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January 18, 2025

Delegate Debra D. Gardner
Virginia House General Laws: Housing/Consumer Protection Committee
Richmond, VA

Dear Delegate Gardner,

On behalf of the Fairfax Federation, I am requesting the incorporation of two critical proposals into Virginia House Bill 1709 as amendments to address significant issues affecting homeowners across the Commonwealth. These proposals focus on enhancing HOA board accountability and introducing consumer protections for homeowners' insurance policies.

Proposal 1: HOA Board Accountability

Background

Homeowner associations (HOAs) are bound by the Virginia POA and their governing documents. However, some HOAs operate in violation of these rules, and there is inadequate accountability for boards or individual board members who fail to comply.

Amendment Proposal

1. **Personal Liability for Violations:** Amend the POA to hold HOA board members personally liable when they knowingly or unknowingly violate state, local laws, the HOA's governing documents, or the advice of counsel. Violations would disqualify these members from being covered under the HOA's blanket insurance policy. To do otherwise is a wasteful process leading to an extra financial burden on Virginia HOA members.
2. **Transparency in Complaint Resolution:** Require that complaints against HOA boards that violate the POA or the Non-Stock Corporation Act be adjudicated by the HOA through timely, and transparent public hearings. There is a critical need because currently, non-compliant boards may be subject to fines, penalties, and loss of indemnification by insurers when there is malfeasance nor are they required to conduct public hearings. The Common Interest Community Ombudsman should be required to develop and promulgate policies to enforce both the Non-Stock and the POA because both Acts govern HOAs. Repeat violations of the Non-Stock and/or the POA should be reported to the Virginia Office of the Common Interest Community Ombudsman for further investigation or enforcement. Any complaints filed against HOA Boards should not be closed by the Ombudsman if the complainant elects to challenge the decision of the Board or less than 30 days after the Notice of Final Determination from the HOA Board.

Benefits

- Promotes ethical governance and accountability in HOA and many Civic Association operations.
- Protects HOA members' rights and provides fair adjudication of complaints.
- Empowers homeowners by ensuring proper use of community funds and resources.

Proposal 2: Consumer Protections for Homeowners' Insurance

Background

Fairfax County homeowners face increasing challenges in maintaining or securing homeowners' insurance. Insurers are issuing demand letters requiring property improvements as conditions for policy renewal. These demands are often made on short notice, are vaguely communicated, and lack consumer protections, leaving homeowners to undertake costly repairs under duress.

Amendment Proposal

1. **Clarify Insurer Repair Demands:** Establish clear categories of repairs that insurance companies can require as conditions for coverage or renewal. Such demands must be supported by a report prepared by an independent inspection company and not one provided by the insurance providers.
2. **Reasonable Time for Compliance:** Mandate that homeowners be allowed reasonable time to respond to insurance company notices and undertake repairs. Policies should not be terminated while repairs are scheduled or underway.

Benefits

- Balances the relationship between homeowners and insurance companies.
- Ensures repair demands are reasonable and necessary.
- Allows homeowners to address concerns without undue financial or logistical stress, maintaining strong housing stock for future generations.

Supporters and Community Impact

These proposals have the potential to benefit over two million Virginia residents living in roughly 9,100 HOAs and paying an estimated \$2.4 billion in assessments annually. They also address the needs of homeowners navigating increasingly challenging insurance markets. Civic associations, community leaders, and advocacy groups are likely to support these amendments, which aim to protect homeowners' rights and ensure good governance and fair practices.

Conclusion

Incorporating these amendments into HB1709 will address critical issues facing Fairfax County and the Commonwealth at large. These changes will promote transparency, accountability, fairness, and consumer protection, benefiting millions of Commonwealth residents.

Thank you for considering these important proposals. Please do not hesitate to contact me for further discussion or additional information.

Sincerely,



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