# COMMON INTERESTS

## NEWSLETTER | JULY 2026

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# It's a Brand New (Fiscal) Year


*by* AIMÉE T.H. KESSLER


The good news is that, out of the 2,362 bills and 491 resolutions introduced during the 60 day Virginia General Assembly session earlier this year, there were only 65 bills monitored or lobbied for or against by the Virginia Legislative Action Committee ("LAC") of Community Associations Institute. NONE of those that became law changed either the Condominium Act or the Virginia Property Owners' Association Act! Let's take a moment to let that sink in.

But this is no time to relax! There are bills that became law that most certainly affect community associations.

A thorough overhaul of the **Virginia Nonstock Corporation Act** (effective January 1, 2027) came out of Senate Bill ("SB") 246 & House Bill ("HB") 439 based on recommendations from the American Bar Association. We strongly recommend consulting with counsel to determine how these mostly procedural changes impact your association. Please note that only incorporated associations are impacted by these changes. Typically, condominium associations are not incorporated but be sure to check your entity!

## IT'S A BRAND NEW (FISCAL) YEAR | *by* AIMÉE T.H. KESSLER

The **Uniform Consumer Debt Default Judgments Act** (HB 444), like the Virginia Nonstock Corporation Act, has a delayed effective date - July 1, 2027. This is great news as the LAC continues to work with the bill's sponsor to exempt out lawsuits filed by community associations from those filed by other debt collectors. This Act imposes additional requirements on the initial filing in a lawsuit filed regarding unsecured consumer debt or secured consumer debt where the lawsuit is filed solely to obtain a money judgment. The Act is aimed at better informing defendants of the source of the debt. However, community associations are suing on their own behalf and are not debt collectors or buyers of the debts of others who are suing in a name other than the original creditor's. The community association industry is strongly advocating for community associations being exempted out. Stay tuned!



HB 601 & SB 301 establish a **minimum protected bank account balance** for garnishments, which is a court filing made after a judgment is obtained to seize funds from a person's bank account to satisfy the judgment. Bank accounts with $1,000 or less in a single or cumulative accounts shall be exempt from garnishment, which means that an association cannot satisfy a judgment against an owner from the first $1,000 in a bank account. The bank can assert this exemption on the debtor's behalf in its Answer with no court hearing required. There is no way to know what is being held, however, except by filing the garnishment, potentially costing community associations with no recovery of funds with which to satisfy their judgments.

HB 252 and HB 733 each address aspects of **easements**, which may not seem so interesting until you remember your utility easement and stormwater easement and access easement…HB 252 empowers both the property owner and the easement beneficiary to modify the easement by consent. It also empowers the property owner to file a petition to relocate or modify easement as long as such modification does not 1) materially lessen the usefulness of the easement; 2) increase the burden on the reasonable use and enjoyment of the easement; 3) impair an purpose of the easement; and 5) impair safety of any party. HB 733 provides that the property owner may establish reasonable rules for use of an easement and bring a lawsuit for any violation of the established rules for $500 or actual damages, whichever is greater. We all know how much development has changed the communities we live in and how much technology now requires. What made sense in 1992 to the developer may no longer make sense in 2026.

The installation and use of **small portable solar generation devices** are the subject of protection by HB 395 & SB 250 which empower a residential owner to install a solar facility on the roof of the dwelling or on the ground, provided it meets certain zoning requirements. These bills specifically reiterate the power of the recorded governing documents of community associations saying "Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions o of condominium instruments of a condominium… or any declaration of a property owners' association …" So, this legislation does not appear to be the open season on condominium balconies that it first appeared to be.

Usually when a new requirement is imposed, it is imposed from July 1, 2026, going forward. However, SB 531 is the exception proving the rule as it does not only apply to zoning ordinances regarding accessory dwelling units adopted after July 1, 2026, but instead specifically provides that existing zoning ordinances **"shall be deemed to include" accessory dwelling units** as a permitted accessory use. A law that changes the local zoning law in all localities throughout the state in one fell swoop. Hmmmm…. Permits from the locality are required before an accessory dwelling is established. Localities may also establish lease terms, parking requirements, occupancy limits, size, and location requirements. But accessory dwelling units are now permitted. Period.

The adoption of HB 888 prohibits localities from requiring more than ½ of an off-street parking space per unit in multifamily or mixed use development or 1 off-street **parking** space for one or two family dwellings and townhouses as condition of zoning approval when the parcel is located within ½ mile of the entrance to mass transit or public transportation station or facility. Localities with populations greater than 600,000 can exceed these limits by imposing certain administrative protections. Localities with populations less than 20,000 can establish an administrative review process to lower these limits.

