



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 48-45 – Time-Share Regulations
Department of Professional and Occupational Regulation
December 5, 2013

Summary of the Proposed Amendments to Regulation

As part of a required periodic review, the Common Interest Community Board (Board) proposes to repeal its time-share regulations (18 VAC 48-40) and replace them with a new chapter of regulations (18 VAC 48-45) that are, with a few exceptions, substantively the same but that include many clarifying changes.

Result of Analysis

Benefits likely outweigh costs for most proposed regulatory changes. There is insufficient information to ascertain whether benefits will outweigh costs for two proposed regulatory changes.

Estimated Economic Impact

Prompted by both periodic review requirements in the Administrative Process Act (APA) and legislative changes made by the General Assembly to the Time-Share Act in 2012, the Board now proposes to repeal current time-share regulations and promulgate replacement regulations. These replacement regulations contain numerous changes that clarify current Board authority to, for instance, discipline regulated entities. Most differences between current and proposed regulations fall under this category. No affected entity is likely to incur additional costs on account of these changes but will very likely benefit from regulations that provide greater specificity for the rules that must be followed.

The Board also proposes two new substantive requirements in these proposed regulations. Pursuant to a 2012 legislative change, the Board proposes to require entities that resell time-shares for time-share owners more than 12 times a year to register with the Board. Resellers

affected by this change will pay an initial registration fee of \$250, a yearly renewal fee of \$250. Resellers who fail to renew within 30 days of their renewal date, but who do renew within 6 months of their renewal date will have to pay an additional \$100 reinstatement fee in addition to the \$250 renewal fee. As set out in the 2012 legislations, these regulations will contain a list of exemptions to this requirement. Entities that resell fewer than 12 time-share properties per year, entities that acquire more than 12 time-shares in a year but resell them to a single purchaser in a single transaction, entities that are already registered to sell time-shares, entities that provide closing services in connection with the transfer of resold time-shares and entities that strictly provide advertising services are exempt from resellers registration requirements.

Board staff reports that it is likely most entities that resell time-shares in the Commonwealth will be exempt from reseller registration. Nonetheless, until this provision is implemented and any positive effects accrued can be categorized and weighed against the implicit and explicit costs for resellers who will newly have to register, there will be insufficient information to judge whether benefits will outweigh costs.

The Board also proposes to add registration requirements for alternate purchases offered by time-share sellers. Such registration has been required in Code of Virginia §55-362 since 1994 but this requirement has not been reflected in time-share regulations. The Board now proposes to correct this oversight. Entities that offer alternative purchases (furniture, home accessories, reduced cost vacations at other time-shares other than the one being viewed, etc) that cost more than \$100 will have to register with the Board. The registration fee for alternate purchases is \$100 and that fee covers all alternative purchases offered by a seller. Sellers will also have to compile an alternative purchase annual report that includes all required disclosure information and will also have to pay an annual fee of \$100 to the Board for reviewing that annual report. Affected entities will incur the explicit costs that include the required fee as well as bookkeeping/copying/ mailing costs for compiling required information, both initially and for annual reports, and will also incur implicit costs for time spent on registration activities. There is insufficient information to ascertain whether the benefits of requiring this registration will outweigh the costs.

Businesses and Entities Affected

The Department of Professional and Occupational Regulation (DPOR) reports that there are 100 time share projects and 20 exchange programs registered with the Board. DPOR further reports that the Board anticipates registering approximately 100 alternate purchases and 75 time-share resellers. All Board registrants will be affected by these proposed regulations.

Localities Particularly Affected

No localities will be particularly affected by these proposed regulatory changes.

Projected Impact on Employment

This regulatory action will likely have little impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property

Reseller fees may result in a very small marginal decrease in the value of properties being resold.

Small Businesses: Costs and Other Effects

Affected small businesses will incur additional costs for both fees owed to the Board and for additional bookkeeping/copying/mailing costs to comply with new, or newly enforced, registration requirements in these proposed regulations.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are likely no regulatory alternatives that would both enforce legislative mandates and lower costs for regulated entities.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.H requires that such economic impact

analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.