



Tentative Agenda
Common Interest Community Board
Meeting March 28, 2024
Board Room # 1
10:00AM

Mission: Our mission is to protect the health, safety and welfare of the public by licensing qualified individuals and businesses enforcing standards of professional conduct for professions and occupations as designated by statute.

I. CALL TO ORDER

- Emergency Egress
- Determination of Quorum

II. APPROVAL OF DRAFT AGENDA

III. APPROVAL OF MINUTES

- Common Interest Community Board Meeting, December 14, 2023
- Common Interest Community Board Condominium Regulatory Review Committee, February 07, 2024
- Common Interest Community Board Condominium Regulatory Review Committee, March 06, 2024
- Common Interest Community Board Timeshare Regulatory Review Committee, March 14, 2024

IV. WELCOME AND INTRODUCTIONS

V. PUBLIC COMMENT PERIOD: *FIVE MINUTE PUBLIC COMMENT, PER PERSON*

VI. NEW BUSINESS

- Update on Regulatory Actions
 - CIC Ombudsman Regulations General Regulatory Review
 - CIC Association Resale Certificate
 - Consider Exempt Action to Amend CIC Association Registration Regulations
 - Discuss proposed changes to 18VAC48-30-50.A
 - Discuss proposed changes to 18VAC48-30-80.B
 - Discuss Resale Certificate
-

VII. OTHER BUSINESS

- 2023 Legislative Update
- Ombudsman Report
- Board Financial Statements
- Other Board Business

VIII. COMPLETE CONFLICT OF INTEREST FORMS AND TRAVEL VOUCHERS

IX. ADJOURN

NEXT MEETING SCHEDULED FOR June 6, 2024, at 10:00 A.M.

* Five minute public comment, per person, with the exception of any open disciplinary or application files.

** Agenda materials made available to the public do not include disciplinary case files or application files pursuant to §54.1-108 of the *Code of Virginia*.

Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-8510 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THE PREMISES IN THE EVENT OF AN EMERGENCY.

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound. When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Board Room 1

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Room 2

Exit the room using one of the doors at the back of the room. (Point) Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

You may also exit the room using the side door, turn **Right** out the door and make an immediate **Left**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Rooms 3 and 4

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 1

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 2

Exit the room using one of the doors at the back of the room. Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

APPROVAL OF DRAFT AGENDA

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COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met on December 14, 2023, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2nd Floor, Board Room 3, Richmond, Virginia 23233.

The following members were present:

Maureen A. Baker
Deborah Casey
Matt Durham, Chair
Thomas Mazzei
Catherine Noonan
Lori Overholt
Anne M. Sheehan
Tracey Talbert
Margaret Tunstall
Joyce Wolfe

Board member Katherine E. Waddell was not in attendance.

DPOR staff present for all or part of the meeting included:

Kishore S. Thota, Director
Brian Wolford, Chief Deputy Director
Stephen Kirschner, Licensing and Regulatory Programs Division Deputy
Director R. Thomas Payne II, Compliance and Investigations Division Deputy
Director
Tanya Pettus, Board Administrator
Lee Bryant, Board and Regulatory Operations Administrator
Joseph C. Haughwout, Jr., Regulatory Affairs Manager
Heather Gillespie, Ombudsman
Rachel Harris, Administrative Coordinator
Gezelle Glasgow, Administrative Coordinator

Joshua Laws, Assistant Attorney General with the Office of the Attorney General was present.

Finding a quorum of the Board present, Mr. Durham called the **Call to Order** meeting to Order at 10:00 A.M.

Mr. Durham reviewed the emergency evacuation procedures.

**Emergency Evacuation
Procedures**

Ms. Noonan moved to approve the agenda as presented. Ms. Overholt seconded the motion which was unanimously approved by members: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Approval of Agenda

Ms. Sheehan moved to approve the minutes from the September 21, 2023, Board meeting, and the November 2, 2023, Regulatory Review Committee meeting. Ms. Tunstall seconded the motion which was unanimously approved by members: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Approval of Minutes

Mr. Durham requested that all Board members and staff introduce themselves.

**Introduction of New
Board Members**

Ms. Pettus advised the Board that former Chief Deputy Director Kishore Thota is now the Director of the agency and that Brian Wilford is now serving as the Chief Deputy Director.

DPOR Staff Updates

No members of the public present wished to address the Board.

Public Comment

Ms. Casey recused herself from the meeting for discussion and deliberation of File Number 2022-02691.

**Recusal of Board
Members**

Ms. Tunstall recused herself from the meeting for discussion and deliberation of File Numbers 2022-02691, 2023-02591, and 2023-02595.

In the matter of **File Number 2022-02691, Atlantic Community Management Corporation**, the Board members reviewed the record which consisted of the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation.

**File Number 2022-
02691, Atlantic
Community
Management
Corporation**

Ms. Overholt moved to accept the Presiding Officer's recommendation and find Atlantic Community Management Corporation in violation of Board regulation 18 VAC 48-50-190 as provided in Count 1. Ms. Talbert seconded the motion which was approved by: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Noonan moved to accept the Presiding Officer's recommendation and find Atlantic Community Management Corporation in violation of Board regulation 18 VAC 48-50-190.7 as provided in Count 2. Ms. Talbert seconded the motion which was approved by: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Sheehan moved to accept the Presiding Officer's recommendation and find Atlantic Community Management Corporation in violation of Board regulation 18 VAC 48-50-190.12 as provided in Count 3. Ms. Noonan seconded the motion which was approved by: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Talbert moved to accept the Presiding Officer's recommendation and find no violation of Board regulations as provided in Count 4. Ms. Noonan seconded the motion which was approved by: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Overholt moved to accept the Presiding Officer's recommendation and find Atlantic Community Management Corporation in violation Board regulation 18 VAC 48-50-220.B as provided in Count 5. Ms. Noonan seconded the motion which was approved by: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Noonan moved to accept the Presiding Officer's recommendation and find Atlantic Community Management Corporation in violation of Board regulation 18 VAC 48-50-220.D as provided in Count 6. Ms. Sheehan seconded the motion which was approved by: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Noonan then moved to accept the sanctions as recommended and impose no sanction for the violation as provided in Count 1. Ms. Sheehan seconded the motion which was approved by: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Overholt then moved to accept the sanctions as recommended and impose a monetary penalty of \$650.00 for the violation as provided in Count 2. Ms. Sheehan seconded the motion which was approved by: Baker, Durham, Noonan, Overholt, Sheehan, Talbert,

and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Wolfe then moved to accept the sanctions as recommended and impose a monetary penalty of \$1,000.00 for the violation as provided in Count 3. Ms. Wolfe seconded the motion which was approved by: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Wolfe then moved to accept as the Presiding Officer's recommendation and impose no sanction as there was no violation found in Count 4. Ms. Wolfe seconded the motion which was approved by: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Wolfe then moved to accept the sanctions as recommended and impose a monetary penalty of \$1,250.00 for the violation contained in Count 5. Ms. Sheehan seconded the motion which was approved by: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Wolfe then moved to accept the sanctions as recommended and impose a monetary penalty of \$1,250.00 for the violation contained in Count 6. Ms. Sheehan seconded the motion which was approved by: Baker, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Casey returned to the meeting.

**Return of Board
Member**

In the matter of **File Number 2023-02591 Fan Gallery Condominium**, the Board members reviewed the record which consisted of the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Neither the complainant or respondent attended the Board meeting in person, by counsel nor by any other qualified representative.

**File Number 2023-
02591, Fan Gallery
Condominiums**

Ms. Noonan moved to accept the Presiding Officer's recommendation and find Fan Gallery Condominium in violation of Board regulation 18 VAC 48-30-690.1 as provided in Count 1. Ms. Sheehan seconded the motion which was approved by: Baker, Casey, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on this matter.

Ms. Talbert then moved to accept the sanctions as recommended and impose revocation of Fan Gallery Condominiums' condominium registration for the violation as provided in Count 1. Ms. Casey seconded the motion which was approved by members: Baker, Casey, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

In the matter of **File Number 2023-02595 Alexandria Flats Condominium**, the Board members reviewed the record which consisted of the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Neither the complainant or respondent attended the Board meeting in person, by counsel nor by any other qualified representative.

File Number 2023-02595, Alexandria Flats Condominium

Ms. Overholt moved to accept the Presiding Officer's recommendation and find Alexandria Flats Condominium in violation of Board regulation 18 VAC 48-30-690.1 as provided in Count 1. Ms. Sheehan seconded the motion which was approved by: Baker, Casey, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on this matter.

Ms. Noonan then moved to accept the sanctions as recommended and impose revocation of Alexandria Flats Condominium's condominium registration for the violation as provided in Count 1. Ms. Casey seconded the motion which was approved by members: Baker, Casey, Durham, Noonan, Overholt, Sheehan, Talbert, and Wolfe. Mr. Mazzei abstained from voting on the matter.

Ms. Tunstall returned to the meeting.

Return of Board Member

Ms. Sheehan recused herself from the meeting from discussion and deliberation of File Number 2023-02714.

Recusal of Board Member

In the matter of **File Number 2023-02714, Common Interest Community Board vs. Rosewood Management & Consulting Services LLC (Respondent)**, the Board reviewed the record which consisted of the Notice of Prima Facie Case, Report of Findings, evidence, and the Recommendation. Ms. Casey

File Number 2023-02714, Common Interest Community Board vs. Rosewood Management &

moved to accept the recommendation and find Rosewood Management and Consulting Services LLC in violation of 18 VAC 48-50-190.16 as outlined in Count 1, in violation of 18 VAC 48-50-190.17 as outlined in Count 2, 18 VAC 48-50-190.8 as outlined in Count 3, 18 VAC 48-50-190.1 as outlined in Count 4, and 18 VAC 48-50-220.B as outlined in Count 5. Ms. Wolfe seconded the motion which was unanimously approved by: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Talbert, Tunstall, and Wolfe.

**Consulting Services
LLC (Respondent)**

Ms. Talbert then moved to accept the sanctions as recommended and impose the following: a monetary penalty of \$2,500.00 for the violation as provided in Count 1, a monetary penalty of \$1,000.00 for the violation as provided in Count 2, a monetary penalty of \$2,500.00 for the violation contained in Count 3, a monetary penalty of \$1,033.00 for the violation contained in Count 4, and a monetary penalty of \$2,250.00, for a total monetary penalty of \$9,283.00. In addition, for violations of Counts 1, 2, 3, 4, and 5, revocation of Rosewood Management and Consulting Services LLC's CIC manager license was imposed.

Ms. Wolfe seconded the motion which was unanimously approved by members: Baker, Casey, Durham, Mazzei Noonan, Overholt, Talbert, Tunstall, and Wolfe.

Ms. Sheehan returned to the meeting.

**Return of Board
Member**

In the matter of **File Number 2023-02715, Common Interest Community Board vs. Rose K. Bailey (Respondent)**, the Board reviewed the record which consisted of the Notice of Prima Facie Case, Report of Findings, evidence, and the Recommendation. Neither the complainants or respondent attended the Board meeting in person, by counsel nor by any other qualified representative.

**File Number 2023-
02715, Common
Interest Community
Board vs. Rose K.
Bailey (Respondent)**

Ms. Noonan moved to accept the recommendation and find Ms. Bailey in violation of 18 VAC 48-50-190.16 as outlined in Count 1, in violation of 18 VAC 48-50-190.17 as outlined in Count 2, 18 VAC 48-50-190.8 as outlined in Count 3, and 18 VAC 48-50-190.1 as outlined in Count 4. Ms. Wolfe seconded the motion which was unanimously approved by: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Mr. Mazzei moved to accept the sanctions and impose the following: a monetary penalty of \$1,033.00 for the violation as provided in Count 1, a monetary penalty of \$1,000.00 for the violation as provided in Count 2, and a monetary penalty of \$1,033.00 for the violation contained in Count 3 for a total monetary penalty of \$3,066.00. In addition, for violations of Counts 1, 2, and 3, revocation of Rose K. Bailey's certified principal or supervisory employee certificate was imposed.

Ms. Wolfe seconded the motion which was unanimously approved by members: Baker, Casey, Durham, Mazzei Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

At the suggestion of staff, Mr. Durham moved to amend the agenda and move item IX d. to the beginning of Board Business items to be considered by the Board. Mr. Mazzei seconded the motion which was unanimously approved by members: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

**Amend Agenda to
Move Item IX d.
Closed Meeting for the
Purpose of Consultation
with Legal Counsel and
Staff Regarding
Specific Legal Matters
Pursuant to §2.2-
3711.A.7 of the Code of
Virginia**

At 10:40 A.M., Ms. Baker moved that the Board meeting be recessed and that the Common Interest Community Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation as permitted by §2.2-3711.A.7 of the Code of Virginia. The following non-members were in attendance to reasonably aid the consideration of the topic: Lee Bryant, Johnathan Darden, Stephen Kirschner, Josh Laws, Tom Payne, Tanya Pettus, Kishore Thota, and Brian Wolford.

Closed Session

Mr. Mazzei seconded the motion which was unanimously approved by members: Baker, Casey, Durham, Mazzei Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

This motion was made with respect to the matter(s) identified as agenda item(s):

9d. Closed Meeting for the Purpose of Consultation with Legal Counsel and Staff Regarding Specific Legal Matters Pursuant to §2.2-3711.A.7 of the Code of Virginia

At 10:56 A.M., The Board members agreed by consensus to adjourn the closed meeting and reconvene in an open meeting.

Certification of Closed Meeting

WHEREAS, the Common Interest Community Board has convened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, §2.2-3712 of the Code of Virginia requires a certification by this Common Interest Community Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Common Interest Community Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Common Interest Community Board.

VOTE: 10-0

AYES: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Talbert, Tunstall, and Wolfe

Ms. Sheehan certified the closed meeting to the best of her ability as she recused herself from a portion of the closed session.

NAYS: None.

ABSENT DURING THE VOTE: None.

ABSENT DURING THE MEETING: Katherine Waddell

Upon reconvening in open session, Ms. Baker moved that there is

Reconvene in Open

reasonable cause to believe that Tagare Corporation, CIC Manager License Number 0501000168, is “unable to properly discharge its fiduciary responsibilities to an association to which it provides management services” in accordance with §54.1-2353 of the Code of Virginia, and to petition for an injunction against Tagare Corporation, and the appointment of a receiver as provided in §54.1-2353 of the Code of Virginia. The Board approved the injunction and appointment of receivership by a roll call vote.

Session

VOTE: 10-0

AYES: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Nays: None.

ABSENT DURING THE VOTE: None.

ABSENT DURING THE MEETING: Katherine Waddell.

Mr. Bryant provided an update on regulatory actions.