HB 803 & SB 77 address a neighbor-to-neighbor issue on the homeowner level as well as at the community association level. If a property owner needs to **enter onto adjoining property** to make repairs or maintenance to their own property and is denied entry or given unreasonable restrictions by the adjoining property owner, the property owner needing access may petition the Circuit Court for entry. Of course, the property owner seeking access must return the adjoining property to its original condition or be liable for actual damages.

**Notaries** will now have to meet educational requirements before becoming or renewing a notary. Records must be kept by notaries for at least five years of all notarial acts – physical or electronic – to include the date and time of the notarization, type of notarial act, title of document, name and address of the signer being notarized, identification information, the fee charged. A deed registration system is also being put in place by the Circuit Court clerks. HB 163 & SB 316 added these requirements with the intent of addressing issues regarding deed fraud.

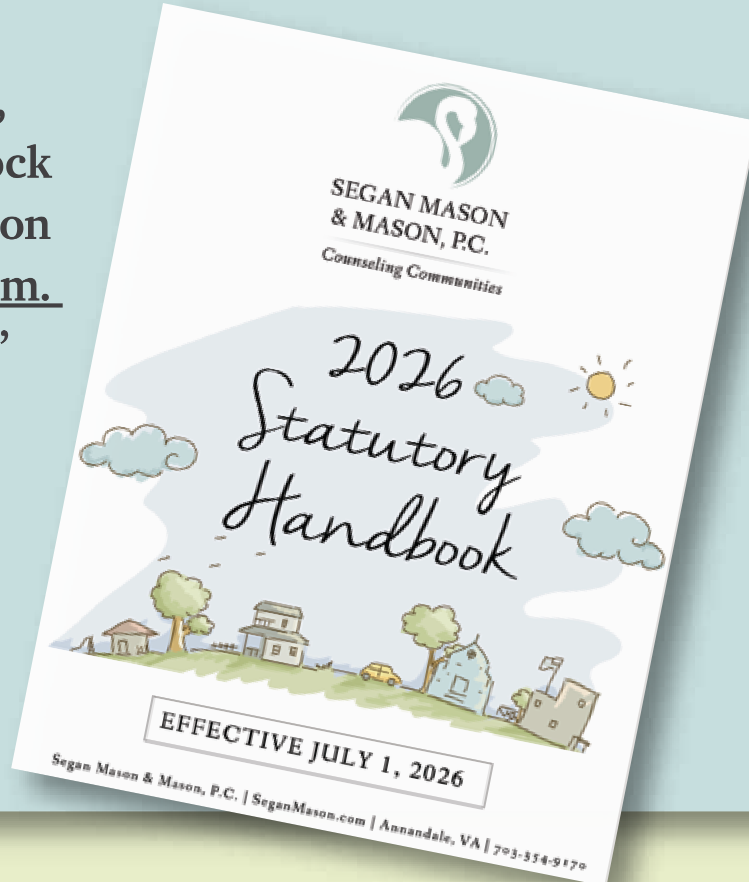
As for **employment...**

- …in furtherance of a bill passed in an earlier session, HB 1 establishes the minimum wage to be $12.77 until January 1, 2027, $13.75 until January 1, 2028, and $15.00 thereafter, to be adjusted annually by the Consumer Price Index thereafter.
- HB 636 prohibits an employer from seeking wage or salary history of prospective employee; refusing to hire someone who refuses to provide such wage or salary history; and failing to set wages or salaries in good faith.
- And, not effective until January 1, 2028, HB 1207 provides that family and medical leave benefits will be paid to persons caring for a new child in their first year in cases of birth, adoption, or placement; persons with a serious health condition that makes them unable to perform functions of employment; persons caring for a family member with a serious health condition; and persons caring for a covered service member. Benefits are 80% of average weekly wages and last for 12 weeks in benefit year.

This year conservation landscaping, HAM radios and bingo were not the popular topics of conversation but they look to return next year. See you then!

# A quick heads up!

**The 2026 Statutory Handbook,** with the all-new Virginia Nonstock Corporation Act, is now available on our website at www.seganmason.com. Just choose "Statutory Handbook" from the menu at the top of our homepage or link below!




View Statutory Handbook 2026

FannieMae

FreddieMac

**Earlier this year, Fannie Mae and Freddie Mac** have updated their project standards and property insurance requirements. Lender Letter 2026-03 immediately retires the fifty percent (50%) limit on investment units in the condominiums, increasing the minimum reserve requirement to fifteen percent (15%) of a condominium's annual budgeted income beginning January 4, 2027, and roofs no longer have to be insured on a replacement cost basis; actual cash value is now acceptable.

Please be aware that these requirements are separate and distinct from FHA certification requirements. Please contact your counsel with any questions on this distinction or these requirements.

# Marie Kondo v. Sloppy Joe Condo

*by* WILLIAM B. MASON, JR.

Maybe the litmus test for hoarding is not whether your "possessions…spark joy" but whether these "possessions" could spark a fire.

