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Community Association Legal Webinar – 2026

June 22 Session - Topics:

Virginia Legislative Update

Amending Governing Documents

Q&A



Community Association Legal Webinar - 2026

Introductions & Welcome

Jerry Wright

Legal Disclaimer

This information is not intended to be legal advice. Legal advice must be tailored to the specific facts and circumstances of each case and each association's governing documents.

Every effort has been made to ensure this information is up-to-date. However, it is not intended to be a full and exhaustive explanation of the law in any area, nor should it be used to replace the individualized advice of your legal counsel.



Community Association Legal Webinar - 2026

Virginia Legislative + Update

Presented by Tiago D. Bezerra

Hot Topics

- Corporate Governance
- Assessment Collection
- Fair Housing (lite)
- *Plus Fannie Mae...?*

Corporate Governance

SB 246 / HB 439

American Bar Association Recommended Changes

- Significant overhaul of Virginia Nonstock Corporation Act
- Lobbied to ensure impact on incorporated community associations is limited

Only applies to associations which are incorporated

- All property owners' associations / homeowners' associations
- Some condominiums

Effective date: **January 1, 2027**

Assessment Collection

- Several bills introduced will impact assessment collection efforts
- Policy Rationale: *Consumer Protection*
- HB 444
- HB 601 & SB 301

Assessment Collection

HB 444

Uniform Consumer Debt Default Judgments Act

New Pleading Standards for Assessment Collection

- Associations must plead more about debt to obtain default judgment (>50% of cases)
- Likely going to result in increases in collection costs

Effective date: **July 1, 2027**

Bill to be studied extensively with additional changes coming in 2027 Session prior to Effective Date

Assessment Collection

HB 601 & SB 30

Garnishments

- Bank garnishments automatically exempted up to \$1k
- Consumers with limited funds are protected from having their bank accounts wiped out

Effective date: **July 1, 2026**

Fair Housing

SB 803

Fair Housing Rulemaking

- Requires Fair Housing Board to adopt rules regarding quid pro quo and hostile housing environment harassment
- Implementation of federal standards

Effective date: **July 1, 2026**

Miscellaneous

Balcony Solar

- HB 395 & SB 250
- These bills implement legislative changes that will allow homeowners and residents to use small portable solar generation devices
- Specific carveouts in legislation preserve covenants
- Existing community association solar panel statutes are NOT changed
 - POA Act, Section 55.1-1820.1
 - Condo Act, Section 55.1-1951.1

Effective date: **July 1, 2026**

Miscellaneous

E-Bikes

- HB 1120
- DMV to create a workgroup to make recommendations to improve the safety of electric power-assisted bicycles, etc.
- Legislation anticipated in 2027

Effective date: **July 1, 2026**

Miscellaneous

Swimming Pool Regulations

- HB 222
- Virginia Department of Health to prepare new regulations for operation of “public” swimming pools
- Community association pools are considered “public” and likely will be subject to new regulations
- Draft regulations in process and under review by stakeholder groups

Effective date: **July 1, 2026**

Condo Lending Guidelines

Fannie Mae & Freddie Mac

- Fannie and Freddie support mortgage market by purchasing mortgages and bundling them for sale as mortgage-backed securities [60% of all mortgages]
- Only mortgages which meet lending standards eligible for purchase
 - Generally focused on individual getting mortgage to buy home
 - Separate standards for condominiums
- March 2026: Changes announced to condo lending standards
- If condo ineligible, then mortgages likely unavailable for units

Does not impact operations of property owners' associations!

Condo Lending Guidelines

Quick Aside #1

THIS IS NOT FHA!!!

FHA loans and guidelines are different.

Condo Lending Guidelines

Quick Aside #2

THIS IS NOT LAW!!!

**These guidelines do NOT
expand association authority.**

Condo Lending Guidelines

Changes to Standards Reserves

- Minimum Contribution: All condos must budget for a reserve contribution of **at least 15%** of total assessment income
- Exception: A condominium may budget less than 15% if supported by reserve study
 - Reserve study must not be older than 3 years
 - “Support” for lower contribution must be “highest recommended” contribution shown in reserve study
 - Baseline Funding Method is not acceptable

Applies for budgets in effect as of: **January 1, 2027**

Condo Lending Guidelines

Changes to Standards Insurance

- Changes to Master Policy Requirements
 - No inflation guard required [lower premium]
 - Roofs can be insured on actual cash value [lower premium]
 - *Note: these options may help condos reduce premiums but there are risks with these 'lesser' options!*

These are very technical changes –
Consult with your insurance agent/broker!