Update on Regulatory Actions

General review of the CIC Condominium Registration Regulations is in the NOIRA stage and filing is pending. First regulatory review committee meeting was scheduled for December 13, 2023, but was cancelled due to lack of quorum.

General review of the Time-Share Regulations is in the NOIRA stage and filing is pending. The Committee is being formed.

General review of the CIC Association Registration Regulations is in the NOIRA stage and filing is pending.

General review of the CIC Manager Regulations is in the Proposed stage. The CIC Manager Regulatory Review Committee reconvened on 11/2/23 to revisit proposed amendments. The Board will consider the Committee’s proposed draft amendments later in the meeting.

General review of the CIC Ombudsman Regulations is in the NOIRA stage. The Board will consider the Ombudsman Regulatory Review Committee’s recommendations later in this meeting.

Amendments to the Time-Share Regulations due to HB 1955 and

SB 969 were approved by the Executive Branch and will become effective 1/1/24.

Amendments to the CIC Ombudsman Regulations due to HB 1627 and SB 1042 were approved by the Executive Branch and will become effective 1/1/24.

Amendments to the CIC Manager Regulations, CIC Association Registration Regulations, and CIC Ombudsman Regulations due to creation of the Resale Disclosure Act were approved by the Executive Branch and will become effective 1/1/24.

Mr. Haughwout and Mr. Bryant presented the Board with proposed draft amendments to the CIC Ombudsman Regulations for consideration.

**Consider Adoption of
Proposed Draft
Amendments to CIC
Ombudsman
Regulations**

Ms. Baker moved to adopt the proposed draft amendments to the CIC Ombudsman Regulations as presented. Ms. Tunstall seconded the motion which was unanimously approved by members: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Mr. Haughwout and Mr. Bryant presented the Board with proposed draft amendments to the CIC Manager Regulations for consideration.

**Consider Adoption of
Proposed Draft
Amendments to CIC
Manager Regulations**

After lengthy discussion, Ms. Wolfe moved to adopt proposed draft amendments to CIC Manager Regulations as amended. Ms. Casey seconded the motion which was unanimously approved by members: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Ms. Pettus advised the Board that the reconvened CIC Manager Regulatory Review Committee also asked that the Board revisit proposed legislative changes that the Committee recommended during its sessions in 2021 and 2022. The Board reviewed the proposed legislative changes and agreed by consensus to continue putting the recommended proposed legislative changes forward for consideration, to include line item 2, which had not previously been included in the Board's legislative amendment recommendations.

Ms. Pettus presented the Board with a request to review a waiver of filing fees for two Notices of Final Adverse Decisions (NFAD). Based on Board guidance effective December 10, 2020, and the information submitted by the requestor, staff denied the fee waiver requests, after which it was asked that the request go before the Board for consideration.

**Consider Request for
Waiver of NFAD Filing
Fee**

After a lengthy discussion, Ms. Casey moved to reject the request for waiver of NFAD filing fees. Ms. Overholt seconded the motion which was unanimously approved by members: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Ms. Gillespie provided the Board with the annual report from the Office of the Common Interest Community Ombudsman, advising that the report is currently being finalized. The report contains statistics on complaints received by the Ombudsman's office, as well as compliance and enforcement statistics.

Ombudsman Report

Ms. Gillespie informed the Board that she will be leaving the agency at the end of the year.

Ms. Gillespie was presented with the following resolution for her service to the Board.

HEATHER GILLESPIE

WHEREAS, Heather Gillespie did faithfully and diligently serve the Common Interest Community Board, and the Department of Professional and Occupational Regulation from 2008 to 2023;

WHEREAS, Heather Gillespie, did devote generously of her time, talent and leadership to the Board;

WHEREAS, Heather Gillespie, did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Common Interest Community Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Common Interest Community Board this fourteenth day of December 2023, that

Heather Gillespie be given all honors and respect due her for her outstanding service to this Board and the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to her and be made a part of the official minutes of the Board so that all may know of the high regard in which she is held by this Board.

Ms. Overholt moved to adopt the resolution as written. Ms. Talbert seconded the motion which was unanimously approved by: Baker, Casey, Durham, Mazzei Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Ms. Pettus provided the Board with the most recent financial statements and advised that the transfer of CIC Management Information Funds approved by the Board at its September 21, 2023, would be reflected on the next financial statement.

**Board Financial
Statements**

Board members considered the following resolutions for service.

DAVID S. MERCER

**CONSIDER
RESOLUTIONS FOR
SERVICE**

WHEREAS, David S. Mercer did faithfully and diligently serve the Common Interest Community Board, and the Department of Professional and Occupational Regulation from 2019 to 2023;

WHEREAS, David S. Mercer, did devote generously of his time, talent and leadership to the Board;

WHEREAS, David S. Mercer, did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Common Interest Community Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Common Interest Community Board this fourteenth day of December 2023, that David S. Mercer be given all honors and respect due him for his outstanding service to this Board and the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

SCOTT E. STERLING

WHEREAS, Scott E. Sterling did faithfully and diligently serve the Common Interest Community Board, and the Department of Professional and Occupational Regulation from 2015 to 2023;

WHEREAS, Scott E. Sterling, did devote generously of his time, talent and leadership to the Board;

WHEREAS, Scott E. Sterling, did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Common Interest Community Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Common Interest Community Board this fourteenth day of December 2023, that Scott E. Sterling be given all honors and respect due him for his outstanding service to this Board and the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

Ms. Baker moved to adopt the resolutions as written. Ms. Talbert seconded the motion which was unanimously approved by: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe.

Ms. Pettus opened the floor for nominations for the position of Chair of the Common Interest Community Board. Mr. Mazzei nominated Matt Durham for the position of Chair. The motion was seconded by Anne Sheehan. Mr. Durham accepted the

Election of Officers

nomination. The nominations were closed. The motion was unanimously approved by: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe. By acclimation, Mr. Durham was named Board Chair.

Mr. Durham opened the floor for nominations for the position of Vice-Chair of the Common Interest Community Board. Mr. Mazzei nominated Maureen Baker for the position of Vice-Chair; the motion was seconded by Ms. Tunstall. Ms. Baker accepted the nomination. The nominations were closed. The motion was unanimously approved by: Baker, Casey, Durham, Mazzei, Noonan, Overholt, Sheehan, Talbert, Tunstall, and Wolfe. By acclimation, Ms. Baker was named Board Vice-Chair.

Discussion was held on certification requirements for certified principal or supervisory employees.

Other Board Business

At the request of the Board at its September 21, 2023, meeting, Ms. Pettus provided the list of legislative items proposed by the Board for consideration during the 2024 General Assembly session for informational purposes.

Mr. Durham reminded the Board members to complete their conflict of interest forms and travel vouchers.

Complete Conflict of Interest Forms and Travel Vouchers

There being no further business, the Board adjourned at 12:31 pm.

Adjourn

Matt Durham, Chair

Kishore S. Thota, Secretary

COMMON INTEREST COMMUNITY BOARD
CONDOMINIUM REGULATORY REVIEW COMMITTEE
MINUTES OF MEETING

The Common Interest Community Board, Condominium Regulatory Review Committee met on Thursday, February 7, 2024, at the Offices of the Department of Professional and Occupational Regulation, 9960 Mayland Drive, 2nd Floor, Board Room 3, Richmond, Virginia.

The following Committee members were present:

Paul Orlando, Chair
Deborah Casey
Matt Durham
Amanda Jonas
Lucia Anna "Pia" Trigiani

The following Committee member were not present:

Thomas Mazzei
Catherine Noonan
Robert Diamond
Mike Kieffer

DPOR staff present for all, or part of the meeting included:

Anika Coleman, Executive Director
Stephen Kirschner, LRPD Deputy Director
Joseph Haughwout, Regulatory Affairs Manager
Lee Bryant, CIC/Cemetery Board Administrator
Gezelle Glasgow, Administrative Coordinator

A representative from the Office of the Attorney General was not present for the meeting.

Mr. Orlando, the Board's Chair, called Common Interest Community Board, Condominium Regulatory Review Committee meeting to order at 10:30 AM.

Call to Order

Mr. Kirschner presented an overview of the DPOR's Regulatory Reduction Initiative to the Committee prior to reviewing the regulations.

Discussion and Review of Regulations

The Committee reviewed the Condominium Regulations to determine if the regulation is necessary to protect the health, welfare, and safety of the public. The regulation was amended or removed if it does not currently meet those requirements. The Committee reviewed the following regulations: 18VAC48-30-50, 18VAC48-30-60, 18VAC48-30-70, 18VAC48-30-80, 18VAC48-30-90, 18VAC48-30-100, 18VAC48-30-110, and 18VAC48-30-130.

The Committee recommended the changes be brought before the Common Interest Community Board to for further discussion on 18VAC48-30-50.A and 18VAC48-30-80.B.

The Committee will independently review regulation 18VAC48-30-130. prior to the next Regulatory Review Committee meeting.

There was no other business.

Other Business

There were no public comments.

Public Comment

The next scheduled Regulatory Review Committee meeting will be held on March 6, 2024.

**Schedule Next
Regulatory Review
Committee Meeting**

There being no further business, the meeting adjourned at 1:10 p.m.

Adjourn

Matt Durham, Board Chair

Kishore S. Thota, Board Secretary

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position
DRAFT AGENDA

COMMON INTEREST COMMUNITY BOARD
CONDOMINIUM REGULATORY REVIEW COMMITTEE

MINUTES OF MEETING

The Common Interest Community Board, Regulatory Review Committee met on Wednesday, March 06, 2024, at the Offices of the Department of Professional and Occupational Regulation, 9960 Mayland Drive, 2nd Floor, Board Room 4, Richmond, Virginia.

The following Committee members were present:

Deborah Casey
Robert "Bob" Diamond
Matt Durham
Amanda Jonas
Catherine Noonan
Lucia Anna "Pia" Trigiani

The following Committee member were not present:

Mike Kieffer
Thomas Mazzei
Paul Orlando, Chair

DPOR staff present for all, or part of the meeting included:

Anika Coleman, Executive Director
Joseph Haughwout, Regulatory Affairs Manager
Lee Bryant, CIC/Cemetery Board Administrator
Breanne Lindsey, Regulatory Operations Administrator
Gezelle Glasgow, Administrative Coordinator

A representative from the Office of the Attorney General was not present for the meeting.

Mr. Durham, called the Common Interest Community Board, Condominium Regulatory Review Committee meeting to order at 10:09 AM.

Call to Order

The Committee reviewed the Condominium Regulations to determine if the regulation is necessary to protect the health, welfare, and safety of the public. The regulation was amended or removed if it does not currently meet those requirements. The Committee reviewed the following regulations: 18VAC48-30-130, 18 VAC 48-30-140, 18 VAC 48-30-250.B.

**Discussion and
Review of
Regulations**

The Committee will independently review regulation 18VAC48-30-250.C. prior to the next Regulatory Review Committee meeting.

There was no other business.

Other Business

There were no public comments.

Public Comment

The next scheduled Regulatory Review Committee meeting will be held on April 10, 2024.

**Schedule Next
Regulatory Review
Committee Meeting**

There being no further business, the meeting adjourned at 3:11 p.m.

Adjourn

Matt Durham, Board Chair

Kishore S. Thota, Board Secretary

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WELCOME AND INTRODUCTIONS

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PUBLIC COMMENT PERIOD

Five minute public comment, per person, with the exception of any open disciplinary or application files.

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DRAFT AGENDA

NEW BUSINESS

- **UPDATE REGULATORY ACTIONS**
- **COMMON INTEREST COMMUNITY BOARD OMBUDSMAN REGULATIONS GENERAL REGULATORY REVIEW**
- **DISCUSS RESALE CERTIFICATE**
- **COMMON INTEREST COMMUNITY BOARD ASSOCIATION RESALE CERTIFICATE**
- **CONSIDER EXEMPT ACTION TO AMEND COMMON INTEREST COMMUNITY BOARD ASSOCIATION REGISTRATION REGULATIONS**
- **DISCUSS PROPOSED CHANGES TO 18 VAC 48-30-50.A AND 18 VAC 48-30-80.B**

2024 SESSION

VIRGINIA ACTS OF ASSEMBLY -- CHAPTER

An Act to amend and reenact § 55.1-2316 of the Code of Virginia, relating to Resale Disclosure Act; resale certificate; fees.

[H 105]
Approved

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-2316 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-2316. Resale certificate; fees.

A. An association may charge a post-closing fee and fees for preparation, delivery, and expedited delivery of a resale certificate, an updated resale certificate, or financial update and for the inspection of a unit performed to prepare the resale certificate or updated resale certificate. Unless provided otherwise by the association, the appropriate fees shall be paid when the resale certificate, updated resale certificate, or financial update is requested. The seller shall be responsible for all fees associated with the preparation and delivery of the resale certificate, including any fees for inspection of the unit. The requesting party shall pay any fees for the preparation and delivery of the updated resale certificate or financial update.

B. The Common Interest Community Board shall establish the maximum fees that the association may charge for such post-closing and preparation, delivery, and inspection; such maximum fees shall be commercially reasonable and consistent with the effort required to comply with the resale certificate requirements. The maximum allowable fees, as published by the Common Interest Community Board and effective as of January 12, 2023, shall be adjusted no less than every five years, as of January 1 of that year, in an amount not less than the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor or an equivalent successor index.

C. The association shall publish and make available a schedule of the applicable fees (i) for preparation and delivery of the resale certificate, updated resale certificate, and financial update; (ii) for the inspection of a unit; and (iii) related to any post-closing costs.

D. A post-closing fee to be collected at settlement may be imposed on the purchaser of the property for the purpose of establishing the purchaser as the owner of the property in the records of the association.

E. No association may collect fees authorized by this section unless the association (i) is registered with the Common Interest Community Board; (ii) is current in filing the most recent annual report and fee with the Common Interest Community Board pursuant to § 55.1-1835, 55.1-1980, or 55.1-2182; (iii) is current in paying any assessment made by the Common Interest Community Board pursuant to § 54.1-2354.5; and (iv) provides the option to receive the disclosure packet resale certificate electronically.

2024 SESSION

VIRGINIA ACTS OF ASSEMBLY -- CHAPTER

An Act to amend and reenact §§ 55.1-2308 through 55.1-2312, 55.1-2316, and 55.1-2317 of the Code of Virginia, relating to Resale Disclosure Act; delivery of resale certificate; remedies.

[H 876]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-2308 through 55.1-2312, 55.1-2316, and 55.1-2317 of the Code of Virginia are amended and reenacted as follows:

§ 55.1-2308. Contract for resale; disclosures.

