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SENATE BILL NO. 539

Offered January 12, 2022

Prefiled January 12, 2022

A *BILL to amend and reenact § 54.1-2349 of the Code of Virginia, relating to Department of Professional and Occupational Regulation; Common Interest Community Board; enforcement jurisdiction.*

Patron—Peake

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:**1. That § 54.1-2349 of the Code of Virginia is amended and reenacted as follows:****§ 54.1-2349. Powers and duties of the Board.**

A. The Board shall administer and enforce the provisions of this article. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:

1. Promulgate regulations necessary to carry out the requirements of this article in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), including the prescription of fees, procedures, and qualifications for the issuance and renewal of common interest community manager licenses. Upon application for license and each renewal thereof, the applicant shall pay a fee established by the Board, which shall be placed to the credit of the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2;

2. Establish criteria for the licensure of common interest community managers to ensure the appropriate training and educational credentials for the provision of management services to common interest communities. Such criteria may include experiential requirements and shall include designation as an Accredited Association Management Company by the Community Associations Institute. As an additional alternative to such designation, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program and certifying examination or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of common interest community managers;

3. Establish criteria for the certification of the employees of common interest community managers who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community to ensure the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community. Such criteria shall include designation as a Certified Manager of Community Associations by the Community Association Managers International Certification Board, designation as an Association Management Specialist by the Community Associations Institute, or designation as a Professional Community Association Manager by the Community Associations Institute. As an additional alternative to such designations, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program as developed by the Virginia Association of Realtors or other organization, and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of the employees of common interest community managers who participate directly in the provision of management services to a common interest community. The fee paid to the Board for the issuance of such certificate shall be paid to the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2;

4. Approve the criteria for accredited common interest community manager training programs;

5. Approve accredited common interest community manager training programs;

6. Establish, by regulation, standards of conduct for common interest community managers and for employees of common interest community managers certified in accordance with the provisions of this article;

7. Establish, by regulation, an education-based certification program for persons who are involved in the business or activity of providing management services for compensation to common interest communities. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this article;

8. Issue a certificate of registration to each association that has properly filed in accordance with this chapter; and

9. Develop and publish best practices for the content of declarations consistent with the requirements

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59 of the Property Owners' Association Act (§ 55.1-1800 et seq.).

60 B. 1. The Board shall have the sole responsibility for the administration of this article and for the
61 promulgation of regulations to carry out the requirements thereof.

62 2. ~~The Board shall also be responsible for the enforcement of this article, provided that the Real~~
63 ~~Estate Board shall have the sole responsibility for the enforcement of this article with respect to a real~~
64 ~~estate broker, real estate salesperson, or real estate brokerage firm licensed in accordance with Chapter~~
65 ~~21 (§ 54.1-2100 et seq.) who is also licensed as a common interest community manager.~~

66 3. For purposes of enforcement of this article or the Property Owners' Association Act (§ 55.1-1800
67 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act
68 (§ 55.1-2100 et seq.), or the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), any requirement
69 for the conduct of a hearing shall be satisfied by an informal fact-finding proceeding convened and
70 conducted pursuant to § 2.2-4019 of the Administrative Process Act (§ 2.2-4000 et seq.).

71 C. The Board is authorized to obtain criminal history record information from any state or federal
72 law-enforcement agency relating to an applicant for licensure or certification. Any information so
73 obtained is for the exclusive use of the Board and shall not be released to any other person or agency
74 except in furtherance of the investigation of the applicant or with the authorization of the applicant or
75 upon court order.

76 D. Notwithstanding the provisions of subsection A of § 54.1-2354.4, the Board may receive a
77 complaint directly from any person aggrieved by an association's failure to deliver a resale certificate or
78 disclosure packet within the time period required under § 55.1-1809, 55.1-1810, 55.1-1811, 55.1-1900,
79 55.1-1992, or 55.1-2161.