Condo Lending Guidelines

Changes to Standards Insurance

- Per Unit Deductibles
 - Maximum *per unit* deductible allowed is \$50k
 - Unit owners with mortgages required to have HO6 policy that covers master policy deductible

These are very technical changes –
Consult with your insurance agent/broker!

COMMUNITY ASSOCIATION LEGAL WEBINAR • June 2026



Amending Your Governing Documents & Condominium Instruments

Why, How & What — A practical roadmap for boards and managers

PRESENTED BY

Michael Sottolano, Esq. and Edward Cush III, Esq.

Serving Virginia & D.C. community associations from the ground up.

TODAY'S

Agenda

Three questions every board and manager should be able to answer.

1



Why Amend?

Document hierarchy, the gaps time creates, and what Virginia law expects to live in each document.

2



How to Amend

Each document has its own procedure — vote, ratification, consent, recordation — and the statutes fill the silence.

3



What to Amend

The most common, highest-value amendments for Virginia condos and HOAs today.

1

PART ONE

Why Amend?

Governing documents are a living framework. They age, the law moves, and communities change. Understanding why we amend is the foundation for doing it well.

Your Governing Documents Are a Hierarchy

Higher authority controls. An amendment is only valid if it respects every layer above it — and a lower document may not grant what a higher one forbids.



Amend at the right level — a rule can't fix a problem the Declaration created.



Some changes must go in a recorded document; a board policy won't reach them.



Conflicts are resolved top-down; when in conflict, the higher document controls.

Federal & Virginia Law

POA Act & Condominium Act, Fair Housing, federal lending rules

Declaration / Condo Instruments

Recorded covenants — the community's constitution

Articles of Incorporation & Bylaws

How the association is organized and governed

Rules, Regulations & Policies

Board-adopted; must fit within everything above

Documents Age — Often Faster Than Boards Realize

1

Time passes

Many declarations were drafted by the developer decades ago for a community that no longer exists in the same form.

2

Developer relics

Declarant rights, phasing language, and approvals that were overtaken by events still clutter the documents.

3

The world changed

Short-term rentals, EVs, solar, e-voting, virtual meetings – none of it existed when most documents were written.

4

The law moved

Virginia's POA and Condominium Acts are amended nearly every session; your documents can quietly fall behind.

Stale documents cost money: more disputes, more debate, weaker enforcement, harder financing.

The Law Expects Certain Things in Certain Documents

Declaration / Condo Instruments

Property-level covenants & restrictions

Use & leasing restrictions, maintenance responsibility, assessment obligations, architectural authority — the things that must 'run with the land.'

Articles & Bylaws

Corporate governance

Board structure, terms, quorum, officer roles, meeting and voting mechanics for the association as an entity.

Rules & Regulations

Day-to-day administration

Reasonable rules within existing authority — pool hours, parking logistics, conduct — but never beyond what the documents above allow.

Amending Is Maintenance — Not Just Repair

1

Clarity

Fewer disputes when responsibilities and restrictions are written plainly.

2

Authority

Enforcement and spending powers that actually work in today's dollars and tech.

3

Value

Documents that support financing, insurance, and resale — protecting owners' investment.

"The best time to fix a governing document is before you need it to work."

2

PART TWO

How to amend

There is no single “one-size-fits-all” amendment procedure. Each document has its own — a vote/approval, ratification and consent, sometimes recordation in land records or filing with a state agency — and where a document is silent, applicable law can fill in the gap.