Unless exempt pursuant to § 55.1-2317, any contract for the resale of a unit in a common interest community shall disclose (i) that the unit is located in a common interest community; (ii) that the seller *or the seller's agent* is required to obtain from the association a resale certificate and provide it to the purchaser *or the purchaser's agent*; (iii) the purchaser's right to cancel the contract pursuant to § 55.1-2312; (iv) that the purchaser *or the purchaser's agent* may request an updated resale certificate pursuant to § 55.1-2311; and (v) that the purchaser's right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement. If the contract does not contain the disclosures required by this section, the purchaser's sole remedy is to cancel the contract prior to settlement.

§ 55.1-2309. Resale certificate; delivery.

A. The seller *or the seller's agent* shall ~~be required to~~ obtain the resale certificate from the association and provide such resale certificate to the purchaser *or the purchaser's agent*. *This requirement shall not be waived or changed by agreement.*

B. Unless exempt pursuant to § 55.1-2317, the association, the association's managing agent, or any third party preparing the resale certificate on behalf of the association shall deliver such resale certificate within 14 days after a written request by a seller or seller's agent. *If no resale certificate is delivered within 14 days after such request, the resale certificate shall be deemed unavailable.*

C. The association, association's managing agent, or any third party preparing the resale certificate on behalf of the association shall deliver the resale certificate to the seller, or to such person as the seller may direct, either printed or in a generally accepted electronic format as the seller may request.

D. The information contained in the resale certificate shall be current as of a date specified on the resale certificate. The seller or purchaser may request an updated resale certificate as provided in § 55.1-2311.

§ 55.1-2310. Resale certificate; form and contents.

A. The association shall include the completed resale certificate form, developed by the common interest community board pursuant to subdivision 3 of § 54.1-2350, with supporting documentation set out in the following order:

1. The name, address, and phone numbers of the preparer of the resale certificate and any managing agent of the association;
2. A copy of the governing documents and any rules and regulations of the association;
3. A statement disclosing any restraint on the alienability of the unit for which the resale certificate is being issued;
4. A statement of the amount and payment schedules of assessments and any unpaid assessments currently due and payable to the association;
5. A statement of any other fees due and payable by an owner of the unit;

6. A statement of any other entity or facility to which the owner of the unit being sold may be liable for assessments, fees, or other charges due to the ownership of the unit;
7. A statement of the amount and payment schedule of any approved additional or special assessment and any unpaid additional or special assessment currently due and payable;
8. A statement of any capital expenditures approved by the association for the current and succeeding fiscal years;
9. A statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects;
10. The most recent balance sheet and income and expense statement, if any, of the association;
11. The current operating budget of the association;
12. The current reserve study, or a summary of such study;
13. A statement of any unsatisfied judgments against the association and the nature and status of any pending actions in which the association is a party and that could have a material impact on the association, the owners, or the unit being sold;
14. A statement describing any insurance coverage provided by the association for the benefit of the owners, including fidelity coverage, and any insurance coverage recommended or required to be obtained by the owners;
15. A statement as to whether the board has given or received written notice that any existing uses, occupancies, alterations, or improvements in or to the unit being sold or to the limited elements assigned thereto violate any provision of the governing documents or rules and regulations together with copies of any notices provided;
16. A statement as to whether the board has received written notice from a governmental agency of any violation of environmental, health, or building codes with respect to the unit being sold, the limited elements assigned thereto, or any other portion of the common interest community that has not been cured;
17. A copy of any approved minutes of meetings of the board held during the last six months;
18. A copy of any approved or draft minutes of the most recent association meeting;
19. A statement of the remaining term of any leasehold estate affecting a common area or common element, as those terms are defined in §§ **55.1-1800**, **55.1-1900**, and **55.1-2100**, in the common interest community and the provisions governing any extension or renewal of such leasehold;
20. A statement of any limitation in the governing documents on the number or age of persons who may occupy a unit as a dwelling;
21. A statement setting forth any restriction, limitation, or prohibition on the right of an owner to display the flag of the United States, including reasonable restrictions as to the size, time, place, and manner of placement or display of such flag;
22. A statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on the owner's unit or limited element;
23. A statement setting forth any restriction, limitation, or prohibition on the size, placement, or duration of display of political, for sale, or any other signs on the property;
24. A statement identifying any parking or vehicle restriction, limitation, or prohibition in the governing documents or rules and regulations;
25. A statement setting forth any restriction, limitation, or prohibition on the operation of a home-based business that otherwise complies with all applicable local ordinances;
26. A statement setting forth any restriction, limitation, or prohibition on an owner's ability to rent the unit;

27. In a cooperative, ~~an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the owner of real estate taxes and interest paid by the association~~ a statement setting forth whether the cooperative association is aware of any statute, regulation, or rule applicable to the cooperative that would affect an owner's ability to deduct real estate taxes and interest paid by the cooperative association for federal income tax purposes;

28. A statement describing any pending sale or encumbrance of common elements;

29. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies; and

30. Certification that the association has filed with the Common Interest Community Board the annual report required by law, which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing.

§ 55.1-2311. Updated resale certificate; financial update.

A. If a resale certificate was issued more than 30 days but less than 12 months before settlement, the seller or the purchaser, upon proof of being the contract purchaser of the unit, may request an updated resale certificate. The updated resale certificate shall be delivered to the person requesting it, or as such person may direct, in the format requested. The updated resale certificate shall be delivered within 10 days after the written request.

B. The updated resale certificate shall contain current information for all items that may have changed from the original resale certificate or a statement that there are no changes.

C. A settlement agent or other third party authorized by the seller or purchaser may request a financial update and the association shall provide such information within three business days after the written request.

§ 55.1-2312. Cancellation of contract by purchaser.

A. ~~The purchaser may cancel the contract:~~

1. ~~Within three days, or up to seven days if extended by the ratified real estate contract, after the ratification date of the contract if the purchaser receives the resale certificate, whether or not complete pursuant to § 55.1-2310, or a notice that the resale certificate is unavailable on or before the date that the contract is ratified;~~

2. ~~Within three days, or up to seven days if extended by the ratified real estate contract, from the date the purchaser receives the resale certificate, whether or not complete pursuant to § 55.1-2310, or a notice that the resale certificate is unavailable if delivery occurs after the contract is ratified; or~~

3. ~~At any time prior to settlement if the resale certificate is not delivered to the purchaser. If delivery of the resale certificate to the purchaser or purchaser's agent, whether or not complete pursuant to § 55.1-2310, or a notice that the resale certificate is unavailable, occurs before the contract is ratified, the purchaser may cancel the contract within a time period agreed upon by all parties in the ratified real estate contract. If no time period is specified in the ratified real estate contract, the purchaser shall have three days from the date of ratification to cancel the contract.~~

~~B. If delivery of the resale certificate to the purchaser or purchaser's agent, whether or not complete pursuant to § 55.1-2310, or a notice that such resale certificate is unavailable, occurs after the contract is ratified, the purchaser may cancel the contract within a time period agreed upon by all parties to the real estate contract. If no time period is specified in the ratified real estate contract, the purchaser shall have three days from receipt of the resale certificate or notice that the resale certificate is unavailable to cancel the contract.~~

~~C. If the resale certificate or notice that the resale certificate is unavailable has not been delivered to the purchaser, the purchaser or purchaser's agent may cancel the contract at any time prior to settlement.~~

~~B-D.~~ Written notice of cancellation shall be provided to the seller in accordance with the terms of the contract. The purchaser shall have the burden to demonstrate delivery of the notice of cancellation.

~~€-E.~~ If the unit is governed by more than one association, the timeframe for the purchaser's right of cancellation shall run from the date of delivery of the last resale certificate.

~~Ð-F.~~ Cancellation shall be without penalty, and the seller shall cause any deposit or escrowed funds to be returned promptly to the purchaser.

§ 55.1-2316. Resale certificate; fees.

A. An association may charge a post-closing fee and fees for preparation, delivery, and expedited delivery of a resale certificate, an updated resale certificate, or financial update and for the inspection of a unit performed to prepare the resale certificate or updated resale certificate. ~~Unless provided otherwise by the association, the appropriate fees shall be paid when the resale certificate, updated resale certificate, or financial update is requested.~~ The seller shall be responsible for all fees associated with the preparation and delivery of the resale certificate, including any fees for inspection of the unit. The requesting party shall pay any fees for the preparation and delivery of the updated resale certificate ~~or financial update.~~ *The seller shall be responsible for all fees associated with the preparation and delivery of the financial update. However, a settlement agent or other requesting party may pay such fees up front, regardless of whether such settlement agent or other requesting party requests to be reimbursed for such fees from the seller.*

B. *Unless provided otherwise by the association or this section, fees charged by an association for the preparation and delivery of a resale certificate, an updated resale certificate, or a financial update shall be paid when the resale certificate, updated resale certificate, or financial update is requested. However, if the seller agrees to pay the fees for preparation and delivery of the financial update, the association or the association's management agent shall either (i) upon receipt of the request for the financial update, send instructions by electronic means to the seller for electronic payment or (ii) accept payment of such fees at the time of closing.*

C. The Common Interest Community Board shall establish the maximum fees that the association may charge for such post-closing and preparation, delivery, and inspection; such maximum fees shall be commercially reasonable and consistent with the effort required to comply with the resale certificate requirements. The maximum allowable fees, as published by the Common Interest Community Board and effective as of January 12, 2023, shall be adjusted no less than every five years, as of January 1 of that year, in an amount not less than the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor or an equivalent successor index.

~~€-D.~~ The association shall publish and make available a schedule of the applicable fees (i) for preparation and delivery of the resale certificate, updated resale certificate, and financial update; (ii) for the inspection of a unit; and (iii) related to any post-closing costs.

~~Ð-E.~~ A post-closing fee to be collected at settlement may be imposed on the purchaser of the property for the purpose of establishing the purchaser as the owner of the property in the records of the association.

~~€-F.~~ No association may collect fees authorized by this section unless the association (i) is registered with the Common Interest Community Board; (ii) is current in filing the most recent annual report and fee with the Common Interest Community Board pursuant to § 55.1-1835, 55.1-1980, or 55.1-2182; (iii) is current in paying any assessment made by the Common Interest Community Board pursuant to § 54.1-2354.5; and (iv) provides the option to receive the disclosure packet electronically.

§ 55.1-2317. Exemptions.

A. The resale certificate required by this chapter need not be provided in the case of:

1. An initial disposition ~~by a declarant~~ *of a unit to a person or entity that is not acquiring the unit for his own residence or for the construction of a dwelling unit to be occupied as his own residence, unless requested by such person or entity. The person or entity acquiring the unit shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all matters;*
2. A disposition of a unit by gift;
3. A disposition of a unit pursuant to court order if the court so directs;

4. A disposition of a unit by foreclosure or deed in lieu of foreclosure;
 5. A disposition of a unit by a sale at auction, when the resale certificate was made available as part of the auction package for prospective purchasers prior to the auction; or
 6. A disposition of a unit in a common interest community containing no residential units.
- B. In any transaction in which a resale certificate is required and a trustee acts as the seller in the sale or resale of a unit, the trustee shall obtain the resale certificate from the association and provide the resale certificate to the purchaser.

DRAFT AGENDA
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DRAFT AGENDA

1

2 Part I. General

3 **18VAC48-30-10. Purpose.**

4 This chapter governs the exercise of powers granted to and the performance of duties
5 imposed upon the Common Interest Community Board by the Virginia Condominium
6 Act (§ 55.1-1900 et seq. of the Code of Virginia) as the act pertains to the registration of
7 condominiums.

8 **18VAC48-30-20. Definitions.**

9 A. Section 54.1-2345 of the Code of Virginia provides definitions of the following terms
10 and phrases as used in this chapter:

11 "Association"

12 "Board"

13 B. Section 55.1-1900 of the Code of Virginia provides definitions of the following terms
14 and phrases as used in this chapter:

"Common elements"

"Identifying number"

"Common expenses"

"Land"

"Condominium"

"Leasehold condominium"

"Condominium instruments"

"Limited common element"

"Condominium unit"

"Nonbinding reservation agreement"

"Conversion condominium"

"Offer"

"Convertible land"

"Person"

"Convertible space"

"Purchaser"

"Declarant"

"Special declarant rights"

"Dispose" or "disposition"

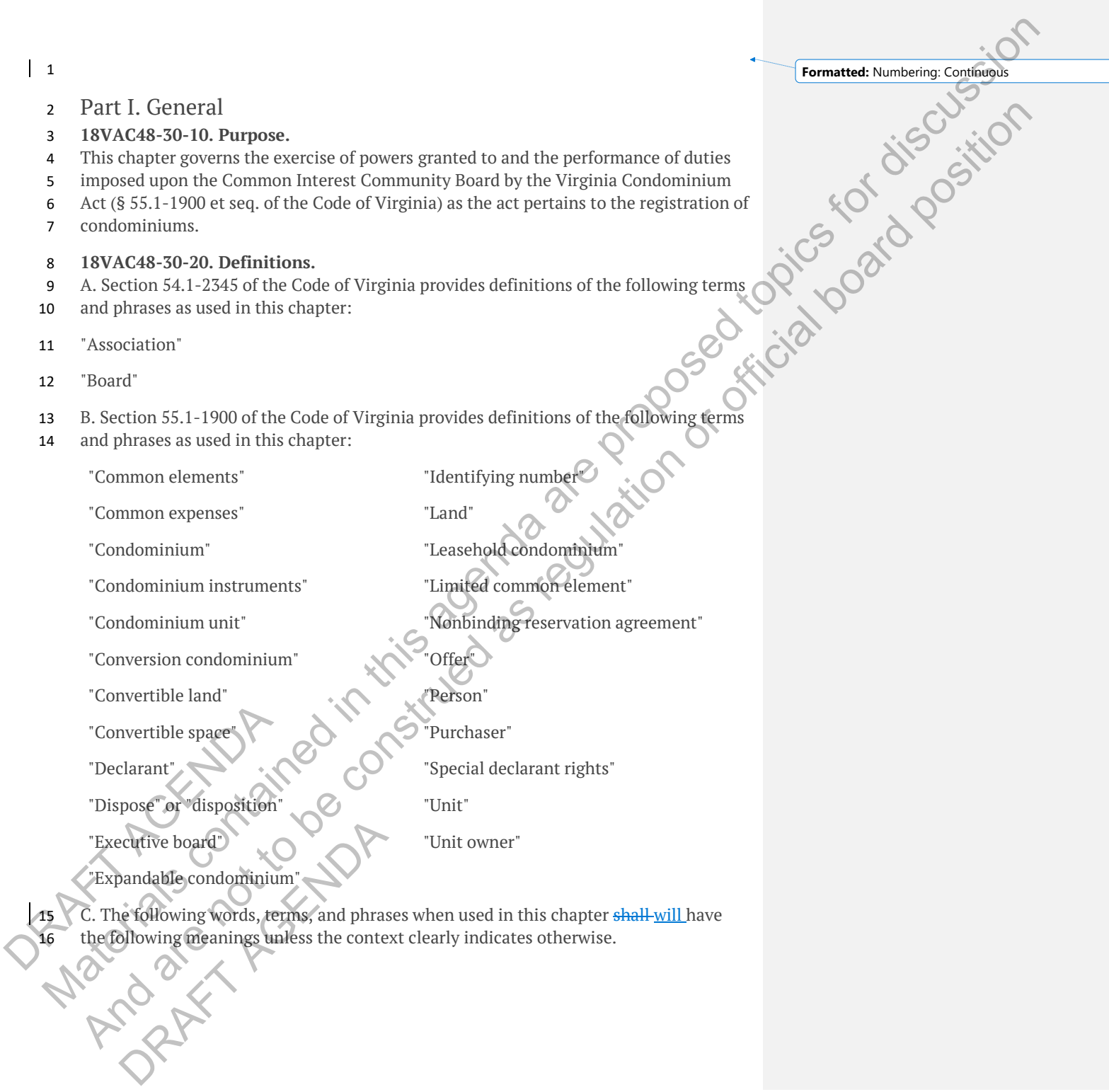
"Unit"

"Executive board"

"Unit owner"

"Expandable condominium"

15 C. The following words, terms, and phrases when used in this chapter ~~shall~~will have
16 the following meanings unless the context clearly indicates otherwise.



