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Exempt Action Final Regulation Agency Background Document

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) citation(s)	18 VAC48-45
Regulation title(s)	Time-Share Regulations
Action title	Time-Share Registration - Amend Developer and Reseller Trade or Fictitious Name Requirements
Final agency action date	March 12, 2020
Date this document prepared	March 19, 2020

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please 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.

Chapter 594 of the 2017 Acts of Assembly amended the requirements for transacting business in Virginia under an assumed or fictitious name in § 59.1-69 of the Code of Virginia. Under the legislation, any person that seeks to transact business in Virginia under an assumed or fictitious name must file a certificate of assumed or fictitious name with the State Corporation Commission (SCC). Previously, the statute required a person seeking to transact business under an assumed or fictitious name to file a certificate with the clerk of the court in the locality where business was to be conducted.

The change in statute became effective January 1, 2020. This action amends the time-share and time-share reseller registration requirements so that a developer entity seeking to register a time-share

program or a firm seeking to register as a time-share reseller complies with current law by registering any trade or fictitious names with the SCC.

In addition, this action makes technical changes to several sections of the regulation to remove references to § 55.1-2251 of the Code of Virginia (previously § 55-400), which was repealed as a result of Chapter 499 of the 2019 Acts of Assembly.

Mandate and Impetus

Please 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, board decision, etc.). “Mandate” is defined as “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.”

This regulatory change was prompted by an internal staff review of the regulation following notification of the statutory change that became effective on January 1, 2020.

This regulatory action is exempt from the Administrative Process Act under § 2.2-4006(A)(4)(a) as it is “[n]ecessary to conform to changes in Virginia statutory law . . . where no agency discretion is involved.”

Statement of Final Agency Action

Please 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.

The Common Interest Community Board authorized an exempt action for the Condominium Regulations on March 12, 2020.

Periodic Review Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the proposed stage, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

This action is not the result of a periodic review or small business impact review.

Commenter	Comment	Agency response
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N/A	N/A	N/A