Each Document Has Its Own Procedure

Before drafting a word of substance, answer: *which document are we amending, and what does that document (and the statute) require to change it?*

Declaration / Condominium Instruments

- Often Owner supermajority vote/approval (often $\frac{2}{3}$ — or higher if the document says so)
- Consent / ratification may need to be evidenced in writing (owner consent/ratification may need to be recorded with amendment)
- Mortgagee consent may be required
- MUST be recorded to take effect (and “run with the land” and flow in the chain of title for properties)

Articles & Bylaws

- Sometimes a board vote is sufficient
- Vote of the membership per the bylaws’ own amendment clause
- Articles: filed with the State Corporation Commission (requires Board approval then submit to member for approval)
- Usually NOT recorded in land records (*Except: Condo Bylaws*)

Rules & Regulations

- Adopted by board through resolution within existing authority
- Notice & comment / meeting requirements may apply
- No owner vote required (unless documents say so); however, owners can rescind per statute
- Generally, not recorded — but must be reasonably published/distributed throughout the development
- Must be within Board authority to regulate

Some Amendments Must Be Recorded — Others Don't

Recordation is what makes a covenant bind current and future owners. Miss it, and even a perfectly-voted amendment may never take effect.

RECORD IT

Declaration Amendments

Condominium Instrument Amendments

Plat / Boundary Changes

Effective when recorded in the land records with the required officer's certification that the requisite majority signed or ratified.

DON'T (TYPICALLY) RECORD

POA Bylaw amendments

Board rules, regulations & policies

Articles → filed with the SCC instead

Effective per the document's own process; distribute to owners so they have notice — but no land-record recordation needed.

HOW TO AMEND — STATUTORY DEFAULT

When the Document Is Silent, the Statute Fills In

Virginia's POA Act and Condominium Act supply default amendment rules. Your document can set a higher bar — but where it says nothing, the Code controls.

POA Act — HOAs

§ 55.1-1829

- Declaration may be amended by $\frac{2}{3}$ vote of lot owners, unless the declaration provides otherwise
- Agreement shown by owners' execution or ratification
- Effective when recorded with the principal officer's certification
- Mortgagee-consent defaults; 1-year window to challenge validity

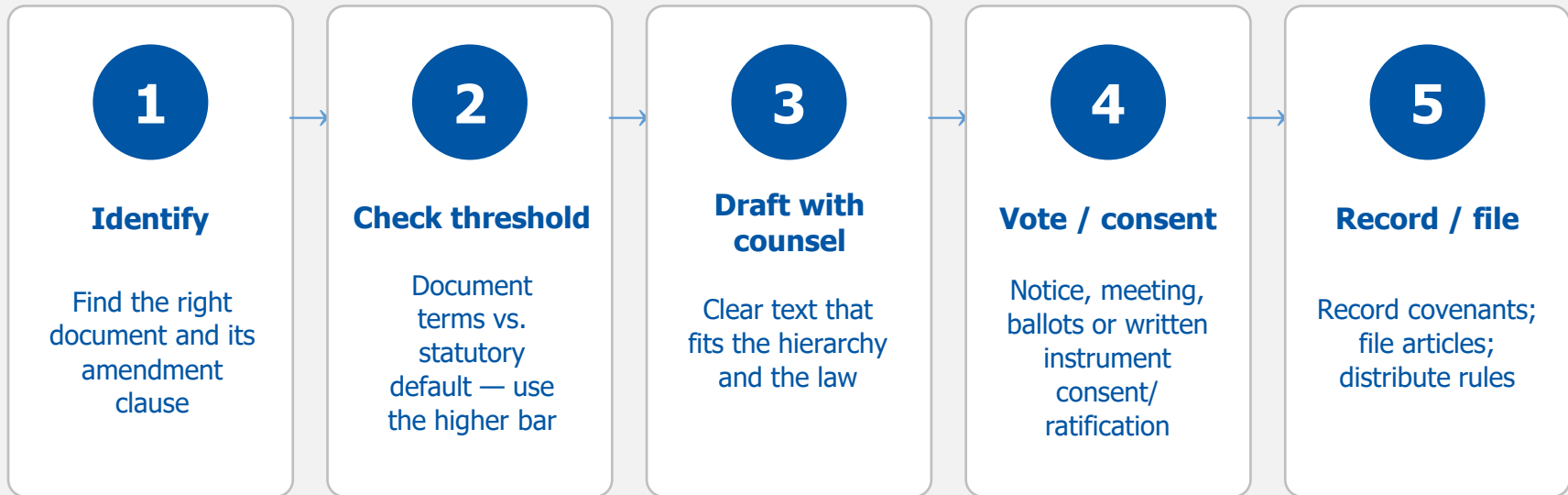
Condominium Act

§ 55.1-1934

- Residential condo instruments amended by $\frac{2}{3}$ of association votes, or a larger majority if specified
- Agreement shown by execution or ratification; effective upon recordation with certification
- 100% consent to change unit boundaries, interests, expense liability, or votes
- Declarant & corrective-amendment rules; 1-year challenge window

Always read the document first: a higher threshold or special consent in your declaration overrides the statutory default.