17 "Annual report" means a completed, board-prescribed form and required
18 documentation submitted in compliance with § 55.1-1979 of the Code of Virginia.

19 "Application" means a completed, board-prescribed form submitted with the
20 appropriate fee and other required documentation [in compliance with § 55.1-1975 of](#)
21 [the Code of Virginia](#).

22 "Class of physical assets" means two or more physical assets that are substantially alike
23 in function, manufacture, date of construction or installation, and history of use and
24 maintenance.

25 "Department" means the Department of Professional and Occupational Regulation.

26 "Expected useful life" means the estimated number of years from the date on which
27 such estimate is made until the date when, because of the effects of time, weather,
28 stress, or wear, a physical asset will become incapable of performing its intended
29 function and will have to be replaced.

30 "Firm" means a sole proprietorship, association, partnership, corporation, limited
31 liability company, limited liability partnership, or any other form of business
32 organization recognized under the laws of the Commonwealth of Virginia.

33 "Full and fair disclosure" means the degree of disclosure necessary to ensure reasonably
34 complete and materially accurate representation of the condominium in order to
35 protect the interests of purchasers.

36 "Limited common expense" means any common expense against one or more, but less
37 than all, of the units.

38 "Major utility installation" means a utility installation or portion thereof that is a
39 common element or serves more than one unit.

40 "Material change" means a change in any information or document disclosed in the
41 application for registration, including the public offering statement or an attachment
42 thereto, that renders inaccurate, incomplete, or misleading any information or
43 document in such a way as to affect substantially a purchaser's rights or obligations or
44 the nature of a unit or appurtenant limited common element or the amenities of the
45 project available for the purchaser's use as described in the public offering statement.

46 "Offering" means the continuing act of the declarant in making condominium units
47 owned by the declarant within a particular condominium available for acquisition by
48 purchasers or, where appropriate, to the aggregate of the condominium units thus
49 made available.

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DRAFT AGENDA

50 "Offering literature" means any written promise, assertion, representation, or
51 statement of fact or opinion made in connection with a condominium marketing
52 activity mailed or delivered directly to a specific prospective purchaser, except that
53 information printed in a publication shall not be deemed offering literature solely by
54 virtue of the fact that the publication is mailed or delivered directly to a prospective
55 purchaser.

56 "Personal communication" means a communication directed to a particular prospective
57 purchaser that has not been and is not intended to be directed to any other prospective
58 purchaser.

59 "Physical asset" means either a structural component or a major utility installation.

60 "Present condition" means condition as of the date of the inspection by means of which
61 condition is determined.

62 "Proposed improvements" means any improvements that are not yet begun or not yet
63 complete and that the declarant is affirmatively and unconditionally obligated to
64 complete under §§ 55.1-1920 and 55.1-1930 B of the Code of Virginia and applicable
65 provisions of the condominium instruments, or that the declarant would be obligated
66 to complete if plats and plans filed with the board were recorded.

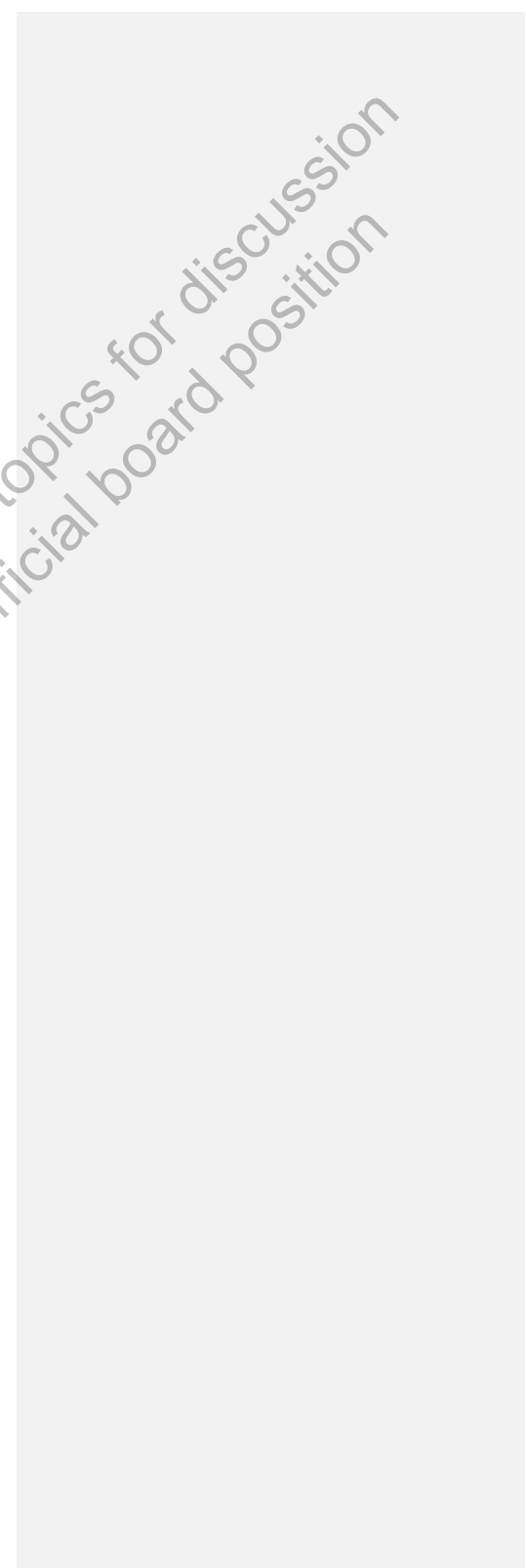
67 "Registration file" means the application for registration, supporting materials, annual
68 reports, and amendments that constitute all information submitted and reviewed
69 pertaining to a particular condominium registration. A document that has not been
70 accepted for filing by the board is not part of the registration file.

71 "Regular common expense" means a common expense apportioned among and assessed
72 to all of the condominium units pursuant to subsection D of § 55.1-1964 of the Code of
73 Virginia or similar law or condominium instrument provision.

74 "Replacement cost" means the expenditure that would be necessary to replace a
75 physical asset with an identical or substantially equivalent physical asset as of the date
76 on which replacement cost is determined and includes all costs of (i) removing the
77 physical asset to be replaced, (ii) obtaining its replacement, and (iii) erecting or
78 installing the replacement.

79 "Structural component" means a component constituting any portion of the structure
80 of a unit or common element.

81 "Structural defect" shall have the meaning given in subsection B of § 55.1-1955 of the
82 Code of Virginia.



83 "Substituted public offering statement" means a document originally prepared in
84 compliance with the laws of another jurisdiction and modified in accordance with the
85 provisions of this chapter to fulfill the disclosure requirements established for public
86 offering statements by subsection A of § 55.1-1976 of the Code of Virginia and, if
87 applicable, subsection B of § 55.1-1982 of the Code of Virginia.

88 "Virginia Condominium Act" means Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1 of the
89 Code of Virginia.

90 **~~18VAC48-30-30. Explanation of terms.~~**

91 ~~Each reference in this chapter to a "declarant," "purchaser," and "unit owner" or to the~~
92 ~~plural of those terms shall be deemed to refer, as appropriate, to the masculine and the~~
93 ~~feminine, to the singular and the plural, and to natural persons and organizations. The~~
94 ~~term "declarant" shall refer to any successors to the persons referred to in § 55.1-1900~~
95 ~~of the Code of Virginia who come to stand in the same relation to the condominium as~~
96 ~~their predecessors in that they assumed rights reserved for the benefit of a declarant~~
97 ~~that (i) offers to dispose of his interest in a condominium unit not previously disposed~~
98 ~~of, (ii) reserves or succeeds to any special declarant right, or (iii) applies for registration~~
99 ~~of the condominium.~~

Commented [JH1]: Deleted per committee on 2/7/24.

100 **18VAC48-30-40. Condominiums located outside of Virginia.**

101 A. In any case involving a condominium located outside of Virginia in which the laws or
102 practices of the jurisdiction in which such condominium is located prevent compliance
103 with a provision of this chapter, the board ~~shall will~~ prescribe, by order, a substitute
104 provision to be applicable in such case that is as nearly equivalent to the original
105 provision as is reasonable under the circumstances.

106 B. The words "declaration," "bylaws," "plats," and "plans," when used in this chapter
107 with reference to a condominium located outside of Virginia, ~~shall~~ refer to documents,
108 portions of documents, or combinations thereof, by whatever name denominated, that
109 have a content and function identical or substantially equivalent to the content and
110 function of their Virginia counterparts.

111 C. The words "recording" or "recordation," when used with reference to condominium
112 instruments of a condominium located outside of Virginia, ~~shall~~ refer to a procedure
113 that, in the jurisdiction in which such condominium is located, causes the
114 condominium instruments to become legally effective.

115 D. This chapter ~~shall apply~~ applies to a contract for the disposition of a condominium
116 unit located outside of Virginia only to the extent permissible under the provisions of
117 subsection B of § 55.1-1901 of the Code of Virginia.

118 **~~18VAC48-30-50. Exemptions from registration.~~**

119 A. The exemption from registration of condominiums in which all units are restricted
120 to nonresidential use provided in subsection B of § 55.1-1972 of the Code of Virginia
121 shall not be deemed to apply to any condominium as to which there is a substantial
122 possibility that a unit therein other than a unit owned by the declarant or the unit
123 owners' association will be used as permanent or temporary living quarters or as a site
124 upon which vehicular or other portable living quarters will be placed and occupied.
125 Residential use for the purposes of this chapter includes transient occupancy.

Commented [JH2]: Removed per committee on 2/7/24.
Will be considered for possible guidance document.

126 B. Nothing in this chapter shall apply in the case of a condominium exempted from
127 registration by § 55.1-1972 of the Code of Virginia or condominiums located outside of
128 Virginia as provided in subsection B of § 55.1-1901 of the Code of Virginia for which no
129 contracts are to be signed in Virginia.

Commented [JH3]: Removed per committee on 2/7/24.

130 **18VAC48-30-60. Preregistration offers prohibited.**

131 No condominium marketing activity shall be deemed an offer unless, by its express
132 terms, it induces, solicits, or encourages a prospective purchaser to execute a contract
133 of sale of the condominium unit or lease of a leasehold condominium unit or perform
134 some other act that would create or purport to create a legal or equitable interest in the
135 condominium unit other than a security interest in or a nonbinding reservation of the
136 condominium unit.

Commented [JH4]: Moved to Part II per committee on 2/7/24.

137 Part II. Marketing

138 **18VAC48-30-70. Condominium marketing activities.**

139 Condominium marketing activities shall include ~~every~~ any contact for the purpose of
140 promoting disposition of a condominium unit. Such ~~contacts~~ contact may be ~~personal~~
141 ~~in-person~~, by telephone, by mail, by electronic means including, but not limited to,
142 social media, or by advertisement. ~~A promise, assertion, representation, or statement~~
143 ~~of fact or opinion made in connection with a condominium marketing activity may be~~
144 ~~oral, written, or graphic.~~

Commented [JH5]: Should this be a definition?

145 **18VAC48-30-75. Preregistration marketing activity.**

146 No condominium marketing activity will be deemed an offer unless, by its express
147 terms, it induces, solicits, or encourages a prospective purchaser to execute a contract
148 of sale of the condominium unit or lease of a leasehold condominium unit or perform
149 some other act that would create or purport to create a legal or equitable interest in the
150 condominium unit other than a security interest in or a nonbinding reservation of the
151 condominium unit.

Commented [JH6]: Deleted per committee on 2/7/24.

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152 **18VAC48-30-80. Offering literature.**

Commented [JH7]: Relocated from section -60.

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154 A. Offering literature ~~mailed or delivered~~ distributed prior to the registration of the
155 condominium that is the subject of the offering literature ~~shall~~ must bear a
156 conspicuous legend containing the substance of the following language:

157 "The condominium has not been registered by the Common Interest Community
158 Board. A condominium unit may be reserved on a nonbinding reservation agreement,
159 but no contract of sale or lease may be entered into prior to registration."

160 B. Offering literature or marketing activities violative of the Virginia Fair Housing Law
161 (§ 36-96.1 et seq. of the Code of Virginia) and subsection C of § 55.1-1914 of the Code
162 of Virginia is prohibited.

163 C. Offering literature ~~shall~~ must indicate that the property being offered is under the
164 condominium form of ownership. The requirement of this subsection is satisfied by
165 including the full name of the condominium in all offering literature.

Commented [JH8]: Have full Board discuss the need for this provision.

166

167 Part III. Application for Registration

168 18VAC48-30-90. Application procedures.

169 A. A declarant seeking registration of a condominium pursuant to Chapter 19 (§ 55.1-
170 1900 et seq.) of Title 55.1 of the Code of Virginia shall ~~shall~~ must submit an application on
171 the appropriate form provided by the board, along with the appropriate fee specified in
172 18VAC48-30-100.

173 1. By submitting the application to the board, the declarant certifies that the
174 declarant has read and understands the applicable statutes, including the
175 Virginia Fair Housing Law, and the board's regulations.

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176 2. The receipt of an application and the deposit of fees by the board do not
177 indicate approval or acceptance of the application by the board.

