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Exempt Action: Final Regulation Agency Background Document

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC48-45
VAC Chapter title(s)	Time-Share Regulations
Action title	Time-Share Regulations - HB 1955/SB 969 Amendments
Final agency action date	April 25, 2023
Date this document prepared	September 19, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This action amends provisions of the Time-Share Regulations to conform to changes resulting from the enactment of Chapters 52 and 53 of the 2023 Acts of Assembly.

The legislation removes the requirement under the Virginia Real Estate Time-Share Act that a time-share instrument state whether the developer reserves the right to add or delete any alternative purchase. Instead, a developer must disclose in its public offering statement for a time-share program whether the developer will offer any alternative purchase.

The proposed amendments conform applicable provisions of the regulation to the legislation. Substantive amendments include:

1. Section 18VAC48-45-110 is revised to remove the requirement that a time-share instrument include a statement detailing that developer reserves or does not reserve the right to add or delete any alternative purchase as a prerequisite for registration of the time-share program.
2. Section 18VAC48-45-130 is revised to remove the requirement for a description of the alternative purchase as an exhibit to the time-share registration application.
3. Section 18VAC48-45-160 is revised to remove the requirement that the Summary of Important Considerations in a public offering statement contain a statement regarding whether or not the developer reserves the right to add or delete any alternative purchase.
4. Section 18VAC48-45-190 is revised to remove the requirement that the "Description of the Time-Share Project" narrative section of a public offering statement provide a disclosure of whether the developer has reserved the right to add or delete an alternative purchase from the time-share program.
5. Section 18VAC48-45-310 is revised to change the requirements for the "Alternative Purchases" narrative section of a public offering statement. The section is revised to remove the requirement that the developer disclose whether the developer has reserved the right to add or delete an alternative purchase from the time-share program. This requirement is replaced with a requirement that the developer disclose whether the developer will offer any alternative purchase. A technical change is made the section to require that the narrative section be titled "Alternative Purchases and Incidental Benefits" so as to completely reflect the disclosures that are required by the section.
6. Section 18VAC48-45-350 is revised to remove the provision that addition or deletion of an alternative purchase is considered a nonmaterial change to a public offering statement.

This action is exempt from the Administrative Process Act under § 2.2-4006(A)(4)(a) of the Code of Virginia, which states, in part:

A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be exempted from the operation of this article:

4. Regulations that are:

a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

In March 2023, the Governor approved Chapters 52 (HB 1955) and 53 (SB 969) of the 2023 Acts of Assembly, which removes the requirement under the Virginia Real Estate Time-Share Act that a time-share instrument state whether the developer reserves the right to add or delete any alternative purchase. The legislation requires that the public offering statement distributed to each prospective purchaser disclose whether the developer will offer any alternative purchase. The legislation became effective on July 1, 2023.

The purpose of this regulatory change is to implement and comply with changes to the Code of Virginia resulting from the passage of HB 1955 and SB 969 during the 2023 General Assembly Session.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On April 25, 2023, the Common Interest Community Board adopted the amendments to the Time-Share Regulations.