A Practical Path From Idea to Effective Amendment



Build in time: gathering a supermajority and recording can take months. Start early and keep clean records of every vote/approval and consent/ratification.

3

PART THREE

What to amend

The practical menu: the amendments Virginia condos and HOAs most often need today — to modernize, to clarify, and to give boards the tools they actually use.

High-Value Amendments to Put on the Table

Document Clean-Up

Strip developer relics; modernize archaic language

Condo Insurance Fixes

Master deductible responsibility; require HO-6

Smoking Limits

Note Condo/POA Act permit Board adopted smoking prohibitions by rule. Vaping, however, may still require amendment to prohibit

Maintenance Clarity

Who fixes what — decks, windows, LCEs; a responsibility chart

Enforcement Remedies

Charges, suspensions, late fees — clearly authorized

Leasing Restrictions

Rental caps, required periods of initial owner occupancy & minimum lease terms to curb short-term rentals

Spending Caps

Replace tiny fixed dollar limits with a % of budget

Use Restrictions

Pets, commercial vehicles, nuisance — tailored to today

ARC, Solar & EV Charging

Build framework consistent with applicable laws

Governance Fixes

Right-size quorum, stagger terms, fix board authority

Bring Documents Into the Present

1

Document clean-up

Remove declarant references overtaken by time, fix internal inconsistencies, and translate archaic language. The result: less debate, greater efficiency, lower operating cost.

2

ARC Modernization, Solar & EV Charging Stations

Establish authority to promulgate design standards and architectural requirements, enforceable restrictions on placement of solar energy collection devices, and electric vehicle charging stations.

3

Realistic spending & borrowing caps

Old documents cap board spending at amounts that are meaningless today. Replace fixed dollars with a percentage of the annual budget — built-in indexing for the future.

Virginia law already permits much of the electronic-meeting toolkit by board action — amending the documents codifies and clarifies it.

Protect the Community's Value & Character

1 Leasing restrictions

- Minimum initial periods of Owner-occupancy and/or leasing caps
- Minimum lease terms to curb short-term rentals
- Helps condos meet federal lending occupancy rules

2 Condo insurance fixes

- Define master-deductible responsibility
- Require owners to carry HO-6 policies
- Remove outdated 'insurance trustee' concepts

3 Use restrictions

- Clarify 'domestic pets'; address exotic animals
- Limit commercial vehicles & nuisance uses
- Tailor to a real, current community problem

4 Smoking limits

- POA/Condo Act permit Board adopted rules prohibiting smoking in Common Elements and Units. Vaping, however, may not be covered.

Give the Board Clear, Usable Authority

1

Maintenance responsibilities

Spell out who maintains, repairs, and replaces every component — decks, balconies, railings, stoops, patios, doors, windows, limited common elements. For condos, consider a maintenance-responsibility chart attached to the documents.

2

Enforcement remedies

Confirm the board can actually act: violation charges, suspension of use and voting rights, late fees and interest. Make clear when each remedy applies — ambiguity is the enemy of enforcement.

3

Governance fixes

Right-size quorum that's impossible to reach; stagger director terms; and grant powers the board needs but lacks — like assessing rule-violation charges or assigning parking. Changes documents to enhance ease and ability to amend.

Ask of every provision: is it clear, is it enforceable — and will it actually be enforced?

Three Things to Take Back to Your Board

Why

Documents age and the law moves. Amending is routine maintenance that protects value — not a sign something's broken.

How

Procedure is document-specific: vote, consent, recordation. Read the document, then the statute — and use the higher bar.

What

Start with the highest-value fixes: clean-up, modern meetings, realistic caps, clear maintenance, real enforcement.

And when you're ready to act — loop in counsel early, before the vote and before recordation.

ANY QUESTIONS?

. . . Time for breakout sessions