178 B. The board may make further inquiries and investigations to confirm or amplify
179 information supplied. All applications shall ~~shall~~ must be completed in accordance with the
180 instructions contained in this section and on the application. Applications will not be
181 considered complete until all required documents are received by the board.

182 C. Applications that are not ~~approved~~ accepted within 12 months after receipt of the
183 application in the board's office will be purged and a new application and fee must be
184 submitted in order to be reconsidered for registration.

185 18VAC48-30-100. Fee requirements.

DRAFT AGENCY
Materials contained in this agenda are proposed topics for discussion
And are not to be considered for regulation or official board position
DRAFT AGENCY

186 All fees are nonrefundable and ~~shall will~~ not be prorated. The date on which the fee is
187 received by the board or its agent will determine whether the fee is timely. ~~Checks or~~
188 ~~money orders shall be made payable to the Treasurer of Virginia.~~

189 1. Each application for registration of a condominium shall be accompanied by a ~~\$35~~
190 fee ~~in an amount equal to \$35~~ per unit, except that the ~~total~~ fee shall not be less than
191 \$1,750 or more than \$3,500.

192 2. Each phase filing application shall be accompanied by a ~~\$35~~ fee ~~in an amount~~
193 ~~equal to \$35~~ per unit, except that the fee for each phase filing shall not be less than
194 \$875 or more than \$3,500.

195 **18VAC48-30-110. Review of application for registration.**

196 A. Upon receipt of an application for registration, the board ~~shall will~~ issue the notice
197 of filing required by subsection A of § 55.1-1978 of the Code of Virginia.

198 B. Upon the review of the application for registration, ~~if the requirements of §§ 55.1-~~
199 ~~1975 and 55.1-1977 of the Code of Virginia have not been met,~~ the board ~~shall will~~
200 notify the applicant ~~if the requirements of §§ 55.1-1975 and 55.1-1977 of the Code of~~
201 ~~Virginia have been met~~ as required by subsection C of § 55.1-1978 of the Code of
202 Virginia. ~~If the requirements have not been met, the board will notify the applicant of~~
203 ~~what is necessary to satisfy the requirements.~~

204 C. A request for an extension of the ~~60-day~~ application review period described in
205 § 55.1-1978 of the Code of Virginia ~~shall must~~ be in writing and ~~shall~~ be delivered to
206 the board prior to the expiration of the ~~review~~ period being extended. ~~The declarant~~
207 ~~may request additional extensions of the review period. The request shall be for an~~
208 ~~extension of definite duration.~~

209 ~~1. The board may grant in writing a~~ Any grant of a request for an extension of
210 the ~~application~~ review period ~~is in the discretion of the board,~~ and it may limit
211 the extension to a period not longer than is reasonably necessary to permit
212 correction of the application.

213 ~~An additional extension of the application review period may be obtained,~~
214 ~~subject to the conditions applicable to the initial request.~~

215 ~~2. A request for an extension of the~~ application review period ~~shall will~~ be
216 deemed a consent to delay within the meaning of subsection A of § 55.1-1978 of
217 the Code of Virginia.

218 D. If the requirements for registration are not met within the application review period
219 or a valid extension thereof, the board ~~shall must~~, upon the expiration of such period,

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220 enter an order rejecting the registration as required by subsection C of § 55.1-1978 of
221 the Code of Virginia.

222

223 E. An applicant may submit a written request for an informal conference in accordance
224 with § 2.2-4019 of the Code of Virginia at any time between receipt of a notification
225 pursuant to subsection B of this section and the effective date of the order of rejection
226 entered pursuant to subsection D of this section. A request for such proceeding shall be
227 deemed a consent to delay within the meaning of subsection A of § 55.1-1978 of the
228 Code of Virginia.

229 F. The board shall receive and act upon corrections to the application for registration at
230 any time prior to the effective date of an order rejecting the registration. If the board
231 determines after review of the corrections that the requirements for registration have
232 not been met, the board may proceed with an informal conference in accordance with §
233 2.2-4019 of the Code of Virginia to allow reconsideration of whether the requirements
234 for registration are met. If the board does not opt to proceed with an informal
235 conference, the applicant may submit a written request for an informal conference in
236 accordance with § 2.2-4019 of the Code of Virginia to reconsider whether the
237 requirements for registration are met. If the board does not proceed with an informal
238 conference and no request for an informal conference is received from the applicant, an
239 amended order of rejection stating the factual basis for the rejection shall be issued. A
240 new 20-day period for the order of rejection to become effective shall commence.

241 G.E. At such time as the board affirmatively determines that the requirements of
242 §§ 55.1-1975 and 55.1-1977 of the Code of Virginia have been met, the board shall will
243 enter an order registering the condominium and shall designate the form, content, and
244 effective date of the public offering statement, substituted public offering statement, or
245 prospectus to be used.

246 F. Applications that do not meet the requirements of this chapter may be reviewed by
247 the board in accordance with Administrative Process Act (§ 2.2-4000 et seq. of the Code
248 of Virginia) at the request of the declarant. Such request will be deemed a consent to
249 delay within the meaning of subsection A of § 55.1-1978 of the Code of Virginia and
250 will stay any order of rejection pursuant to subsection C of § 55.1-1978 of the Code of
251 Virginia.

252 18VAC48-50-120. Prerequisites for registration.

253 The following provisions are prerequisites for registration and are supplementary to
254 the provisions of § 55.1-1977 of the Code of Virginia.

Commented [JH9]: Removed per committee on 2/7/24.

Commented [JH10]: Per committee on 2/7/24, need to revisit.

Commented [JH11]: Revised language addressing Board review of applications under APA.

Commented [JH12]: Provisions of this section are consolidated with -130.

255 1. The declarant shall own or have the right to acquire an estate in the land
256 constituting or to constitute the condominium that is of at least a great a degree and
257 duration as the estate to be conveyed in the condominium units.

258 2. The condominium instruments must be adequate to bring a condominium into
259 existence upon recordation except that the certification requirements of § 55.1-1920
260 of the Code of Virginia need not be complied with as a prerequisite for registration.
261 This subsection does not apply to condominium instruments that may be recorded
262 after the condominium has been created.

263 3. The declarant shall have filed with the board reasonable evidence of its financial
264 ability to complete all proposed improvements on the condominium. Such evidence
265 may include (i) financial statements and a signed affidavit attesting that the
266 declarant has sufficient funds to complete all proposed improvements on the
267 condominium and that the funds will be used for completion of the proposed
268 improvements or (ii) proof of a commitment of an institutional lender to advance
269 construction funds to the declarant and, to the extent that any such commitments
270 will not furnish all the necessary funds, other evidence, satisfactory to the board, of
271 the availability to the declarant of necessary funds. A lender's commitment may be
272 subject to such conditions, including registration of the condominium units and
273 presale requirements, as are normal for loans of the type and as to which nothing
274 appears to indicate that the conditions will not be complied with or fulfilled.

275 a. In the case of a condominium located in Virginia, "proposed improvements" are
276 improvements that are not yet begun or not yet complete and that the declarant is
277 affirmatively and unconditionally obligated to complete under §§ 55.1-1920 and 55.1-
278 1930 B of the Code of Virginia and applicable provisions of the condominium
279 instruments or that the declarant would be so obligated to complete if plats and plans
280 filed with the board in accordance with 18VAC48-30-140 A were recorded.

281 b. In the case of a condominium located outside of Virginia, "proposed improvements"
282 are improvements that are not yet begun or not yet complete and that the declarant
283 represents, without condition or limitation, will be built or placed in the condominium.

284 4. The current and planned condominium marketing activities of the declarant shall
285 comply with § 18.2-216 of the Code of Virginia, 18VAC48-30-80, and 18VAC48-30-
286 660.

287 5. The declarant shall have filed with the board (i) a proposed public offering
288 statement that complies with this chapter and subsection A of § 55.1-1976 of the
289 Code of Virginia and, if applicable, subsection B of § 55.1-1982 of the Code of
290 Virginia; (ii) a substituted public offering statement that complies with this chapter;
291 or (iii) a prospectus that complies with this chapter.

Commented [JH13]: Added a definition for "proposed improvements" to -20.

Commented [JH14]: Not clear this provision is needed.

292 ~~6. Declarants may be organized as individuals or firms. Firms shall be organized as~~
293 ~~business entities under the laws of the Commonwealth of Virginia or otherwise~~
294 ~~authorized to transact business in Virginia. Firms shall register any trade or fictitious~~
295 ~~names with the State Corporation Commission in accordance with Chapter 5 of Title~~
296 ~~59.1 (§ 59.1-69 et seq.) of the Code of Virginia before submitting an application to~~
297 ~~the board.~~

298 **18VAC48-30-130. Minimum requirements for registration.**

299 A. Applications for registration shall must include the following information:

300 1. The documents and information contained in § 55.1-1975 of the Code of Virginia.
301 The declarant's name and physical address; the form, date, and jurisdiction of
302 organization; the address of each of its offices in the Commonwealth; and proof of
303 registration with the State Corporation Commission, when applicable.

304 a. Declarants may be organized as individuals or firms. Firms must be organized
305 as business entities under the laws of the Commonwealth of Virginia or
306 otherwise authorized to transact business in Virginia.

307 b. Firms must register any trade or fictitious names with the State Corporation
308 Commission in accordance with Chapter 5 of Title 59.1 (§ 59.1-69 et seq.) of the
309 Code of Virginia.

310 2. The name, physical address, and principal occupation for the past five years of
311 every officer of the declarant or person occupying a similar status or performing
312 similar functions and the extent and nature of such person's interest in the declarant
313 or the condominium, as of a specified date within 30 days of the filing of the
314 application;

315 3. The states or jurisdictions in which an application for registration or similar
316 document has been filed and any adverse order or judgment entered in connection
317 with the condominium by the regulatory authorities in each jurisdiction or by any
318 court;

319 4. A statement of (i) the zoning and other governmental regulations affecting the use
320 of the condominium, including the site plans and building permits and their status,
321 and (ii) any existing tax and existing or proposed special taxes or assessments that
322 affect the condominium. This requirement may be satisfied by indicating disclosure
323 of this information in the public offering statement; and

324 5. An irrevocable appointment of the board to receive service of any lawful process in
325 any noncriminal proceeding arising under this chapter against the declarant or the
326 declarant's personal representative if nonresidents of the Commonwealth;

Commented [JH15]: Per committee on 2/7/24, this is administratively necessary for (i) service of process and (ii) investigative purposes.

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Materials contained in this agenda are proposed topics for discussion
And are not to be considered as regulations or official board position
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327 ~~2. The application fee specified in 18VAC48-30-100.~~

Commented [JH16]: Deleted as it is duplicative.

328 ~~3.B.~~ The following documents ~~shall must~~ be included as ~~labeled~~ exhibits ~~to the~~
329 ~~application. All exhibits shall be labeled as indicated and submitted in hardcopy form~~
330 ~~and electronically in a format acceptable to the board.~~

331 ~~a. Exhibit A: A copy of the certificate of incorporation or certificate of authority to~~
332 ~~transact business in Virginia issued by the Virginia State Corporation Commission or~~
333 ~~other entity formation documents.~~

Commented [JH17]: Strike per committee on 3/7/24.

334 ~~b. Exhibit B:1.~~ A copy of the title opinion, title policy, or a statement of the condition of
335 the title to the condominium project, including encumbrances, as of a specified date
336 within 30 days of the date of application by a title company or licensed attorney who is
337 not a salaried employee, officer, or director of the declarant or owner, ~~in accordance~~
338 ~~with subdivision A 5 of § 55.1-1975 of the Code of Virginia. The declarant must own or~~
339 ~~have the right to acquire an estate in the land constituting or to constitute the~~
340 ~~condominium that is of at least as great a degree and duration as the estate to be~~
341 ~~conveyed in the condominium units.~~

342 ~~c. Exhibit C:2.~~ A copy of the instruments that will be delivered to a purchaser to
343 evidence the purchaser's interest in the unit; and ~~of the any~~ contracts and other
344 agreements that a purchaser will be required to agree to or sign.

345 ~~d. Exhibit D:3.~~ A narrative description of the promotional plan for the disposition of
346 the condominium units.

347 ~~e. Exhibit E: A copy of documentation demonstrating the declarant's financial ability to~~
348 ~~complete the project in accordance with 18VAC48-30-120.~~

349 4. Documentation to demonstrate the declarant's financial ability to complete all
350 proposed improvements on the condominium. Such evidence may include (i) financial
351 statements and a signed affidavit attesting that the declarant has sufficient funds to
352 complete all proposed improvements on the condominium and that the funds will be
353 used for completion of the proposed improvements or (ii) proof of a commitment of an
354 institutional lender to advance construction funds to the declarant and, to the extent
355 that any such commitments will not furnish all the necessary funds, other evidence,
356 satisfactory to the board, of the availability to the declarant of necessary funds. A
357 lender's commitment may be subject to such conditions, including registration of the
358 condominium units and presale requirements, as are normal for loans of the type and
359 as to which nothing appears to indicate that the conditions will not be complied with or
360 fulfilled.

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Commented [JH18]: Consider whether this could be in a guidance document.

Commented [JH19R18]: Keep in regulation per committee on 3/7/24.

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362 ~~A copy of documentation demonstrating the declarant's financial ability to complete~~
363 ~~the project in accordance with 18VAC48-30-120.~~

364 f. Exhibit F: 5. A copy of the proposed public offering statement that complies with
365 subsection A of § 55.1-1976 and subsection B of § 55.1-1982 of the Code of Virginia, as
366 applicable, and this chapter. A substitute public offering statement or a prospectus
367 pursuant to 18VAC48-30-370 and 18VAC48-30-380 respectively may be submitted for a
368 condominium formed in another jurisdiction.

369 g. Exhibit G: ~~Copies of bonds~~ 6. Bonds or letters of credit required by §§ 55.1-1921,
370 55.1-1968, and 55.1-1983 of the Code of Virginia, as applicable.

Commented [JH20]: Revised to reflect agency practice which declarant is required to submit signed original bond.

371 h. Exhibit H: A list with the name of every officer of the declarant who is directly
372 responsible for the project or person occupying a similar status within, or performing
373 similar functions for, the declarant. The list must include each individual's address,
374 principal occupation for the past five years, and extent and nature of the individual's
375 interest in the condominium as of a specified date within 30 days of the filing of the
376 application.

Commented [JH21]: Covered under subdivision A 2.

377 i. Exhibit I: 7. Plats and plans of the condominium that (i) comply with the provisions
378 of § 55.1-1920 of the Code of Virginia and 18VAC48-30-140 other than the certification
379 requirements and (ii) show all units and buildings containing units to be built anywhere
380 within the submitted land other than within the boundaries of any convertible lands.
381 Hardcopy submittals of plats and plans must be no larger than 11 inches by 17 inches.

