularly engaged
635 in the business of making real estate loans. For purposes of this subsection, the lot owners' association
636 shall not be deemed a developer if at a meeting of its members in good standing a vote is taken and at least
637 50 percent of the members vote to be exempt from the requirements of this subsection.

638 C. The association, once formed and in existence, and the title owner of the common areas and
639 common facilities within the subdivision and which has been in existence for a period of at least five years
640 shall have the authority to pass special assessments against and raise the annual assessments of the
641 members of the association and to collect such assessments from such members according to law, if the

642 purpose in so doing is for the maintenance of such common areas and common facilities. The authority
643 granted and conferred upon the association by this subsection exists only where the restrictions and
644 covenants of record do not contain specific language that precludes the adoption of special assessments
645 or increases the annual dues or assessments.

646 D. The association shall have a lien on every lot within its subdivision for unpaid regular or special
647 assessments levied against such lot in accordance with the provisions of this chapter. The lien, once
648 perfected, shall be prior to all other liens and encumbrances except (i) real estate tax liens on such lot, (ii)
649 liens and encumbrances recorded prior to the perfected lien, and (iii) any sums unpaid on any first
650 mortgages or first deeds of trust recorded prior to the perfection of the lien for regular or special
651 assessments and securing institutional lenders. The provisions of this subsection shall not affect the
652 priority of mechanics' and materialmen's liens.

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

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

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

668 The clerk in whose office the memorandum is filed shall record and index such memorandum as
669 provided in this subsection, in the names of the persons identified in such memorandum, as well as in the
670 name of the association. The cost of recording the memorandum shall be taxed against the person found
671 liable for any judgment or order enforcing such lien. It is lawful for the memorandum to be filed as one
672 statement listing the information required in subdivisions 1 through 4 and each of the lot owners whose
673 property within the subdivision is liened. The cost of filing shall be as provided in subdivision A 2 of §
674 17.1-275.

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

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

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

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

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

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

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

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

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