There may be an acceptable gap (but not to my wife) between Marie Kondo and Sloppy Joe Condo, but unfortunately some dwellings deteriorate to a state that is beyond merely "tidying up." Maybe you didn't do the dishes last night…but last month? Last year? Organizing according to the "KonMari Method" may help you decide what to discard and what to keep. But, what if your "inner voice" says you should keep ***everything?***

Fairfax County was the first local government nationwide to establish a hoarding task force. The County's online web site states: "Hoarding is the extreme and persistent collection of possessions or trash inside a dwelling (newspapers, trash, unopened sale items, clothing, paper, rotting food and even animals), which creates a dangerous living situation and may impact **health, wellness, or quality of life** for occupants."

Hoarding becomes a problem for the adjacent neighbors because of odors, bugs, vermin, and the creation of hazardous conditions, etc. Some situations result in blocked windows or pathways which reduce the odds of escaping a fire. The number of stored possessions may result in the structure or the dwelling collapsing. I did watch the three-part "Hoarding Miniseries" available online from Fairfax County. While not as captivating as "White Lotus" or "Shogun", it was disturbing. It is also helpful in recognizing the signs of a hoarding problem.

Hoarders may be embarrassed and reluctant to permit access to their home, which often allows the association to confirm a potential problem and to gather evidence should the matter advance to more formal hearing.

Whenever the Board seeks to gather evidence that would (1) justify a notice of violation, (2) filing a lawsuit, or (3) convincing the local government to act without permission from the owner, the challenge is accumulating sufficient evidence of hoarding. The Association may wish to review the governing documents, particularly with a condominium project, to determine conditions of unit access, such as owner permission, conditions, threat to other units, etc. The Association might inspect during routine maintenance inspections or through the reports of its contractors, such as a pest control technician. The opportunity to assemble evidence, and take pictures, often depends on the type of dwelling—condominium unit v. single-family home—and whether the contractors report to the Association or the owner. The video programs mentioned above are often helpful because they identify historic signs of a hoarding problem, such as trash stored outside the dwelling or stray animals roaming nearby where it appears the owner's pets are not being taken care of.

After the neighborly requests to the owner by the Association have failed to generate a resolution, there may still be several options for community associations. An attorney's go-to "method" for tidying up may be to file a lawsuit…but it is obviously more expensive and time-consuming than having the local government taking enforcement action. However, the Association may not be pleased with the timetable of the code enforcement office of the local government, or the lack of control, and instead opt for legal action. It may also be that the appropriate government office is one that assists incapacitated people, or links them with helpful friends and relatives, rather than enforces the local government code.

A quick remedy for the Association may be "self-help" whereby the Association cleans the Unit and assesses the cost to the owner. Most documents require some acquiescence by the owner for access and self-help, unless there is an emergency. Most courts will not find that a hoarding situation is an emergency, as it would when a unit is on fire, even though its condition may present a fire hazard.

Unfortunately, these "remedies" may be temporary. The problem is that hoarding, according to the experts, is a mental disease, and relapses can be expected. If the Association must file a lawsuit or is able to reach a negotiated agreement without court action, it is prudent to also provide in the court order or agreement for future inspections, for example, every six months to make sure the hoarding problem is monitored.

If ***many*** years from now, you find a printed version of this newsletter article in a stack of other articles to be read some future day…it may be time to ask if it really sparks joy.

# Does Amendment Require 100% Of The Owners?

*by* AIMÉE T.H. KESSLER

A recent decision on rehearing in Court of Appeals of Virginia in ***Daniel Lavering v. University Village Owners Association*** affirmed in part, reversed in part, and remanded the case to the circuit court to reconsider its attorneys' fees award.

The case addressed the amendment of the condominium instruments regarding the declarant's expansion period. On rehearing, the Court of Appeals distinguished between 1) the ability of the unit owners to amend the Condominium Instruments regarding the declarant's expansion period with the approval of two-thirds of the unit owners and 2) the requirement of 100% of the unit owners approving amendments to change (i) the boundaries of any unit, (ii) the undivided interest in the common elements, (iii) the liability for common expenses, or (iv) the number of votes in the unit owners' association that pertains to any unit, some of which would be impacted by expansion of the condominium. The Court of Appeals held that the extension of the declarant's expansion period was separate from the actual expansion of the condominium, and therefore the former could be amended by two-thirds of the membership but the latter required 100% owner approval pursuant to § 55.1-1934

This reaffirms that, unless the amendment is regarding (i) the boundaries of any unit, (ii) the undivided interest in the common elements, (iii) the liability for common expenses, or (iv) the number of votes in the unit owners' association that appertains to any unit, condominium instruments can be amended as specified in the condominium instruments or by two-thirds pursuant to statute.