Commented [JH22]: Discuss whether this is needed if plat and plans are part of declaration.

382 j. Exhibit J: 8. Conversion condominiums must attach ~~For a conversion condominium~~
383 registration, a copy of:

Commented [JH23R22]: Per committee on 3/7/24 keep.

384 (i) a copy of the a. The general notice provided to tenants of the condominium at the
385 time of application pursuant to subsection C of § 55.1-1982 of the Code of Virginia;

386 ;(ii) a copy of the b. The formal notice to be sent at the time of registration to the
387 tenants, if any, of the buildings, in accordance with subsection C of § 55.1-1982 of the
388 Code of Virginia; and

389 (iii) the c. The certified statement required in accordance with subsection D of § 55.1-
390 1982 of the Code of Virginia.

391 C. The condominium instruments must be adequate to create a condominium upon
392 recordation, in accordance with the Virginia Condominium Act. For condominium
393 instruments that may be recorded by the declarant after the condominium has been
394 created, only the form of the intended condominium instruments need be provided.

395 **18VAC48-30-140. Requirements for plats and plans.**

396 A. ~~Except as provided in subsection C of this section, all~~ All plats and plans submitted
397 with the application for registration shall must comply with § 55.1-1920 of the Code of
398 ~~Virginia but Virginia the certification need not be signed until recordation.~~ The plats
399 and plans filed with the application for registration shall be the same as the plats and
400 plans the declarant intends to record.

401 ~~A material change to the plats and plans shall be submitted to the board in accordance~~
402 ~~with Part VI (18VAC48-30-460 et seq.) of this chapter. Once recorded, copies of plats~~
403 ~~and plans as recorded shall be filed with the board in accordance with Part VI of this~~
404 ~~chapter.~~

405 B. In the case of units that are substantially identical, the requirement to show the
406 location and dimensions (within normal construction tolerances) of the boundaries of
407 each unit pursuant to subsection B of § 55.1-1920 of the Code of Virginia may be
408 deemed satisfied by depiction of the location and dimensions of the vertical boundaries
409 and horizontal boundaries, if any, of one such unit. The identifying numbers of all units
410 represented by such depiction shall must be indicated. Each structure within which any
411 such units are located shall must be depicted so as to indicate the exact location of each
412 such unit within the structure.

413 ~~C. In the case of a condominium located outside Virginia, certain materials may be filed~~
414 ~~with the application for registration in lieu of plats and plans complying with the~~
415 ~~provisions of § 55.1-1920 of the Code of Virginia. Such materials shall contain, as a~~
416 ~~minimum, (i) a plat of survey depicting all existing improvements, and all~~
417 ~~improvements that the declarant represents, without condition or limitation, will be~~
418 ~~built or placed in the condominium; and (ii) legally sufficient descriptions of each unit.~~
419 ~~Any improvements whose completion is subject to conditions or limitations shall be~~
420 ~~appropriately labeled to indicate that such improvements may not be completed. Unit~~
421 ~~descriptions may be written or graphic, shall demarcate each unit vertically and, if~~
422 ~~appropriate, horizontally, and shall indicate each unit's location relative to established~~
423 ~~points or datum.~~

424 ~~D.C.~~ The plats and plans must bear the form of the certification statement required by
425 subsections A and B of § 55.1-1920 of the Code of Virginia. However, as stated in
426 subsection A of this section, the statement need not be executed prior to recordation.
427 The certification statement may appear in a separate document that is recorded, or to
428 be recorded.

429 **18VAC48-30-150. Application for registration of expandable condominium.**

430 The declarant may include in the application for registration all units for which
431 development rights have been reserved.

Commented [JH24]: TT APELS professionals re: this provision.

Commented [JH25]: Consider guidance document for how staff handle out of state condominiums.

Commented [JH26]: Per committee, consider eliminating.

432 Part IV. Public Offering Statement

433 **18VAC48-30-160. Public offering statement requirements, generally; full and fair**
434 **disclosure.**

435 In addition to the provisions of § 55.1-1976 of the Code of Virginia, the following will
436 be considered, as applicable, during review of the public offering statement

437 A. A public offering statement must meet the requirements of the Virginia
438 Condominium Act, and Parts IV (18VAC48-30-160 et seq.) and V (18VAC48-30-400 et
439 seq.) of this chapter.

440 1. The public offering statement must disclose fully and accurately the characteristics
441 of the condominium and the units being offered and must make known to
442 prospective purchasers all unusual and material circumstances or features.

Commented [JH27]: Refer to § 55.1-1976(A).

443 1. The public offering statement shall provide full and fair disclosure in accordance
444 with 18VAC48-30-170.

445 2-3. The public offering statement shall must pertain to a single offering and to the
446 entire condominium in which the condominium units being offered are located.

447 3-4. The public offering statement shall must be clear, organized, and legible.

448 4. Except for brief excerpts, the public offering statement may refer to, but should
449 not incorporate verbatim, portions of the condominium instruments, the Virginia
450 Condominium Act, or this chapter. This does not preclude compliance with
451 18VAC48-30-180.

Commented [JH28]: Discuss the necessity of this requirement.

452 5. No portion of the public offering statement may be underscored, italicized, or
453 printed in larger or heavier or different color type than the remainder of the
454 statement unless the board requires it.

Commented [JH29R28]: Per committee on 3/7/24. Keep, but move.

Commented [JH30]: Refer to § 55.1-1976(B).

455 B. The provisions of § 55.1-1976 and subsection B of § 55.1-1982 of the Code of
456 Virginia and this chapter shall be strictly construed to promote full and fair
457 disclosure in the public offering statement. The following will be considered, as
458 applicable, during review to assure full and fair disclosure:

459 1. The information must be presented in a manner that is clear and
460 understandable to a reasonably informed consumer, while maintaining
461 consistency with the requirements of this chapter and the Virginia
462 Condominium Act. Except for brief excerpts, the public offering statement may
463 refer to, but should not incorporate verbatim, portions of the condominium
464 instruments, the Virginia Condominium Act, or this chapter.

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465 2. In addition to specific information required by this chapter and the Virginia
466 Condominium Act, the public offering statement must disclose any other
467 information necessary for full and fair disclosure.

468 3. No information will be incorporated by reference to an outside source that is
469 not reasonably available to a prospective purchaser.

470 4. If required information is not known or not reasonably available, such fact will
471 be stated and explained in the public offering statement.

472 C. The board has the sole discretion to require additional information or amendment of
473 existing information as it finds necessary to ensure full and fair disclosure. The board at
474 any time may require a declarant to alter or amend the public offering statement to
475 assure full and fair disclosure to prospective purchasers and to ensure compliance with
476 the Virginia Condominium Act and this chapter.

Commented [JH31]: Relocated from section -390.

477
478 **18VAC48-30-170. Full and fair disclosure.**

479 A. The provisions of § 55.1-1976 and subsection B of § 55.1-1982 of the Code of
480 Virginia and this chapter shall be strictly construed to promote full and fair disclosure
481 in the public offering statement. In addition, the following will be considered, as
482 applicable, during review to assure full and fair disclosure:

Commented [JH32]: Merge provisions with section -160 and repeal.

483 1. The information shall be presented in a manner that is clear and understandable to
484 a reasonably informed consumer, while maintaining consistency with the
485 requirements of this chapter and the Virginia Condominium Act.

486 2. In addition to specific information required by this chapter and the Virginia
487 Condominium Act, the public offering statement shall disclose any other information
488 necessary for full and fair disclosure.

489 3. No information shall be incorporated by reference to an outside source that is not
490 reasonably available to a prospective purchaser.

491 4. If required information is not known or not reasonably available, such fact shall be
492 stated and explained in the public offering statement.

493 B. The board has the sole discretion to require additional information or amendment of
494 existing information as it finds necessary to ensure full and fair disclosure.

495 **18VAC48-30-175. Effective date of public offering statement; board disclaimer.**

496 In accordance with subsection B of § 55.1-1976 of the Code of Virginia, the board does
497 not approve or recommend the condominium or disposition thereof. The board's
498 issuance of an effective date for a public offering statement shall not be construed to (i)

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499 constitute approval of the condominium, (ii) represent that the board asserts that
500 either all facts or material changes or both concerning the condominium have been
501 fully or adequately disclosed, or (iii) indicate that the board has made judgment on the
502 value or merits of the condominium.

Commented [JH33]: Relocated from section -390.

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504 **18VAC48-30-180. Contents of public offering statement.**

505 A. A cover, if used, must be blank or bear identification information only.

Commented [JH34]: Consider eliminating.

506 BA. The first substantive page of the public offering statement shall must be
507 substantially as follows:

Commented [JH35]: Should this be created by Board staff to establish this information?

Commented [JH36R35]: Per committee on 3/7/24, make this a form provided by the Board.

PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S PROTECTION

PUBLIC OFFERING STATEMENT

NAME OF

CONDOMINIUM: _____

LOCATION OF

CONDOMINIUM: _____

NAME OF DECLARANT: _____

ADDRESS OF

DECLARANT: _____

EFFECTIVE DATE OF

PUBLIC OFFERING

STATEMENT: _____

REVISED: _____

Commented [JH37]: Per committee on 3/7/24. This is the initial date of the POS.

Commented [JH38]: Discuss effective date vs. revised date.

Add instructions as to what information to put in each field.

Commented [JH39R38]: Per committee on 3/7/24, any changes, material or non-material are revisions.

508 **THE PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S**
509 **OWN PROTECTION. Living in Being a member of a common interest community**
510 **association carries with it certain rights, responsibilities, and benefits, including**
511 **certain financial obligations, rights, and restrictions concerning the use and**
512 **maintenance of units and common elements, and decision-making authority**
513 **vested in the unit owners' association. The purchaser will be bound by the**
514 **provisions of the condominium instruments and should review the Public**
515 **Offering Statement, the condominium instruments, and other exhibits carefully**
516 **prior to purchase.**

517 This Public Offering Statement presents information regarding condominium units
518 being offered for sale by the declarant. Virginia law requires that a Public Offering
519 Statement be given to every Purchaser in order to provide full and fair disclosure of the
520 significant features of the condominium units being offered. The Public Offering
521 Statement is not intended, however, to be all-inclusive. The Purchaser should consult
522 other sources for details not covered by the Public Offering Statement.

523 The Public Offering Statement summarizes information and documents furnished by
524 the declarant to the Virginia Common Interest Community Board. The Board has
525 carefully reviewed the Public Offering Statement to ensure that it contains required
526 disclosures, but the Board does not guarantee the accuracy or completeness of the
527 Public Offering Statement. In the event of any inconsistency between the Public
528 Offering Statement and the material it is intended to summarize, the latter will control.

529 Under Virginia law a purchaser of a condominium unit is afforded a 5-day period during
530 which the purchaser may cancel the purchase contract of sale and obtain a full refund
531 of any sums deposited in connection with the purchase contract. The 5-day period
532 begins on the purchase contract date or the date of delivery of a Public Offering
533 Statement, whichever is later. The purchaser may, if practicable, inspect the
534 condominium unit and the common elements and obtain professional advice. If the
535 purchaser elects to cancel, the purchaser must deliver notice of cancellation to the
536 declarant pursuant to § 55.1-1974 of the Code of Virginia.

537 Allegations of violation of any law or regulation contained in the Virginia
538 Condominium Act or the Condominium Regulations should be reported to the Virginia
539 Common Interest Community Board, at:

540 [Department of Professional and Occupational Regulation](#)

541 Perimeter Center, Suite 400,

542 9960 Mayland Drive, Richmond, Virginia 23233.

543 <https://www.dpor.virginia.gov/Report-Licensee>

544 C. A summary of important considerations ~~shall will~~ immediately follow the first page
545 for the purpose of reinforcing the disclosure of significant information. The summary
546 ~~shall must~~ be titled as such and ~~shall must~~ be introduced by the following statement:

547 "Following are important matters to be considered in acquiring a condominium unit.
548 They are highlights only. The Public Offering Statement and any exhibits or
549 supplements to the statement should be examined in its entirety to obtain detailed
550 information."

551 Appropriate modifications ~~shall must~~ be made to reflect facts and circumstances that
552 may vary. The summary ~~shall consist of, but not be limited to, must include~~ the
553 following including appropriate references to the narrative sections in the public
554 offering statement, as applicable:

555 1. A statement on the governance of the condominium wherein unit owners are
556 allocated votes for certain decisions of the association. In addition, the statement

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Commented [JH40]: Discuss the need for a Summary of Important Considerations.

Commented [JH41R40]: Per committee on 3/7/24. Keep the Summary of Important of Considerations.

Commented [JH42]: Consider adding for purposes of clarity.

Commented [JH43R42]: Per committee on 3/7/24. Add this.

557 ~~shall must~~ include that all unit owners will be bound by the decisions made by the
558 ~~unit owners'~~ association, even if the individual unit owner disagrees.

559 2. A statement concerning the decision-making authority of the executive board of
560 the unit owners' association.

561 3. A statement regarding the payment of common expenses of the association on the
562 basis of a periodic budget, to include a disclosure of any provision for reserves,
563 including a statement if there are no reserves.

564 4. A statement detailing the requirement for each unit owner to pay a periodic
565 assessment and the inability to reduce the amount of an assessment by refraining
566 from the use of the common elements.

567 5. A statement of the unit owner's responsibility to pay any additional fees, charges,
568 or other assessments, ~~if any~~.

569 6. A statement regarding the consequences for failure to pay an assessment when
570 due. The statement ~~shall must~~ include reference to the enforcement mechanisms
571 available to the unit owners' association, including ~~obtaining filing of~~ a lien against
572 the condominium unit, ~~and~~ pursuing civil action against the unit owner, ~~and certain~~
573 ~~other penalties~~.

574 7. A statement that the declarant must pay assessments to the unit owners'
575 association on ~~unsold~~ condominium units the declarant owns once any other
576 condominium unit owners are required to pay.

577 ~~8. A statement indicating whether the declarant, its predecessors, or principal officer~~
578 ~~have undergone a debtor's relief proceeding.~~

579 9. A statement that the declarant will retain control of the unit owners' association
580 for an initial period.

581 10. A statement indicating whether a managing agent ~~will may perform the routine~~
582 ~~operations of provide services to~~ the unit owners' association. The statement ~~shall~~
583 ~~must~~ include whether the managing agent is ~~related to an affiliate of~~ the declarant,
584 ~~or related to any~~ director, or officer of the unit owners' association.

585 11. A statement indicating whether the declarant may lease unsold condominium
586 units ~~and a statement indicating whether the right of a unit owner to lease that~~
587 ~~owner's unit to another is subject to restrictions.~~

588 12. A statement indicating whether the declarant may ~~expand or contract~~ add or
589 withdraw land to the condominium or convert convertible land or space without the
590 consent of any unit owner.

Commented [JH44]: Consider eliminating this requirement.

Commented [HJ(45R44): Per committee on 3/7/24. Remove.

Commented [JH46]: Or affiliated?

What is the problem this disclosure is attempting to address?

Commented [HJ(47R46): Per committee on 3/7/24, keep this disclosure.

Commented [JH48]: Consolidate with subdivision C 13.

591 13. A statement indicating whether the right of the unit owner to resell or lease the
592 owner's condominium unit is subject to restrictions or limitations.

593 14. A statement indicating whether the units are restricted to residential use and
594 whether the units may be utilized for commercial, retail, or professional use. The
595 statement shall must provide detail if units have different voting rights. Further, the
596 statement shall must also detail whether the allocation of rights and responsibilities
597 among commercial, retail, professional, or residential use units are is the same.

598 15. A statement indicating whether approval of the declarant or unit owners'
599 association is necessary in order for a unit owner to alter the structure of the unit or
600 modify the exterior of the unit.

601 16. A statement regarding the obligation of the unit owners' association to obtain
602 certain insurance benefiting the unit owner, along with the necessity for a unit owner
603 to obtain other insurance.

604 17. A statement regarding the unit owner's obligation to pay real estate taxes.

605 18. A statement regarding any limits the declarant asserts on the unit owners'
606 association or the a unit owner's right to bring legal action against the declarant.
607 Nothing in this statement shall will be deemed to authorize such limits where those
608 limits are otherwise prohibited by law.

609 19. A statement that whether the unit owners' association or unit owners are
610 members of another association or are subject to any other agreements or are
611 obligated to perform duties or pay fees or charges to that another association or
612 entity.

613 20. A statement indicating whether the condominium is subject to development as a
614 time share.

615 21. A statement affirming that marketing and sale of condominium units will be
616 conducted in accordance with the Virginia Fair Housing Law (§ 36-96.1 et seq. of the
617 Code of Virginia) and the Virginia Condominium Act (Chapter 19 (§ 55.1-1900 et
618 seq.) of Title 55.1 of the Code of Virginia).

619 D. The content after the summary of important considerations shall must include the
620 narrative sections in 18VAC48-30-190 through 18VAC48-30-360. Supplementary
621 sections may be included as necessary to ensure full and fair disclosure.

622 E. Clear and legible copies of the following documents shall must be attached as
623 exhibits to the public offering statement:

Commented [JH49]: Different unit types?

Commented [JH50]: Get clarification on what is supposed to be disclosed here.

Commented [HJ(51R50): Per committee, have Board consider guidance on limitations on legal actions and warranty requirements. RE: variation by agreement provision of statute.

Commented [JH52]: Consider eliminating as unnecessary.

Commented [HJ(53R52): Address in disclosures re: leasing.

Commented [JH54]: Consider eliminating as unnecessary.

Commented [HJ(55R54): Per committee on 3/7/24, take out.

- 624 1. ~~The declaration~~ The condominium instruments, including the declaration, bylaws,
625 and plats and plans;
- 626 2. ~~The bylaws;~~
- 627 3. The projected budget;
- 628 4. Rules and regulations of the unit owners' association, if available;
- 629 5. Master association documents, if applicable;
- 630 6. ~~Any~~ The proposed or actual management contract, along with the license number
631 of the common interest community manager, if applicable;
- 632 7. Depiction of unit layouts ~~the interior layout of the units;~~
- 633 8. Any lease or shared use of recreational areas or facilities;
- 634 9. Any contract or agreement affecting the use, maintenance, or access of all or any
635 portion of the condominium, including easements, shared-use agreements, and
636 membership agreements, the nature, duration, or expense of which has a material
637 impact on the operation and administration of the condominium;
- 638 10. Warranty information, if applicable; and
- 639 11. Other documents obligating the unit owners' association or unit owner to
640 perform duties or obligations or pay charges or fees.

641 F. Other information and documentation may be included as necessary to ensure full
642 and fair disclosure. The board may also require additional information as necessary to
643 ensure full and fair disclosure.

644 **18VAC48-30-190. Narrative sections; condominium concept.**

645 The public offering statement ~~shall~~ must contain a section captioned "The
646 Condominium Concept." The section ~~shall~~ must consist of a brief discussion of the
647 condominium form of ownership. The section ~~shall~~ must discuss the distinction among
648 units, common elements and limited common elements, ~~if any,~~ and ~~shall~~ must explain
649 ownership of an undivided interest in the common elements. Attention shall be
650 directed to any features of ownership of the condominium units being offered that are
651 different from typical condominium unit ownership.

652 **18VAC48-30-200. Narrative sections; creation of condominium.**

653 The public offering statement ~~shall~~ must contain a section captioned "Creation of the
654 Condominium." The section ~~shall~~ must briefly explain the manner in which the
655 condominium was or will be created, the locality wherein the condominium

Commented [JH56]: Eliminate b/c it is unenforceable. A declarant is not required to contract with a licensed management company.

A management company that is engaged in unlicensed activity may be subject to enforcement.

Commented [JH57]: Removed as being redundant of - 170.

Commented [JH58]: Consider whether this requirement is necessary.

If keep, then maybe clarify with example or two.

Commented [HJ(59R58): Per committee on 3/7/24, remove.

656 instruments will be or have been recorded, and each of the condominium instruments,
657 their functions, and the procedure for their amendment. The section ~~shall indicate~~
658 ~~where each of the condominium instruments or copies thereof may be found must~~
659 ~~direct the reader to the public offering statement exhibit containing the condominium~~
660 ~~instruments. In the case of a condominium located in Virginia or in a jurisdiction~~
661 ~~having a law similar to § 55.1-1984 of the Code of Virginia, the section shall indicate~~
662 ~~that the purchaser will receive copies of the recorded declaration and bylaws, including~~
663 ~~amendments, as appropriate, within the time provided in the applicable statute.~~

664 **18VAC48-30-210. Narrative sections; description of condominium.**

665 A. The public offering statement ~~shall must~~ contain a section captioned "Description of
666 the Condominium." The description ~~shall must~~ include statements of (i) the land area
667 of the condominium to include either the square footage or the acreage, (ii) the number
668 of units in the condominium, (iii) the number of units in the offering, (iv) the number
669 of units in the condominium planned to be rented, and (v) the percentage of units the
670 declarant intends to sell to persons who do not intend to occupy the units as their
671 primary residence.

672 B. If the condominium ~~is contractable, expandable contains additional land,~~
673 ~~withdrawable land,~~ or includes convertible land or space, the section ~~shall must~~ contain
674 a brief description of each such feature, including the land area to include either the
675 square footage or acreage, and the maximum number of units or maximum number of
676 units per acre that may be added, withdrawn, or converted, as applicable, ~~together with~~
677 ~~a statement of the declarant's plans for the implementation of each such feature.~~ In the
678 case of a ~~contractable or expandable~~ condominium ~~that contains additional land or~~
679 ~~withdrawable land,~~ the section ~~shall must~~ contain the substance of the following
680 statement:

681 "At the declarant's option, the construction and development of the condominium
682 may be abandoned or altered prior to completion, and land or buildings originally
683 intended for condominium development may be put to other uses or sold."

684 In the case of a condominium including convertible land, the section ~~shall must~~
685 contain the substance of the following statements:

686 "Until such time as the declarant converts the convertible land into units or limited
687 common elements, the declarant is required by the Virginia Condominium Act to pay
688 for the upkeep of the convertible land. Once the convertible land has been converted,
689 maintenance and other financial responsibilities associated with the land so
690 designated become the responsibility of the unit owners and, therefore, may be
691 reflected in the periodic assessment for the condominium."

Commented [JH60]: Consider eliminating as unnecessary.

Commented [HJ(61R60)]: Per committee on 3/7/24, remove.

Commented [JH62]: Disclose dates/timeline for substantial completion of units/common elements?

Commented [JH63R62]: Disclose planned/estimated dates/timelines for substantial completion of units/common elements.

Commented [JH64]: Discuss whether this requirement is necessary.

Commented [JH65]: Consider simplifying this requirements.

Disclose whether condo is expandable, contractible, or convertible land or space.

Disclose declarant's development rights as outlined in the condominium instruments.

Disclose declarant's development plans with respect to these features.

692 If ~~the~~ common expense assessments are expected to increase should convertible land
693 be converted, ~~this the~~ section ~~shall must~~ also disclose an estimate of the approximate
694 percentage by which such assessments are expected to increase as a result of such
695 conversion.

696 C. The section ~~shall must~~ state whether the units are restricted solely to residential use
697 and ~~shall must~~ identify where use and occupancy restrictions are found in the
698 condominium instruments. If nonresidential use is permitted, the section ~~shall must~~
699 identify the ~~types of units usage~~ and ~~proportion percentage~~ of each ~~use by number or~~
700 ~~size~~, if known or reasonably anticipated.

Commented [JH66]: What does this mean?

701 ~~D. The section shall state whether the project, as of the effective date of the public~~
702 ~~offering statement, is intended to comply with the underwriting guidelines of the~~
703 ~~secondary mortgage market agencies, including but not limited to the Federal National~~
704 ~~Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Virginia~~
705 ~~Housing Development Authority.~~

Commented [JH67]: Discuss whether this requirement is necessary.

706 18VAC48-30-220. Narrative sections; individual units.

707 The public offering statement ~~shall must~~ contain a section captioned "Individual
708 Units." The section ~~shall must~~ contain a general description of the various types of
709 units being offered to include the square footage, or number of bedrooms, or both,
710 together with the dates on which substantial completion of unfinished units is
711 anticipated. The section ~~shall must~~ state any restrictions regarding changes unit
712 owners may make to the structure or exterior of the units, regardless of whether the
713 exterior is a portion of the common elements.

Commented [JH68R67]: Per committee on 3/7/24, strike.

714 18VAC48-30-230. Narrative sections; common elements.

715 A. The public offering statement ~~shall must~~ contain a section captioned "Common
716 Elements." The section ~~shall must~~ contain a general description of the common
717 elements.

718 B. For any common elements that are not completed or not expected to be substantially
719 complete when the units are complete, a statement of the anticipated completion dates
720 of unfinished common elements ~~shall must~~ be included.

Commented [JH69]: Should disclosures regarding completion of units/common elements be in "Description of Condominium" re: developer's plans?

721 C. ~~In the case of a condominium located in Virginia, if~~ If common elements are not
722 expected to be substantially complete when the units are completed, the section ~~shall~~
723 ~~must~~ state the nature, source, and extent of the obligation to complete such common
724 elements that the declarant has incurred or intends to incur upon recordation of the
725 condominium instruments pursuant to §§ 55.1-1920 A and 55.1-1930 B of the Code of
726 Virginia and applicable provisions of the condominium instruments. In addition the
727 section ~~shall must~~ state that pursuant to § 55.1-1921 of the Code of Virginia, the

Commented [JH70R69]: Per committee on 3/7/24, yes.

728 declarant has filed with the board a bond to insure completion of improvements to the
729 common elements that the declarant is obligated as stated in the declaration.

730 D. In the case of a condominium located outside of Virginia, a description of the nature,
731 source, and extent of the obligation to complete such common elements that the
732 declarant has incurred or intends to incur under the law of the jurisdiction in which the
733 condominium is located shall be included.

Commented [JH71]: Consider eliminating as unnecessary.

734 E. The section shall-must describe any limited common elements and any reserved
735 common elements that are assigned or that may be assigned, including storage spaces,
736 and shall-must indicate the reservation of exclusive use. In the case of limited common
737 elements that may be assigned, theThe section shall-must state describe the manner of
738 such assignment or reassignment.

739 F. The section shall-must indicate the availability of number of vehicular parking spaces
740 per unit and whether parking spaces will be assigned or reserved to individual units
741 including the number of spaces available per unit andThe section must also describe
742 restrictions on or charges for the use of parking spaces.

743 18VAC48-30-240. Narrative sections; maintenance, repair, and replacement 744 responsibilities.

745 The public offering statement shall-must contain a section captioned "Maintenance,
746 Repair, and Replacement Responsibilities." The section shall-must describe the basic
747 allocation of maintenance, repair, and replacement responsibilities between the unit
748 owner and the association as well as any unusual items to be maintained by the unit
749 owner. The section shall-must refer to the location of the maintenance, repair, and
750 replacement responsibility requirements in the condominium instruments.

751 18VAC48-30-250. Narrative sections; declarant.

752 A. The public offering statement shall-must contain a section captioned "The
753 Declarant." The section shall-must contain a brief history background information of on
754 the declarant and principals of the declarant with emphasis on its experience in
755 condominium development.

Commented [JH72]: What information should be disclosed here?

756 B. The following information shall-must be stated with regard to persons immediately
757 responsible for the development of the condominium:

758 Information about the persons immediately responsible for the development of the
759 condominium must include: (i) name, (ii) length of time associated with the declarant,
760 (iii) role in the development of the condominium, and (iv) experience in real estate
761 development. If different from the persons immediately responsible for the
762 development of the condominium, the principal officers of the declarant shall-must
763 also be identified. 18VAC48-30-241

Commented [JH73]: What information is really necessary?

Commented [JH74R73]: Per committee on 3/7/24, keep as is.

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764 C. The section shall-must describe the type of legal entity of the declarant and explain
765 if any other entities have any obligation to satisfy the financial obligations of the
766 declarant.

Commented [JH75]: Consider clarifying.

767 D. If the declarant or its parent or predecessor organization has, during the preceding
768 10 years, been adjudicated as bankrupt or has undergone any proceeding for the relief
769 of debtors, such facts shall-will be stated. If any of the persons identified pursuant to
770 subsection B of this section has, during the preceding three years, been adjudicated as
771 bankrupt or undergone any proceeding for the relief of debtors, such facts shall-will be
772 stated.

Commented [JH76]: Tie back to disclosure on application?

Re-word with active phrasing.

773 E. The section shall-will indicate any final action taken against the declarant, its
774 principals, or the condominium by an administrative agency, civil court, or criminal
775 court where the action reflected adversely upon the performance of the declarant as a
776 developer of real estate projects. The section shall-will also indicate any current or past
777 proceedings brought against the declarant by any condominium unit owners'
778 association or by its executive board or any managing agent on behalf of such
779 association or that has been certified as a class action on behalf of some or all of the
780 unit owners. For the purposes of the previous sentence with respect to past
781 proceedings, if the ultimate disposition of those proceedings was one that reflected
782 adversely upon the performance of the declarant, that disposition shall-will be
783 disclosed. If the ultimate disposition was resolved favorably towards the declarant, its
784 principals, or the condominium, the final action does not need to be disclosed. The
785 board has the sole discretion to require additional disclosure of any proceedings where
786 it finds such disclosure necessary to assure full and fair disclosure.

Commented [JH77]: Tie back to disclosure on application?

787 **18VAC48-30-260. Narrative sections; terms of the offering.**

788 A. The public offering statement shall-must contain a section captioned "Terms of the
789 Offering." The section shall-will discuss the expenses to be borne by a purchaser in
790 acquiring a condominium unit and present information regarding the settlement of
791 purchase contracts as provided in subsections B through H-I of this section.

Commented [JH78]: What is most important to disclose?

792 B. The section shall-will indicate the offering prices for condominium units or a price
793 range for condominium units, if either is established.

If B through H says what needs to be in the section, it this necessary?

794 C. The section shall-will set forth the significant terms of any financing offered by or
795 through the declarant to purchasers. Such discussion shall include the substance of the
796 following statement:

797 "Financing is subject to additional terms and conditions stated in the loan
798 commitment or instruments."

799 D. The section ~~shall will discuss disclose~~ in detail any costs collected by or paid to the
800 declarant, association, or master association ~~that are not normal for residential real~~
801 ~~estate transactions~~ including, ~~without limitation~~, any contribution to the initial or
802 working capital of the unit owners' association, including any master association, to be
803 paid by a purchaser.

804 E. The section ~~shall will discuss disclose~~ any penalties or forfeitures to be incurred by a
805 purchaser upon default in performance of a purchase contract ~~that are not normal for~~
806 ~~residential real estate transactions~~. Penalties or forfeitures to be ~~discussed disclose~~
807 include, ~~without limitation~~, the declarant's right to retain sums deposited in
808 connection with a purchase contract in the event of a refusal by a lending institution to
809 provide financing to a purchaser who has made proper application for same.

Commented [JH79]: What does this mean?

Commented [JH80]: Any other disclosures that should be mandatory?

810 F. The section ~~shall will discuss disclose the any~~ right of the declarant to cancel a
811 purchase contract upon failure of the declarant to obtain purchase contracts on a given
812 number or percentage of condominium units being offered or upon failure of the
813 declarant to meet other conditions precedent to obtaining necessary financing.

814 G. The section ~~shall will~~ include a statement as to whether deposits will be held in an
815 escrow fund or if a bond or letter of credit will be filed with the board in lieu of
816 escrowing deposits, all in accordance with § 55.1-1983 of the Code of Virginia.

817 G.H. The section ~~shall will discuss disclose~~ the process for cancellation of a purchase
818 contract by a purchaser in accordance with subdivision 2 of § 55.1-1974 of the Code of
819 Virginia. ~~The section shall include a statement as to whether deposits will be held in an~~
820 ~~escrow fund or if a bond or letter of credit will be filed with the board in lieu of~~
821 ~~escrowing deposits, all in accordance with § 55.1-1983 of the Code of Virginia.~~

822 H.I. The section ~~shall will~~ set forth any restrictions in the purchase contract ~~that limit~~
823 ~~the unit owner's right to bring legal action against the declarant or the association.~~ The
824 section ~~shall will~~ set forth the paragraph or section and page number of the purchase
825 contract where such provision is located. Nothing in this statement ~~shall will~~ be
826 deemed to authorize such limits where those limits are otherwise prohibited by law.

Commented [JH81]: What about any restrictions in the condominium instruments?

Commented [JH82]: What is it that should be disclosed here? Any restrictions on filing suite (i.e. arbitration, waiver of rights)?

827 **18VAC48-30-270. Narrative sections; encumbrances.**

828 A. The public offering statement ~~shall must~~ contain a section captioned
829 "Encumbrances" that ~~shall will~~ include the significant terms of any encumbrances,
830 easements, liens, and matters of title affecting the condominium ~~other than those~~
831 ~~contained in the condominium instruments and disclosed elsewhere in the public~~
832 ~~offering statement~~, as provided in subsections B through J of this section. ~~However,~~
833 ~~encumbrances, easements, liens, or other matters contained in the condominium~~
834 ~~instruments and disclosed elsewhere in the public offering statement need not be~~
835 ~~included in this section.~~

836 B. Except to the extent that such encumbrances are required to be satisfied or released
837 by subsection A of § 55.1-1908 of the Code of Virginia, or a similar law, the section
838 shall describe every mortgage, deed of trust, other perfected lien, or choate mechanics'
839 or materialmen's lien affecting all or any portion of the condominium other than those
840 placed on condominium units by their purchasers or owners. Such description shall (i)
841 identify the lender secured or the lienholder, (ii) state the nature and original amount
842 of the obligation secured, (iii) identify the party having primary responsibility for
843 performance of the obligation secured, and (iv) indicate the practical effect upon unit
844 owners of failure of the party to perform the obligation.

Commented [JH83]: Clarify what should be disclosed.

845 C. Normal easements for utilities, municipal rights-of-way, and emergency access ~~shall~~
846 will be described only as such, without reference to ownership, location, or other
847 details.

Consider rewording to be clearer.

Commented [JH84]: Any others?

848 D. Easements reserved to the declarant to facilitate conversion, expansion, or sales
849 ~~shall will~~ be briefly described.

850 E. Easements reserved to the declarant or to the unit owners' association or to either
851 entity's representatives or agents for access to units ~~shall will~~ be briefly described. In
852 the event that access to a unit may be had without notice to the unit owner, such fact
853 ~~shall will~~ be stated.

854 F. Easements across the condominium reserved to the owners or occupants of land
855 located in the vicinity of the condominium, or across adjacent land benefitting the
856 condominium including, ~~without limitation,~~ easements for the use of recreational areas
857 ~~shall will~~ be briefly described.

858 G. Covenants, servitudes, or other devices that create an actual restriction on the right
859 of any unit owner to use and enjoy the unit or any portion of the common elements
860 other than limited common elements ~~shall will~~ be briefly described.

861 H. Any matter of title that is not otherwise required to be disclosed by the provisions of
862 this section and that has or may have a substantial adverse impact upon unit owners'
863 interests in the condominium ~~shall will~~ be described. Under normal circumstances,
864 normal and customary utility easements, easements for encroachments, and easements
865 running in favor of unit owners for ingress and egress across the common elements
866 ~~shall will~~ be deemed not to have a substantial adverse impact upon unit owners'
867 interest in the condominium.

868 I. The section need not include any information required to be disclosed by 18VAC48-
869 30-210 C, 18VAC48-30-220, or 18VAC48-30-280.

J. In addition to the description of easements required in this section, pertinent easements that can be located shall be shown on the condominium plats and plans.

Commented [JH85]: Not necessary here.

18VAC48-30-280. Narrative sections; restrictions on transfer.

The public offering statement shall must include a section captioned "Restrictions on Transfer." The section shall will describe and explain any rights of first refusal, preemptive rights, limitations on leasing, or other restraints on free alienability created by the condominium instruments or the rules and regulations of the unit owners' association that affect the unit owners' right to resell, lease, or otherwise transfer an interest in the condominium unit.

18VAC48-30-290. Narrative sections; unit owners' association..

A. The public offering statement shall must contain a section captioned "Unit Owners' Association." The section shall will discuss the manner in which the condominium is governed and administered and shall will include the information required by subsections B through K of this section.

B. The section shall will summarize the functions of the unit owners' association.

C. The section shall will describe the organizational structure of the unit owners' association. Such description shall will indicate (i) the existence of or provision for an executive board, officers, and any managing agent, if any; (ii) the relationships between such persons or bodies; (iii) the manner of election or appointment of such persons or bodies; and (iv) the assignment or delegation of responsibility for the performance of the functions of the unit owners' association to the executive board or managing agent, as applicable.

Commented [JH86]: What is it that needs to be disclosed?

D. The section shall will describe the method of allocating votes among the unit owners.

E. The section shall will describe any retention by the declarant of control over the unit owners' association, including the time period of declarant control. The section shall will state that the association shall must register with the Common Interest Community Board upon transition of declarant control by filing the required annual report in accordance with § 55.1-1980 of the Code of Virginia.

Commented [JH87]: Is this necessary for an offering?

F. The Any managing agent, if any, shall will be identified. If a managing agent is to be employed in the future, the criteria, if any, for selection of the managing agent shall will be briefly stated. The section shall will indicate any relationship between the managing agent and the declarant or a member of the executive board or an officer of the unit owners' association. The duration of any management agreement shall will be stated.

DRAFT - Not for Distribution
Materials contained in this agency's proposed topics for discussion
And are not to be construed as representing the official board position
DRAFT ACH

905 G. Except to the extent otherwise disclosed in connection with discussion of a
906 management agreement, the significant terms of any lease of recreational areas or
907 similar contract or agreement affecting the use, maintenance, or access of all or any
908 part of the condominium ~~shall will~~ be stated. The section ~~shall will~~ include a brief
909 narrative statement of the effect of each such agreement upon a purchaser.

910 H. Rules and regulations of the unit owners' association and the authority to
911 promulgate rules and regulations ~~shall will~~ be ~~discusseddisclosed~~. Particular provisions
912 of the rules and regulations need not be ~~discusseddisclosed~~ except as required by other
913 provisions of this chapter. The purchaser's attention ~~shall will~~ be directed to the copy
914 of rules and regulations, if any, attached to the public offering statement.

915 I. Any standing committees established or to be established to perform functions of the
916 unit owners' association ~~shall will~~ be ~~discusseddisclosed~~. Such committees include,
917 ~~without limitation~~, architectural control committees and committees having the
918 authority to interpret condominium instruments, rules, and regulations or other
919 operative provisions.

920 J. Unless required to be disclosed by 18VAC48-30-270 E, any power of the declarant or
921 of the unit owners' association or its representatives or agents to enter units shall be
922 discussed. To the extent each is applicable, the following facts shall be stated (i) a unit
923 may be entered without notice to the unit owner, (ii) the declarant or the unit owners'
924 association or its representatives or agents are empowered to take actions or perform
925 work in a unit without the consent of the unit owner, and (iii) the unit owner may be
926 required to bear the costs of actions so taken or work so performed.

927 K. The section ~~shall will~~ state whether the condominium is part of a master or other
928 association and briefly describe such relationship and the responsibilities of and
929 obligations to the master association, including any charges for which the unit owner
930 or the unit owners' association may be responsible. The disclosures required by this
931 subsection may be contained in this narrative section or another narrative section.

932 L. The section ~~shall will also~~ describe any other obligation of the association or unit
933 owners arising out of any agreements, easements, deed restrictions, or proffers,
934 including the obligation to pay fees or other charges.

935 **18VAC48-30-300. Narrative sections; display of flag.**

936 The public offering statement shall include a section captioned "Display of Flag." This
937 section shall describe any restrictions, limitations, or prohibitions on the right of a unit
938 owner to display the flag of the United States in accordance with § 55.1-1951 of the
939 Code of Virginia.

940 **18VAC48-30-310. Narrative sections; surrounding area.**

Commented [JH88]: Discuss committees of master association that have such authority (i.e. architectural review committees.)

Commented [JH89]: Is this necessary here?

Consider merging with section -270.

Commented [JH90]: Consider consolidating with "Unit Owners' Association" narrative section.

941 The public offering statement shall contain a section captioned "Surrounding Area."
942 The section shall briefly describe the zoning of the immediate neighborhood of the
943 condominium and the current uses.

Commented [JH91]: Discuss whether this section is necessary. What public harm is this attempting to address?

944 **18VAC48-30-320. Narrative sections; financial matters.**

945 A. The public offering statement ~~shall must~~ contain a section captioned "Financial
946 Matters." The section ~~shall will discuss disclose~~ the expenses incident to the ownership
947 of a condominium unit, ~~excluding certain taxes, in the manner as~~ provided in
948 ~~subsections B through I of~~ this section.

949 B. The section ~~shall will~~ distinguish, in general terms, the following categories of costs
950 of operation, maintenance, repair, and replacement of various portions of the
951 condominium:

952 ~~(i) 1. common-Common~~ expenses apportioned among and assessed to all of the
953 condominium units ~~pursuant to subsection D of § 55.1-1964 of the Code of Virginia or~~
954 ~~similar law or condominium instrument provision;~~

955 ~~(ii) 2. common-Common~~ expenses, if any, apportioned among and assessed to less than
956 all of the condominium units ~~pursuant to subsections A and B of § 55.1-1964 of the~~
957 ~~Code of Virginia or similar law or condominium instrument provisions;~~ and

958 ~~(iii) 3. costs-Costs~~ borne directly by individual unit owners.

959 The section need not discuss taxes assessed against individual condominium units and
960 payable directly by the unit owners.

961 C. A budget ~~shall will~~ show projected common expenses for the first year of the
962 condominium's operation or, if different, the latest year for which a budget is available.
963 The ~~projected budget shall be attached to the public offering statement as an exhibit~~
964 ~~and the~~ section ~~shall will~~ direct the purchaser's attention to ~~such the budget~~ exhibit ~~to~~
965 ~~the public offering statement.~~ The section ~~shall will~~ describe the manner in which the
966 projected budget is established. If the condominium is phased, the budget ~~shall will~~
967 project future years until all phases are projected to be developed and all common
968 elements that must be built have been completed. The budget ~~shall will~~ include an
969 initial working capital budget showing sources and uses of initial working capital and a
970 reserve table showing amounts to be collected to fund those reserves. The budget ~~shall~~
971 ~~will~~ show regular individual assessments by unit type. The ~~budget-section shall will~~
972 note that the figures ~~in the budget~~ are not guaranteed and may vary.

Commented [JH92]: Eliminated as redundant.

Commented [JH93]: Get clarification on what this means.

Commented [JH94]: Can this requirement be simplified?

973 D. The section ~~shall will~~ describe the manner in which regular common expenses are
974 apportioned among and assessed to the condominium units. The section ~~shall will~~
975 include the substance of the following statement, if applicable:

976 "A unit owner cannot obtain a reduction of the regular common expenses assessed
977 against the unit by refraining from use of any of the common elements."

978 E. The section shall will describe budget provisions for reserves for capital expenditures
979 in accordance with § 55.1-1965 of the Code of Virginia and for contingencies, if any. If
980 there are no reserves, the section shall will so state.

981 F. The section shall will describe provisions for additional or special assessments to be
982 levied in accordance with subsection E of § 55.1-1964 of the Code of Virginia in the
983 event that budgeted assessments provide insufficient funds for operation of the unit
984 owners' association. The section shall will also describe the provisions for an
985 assessment against an individual unit owner.

986 G. The section shall will discuss any common expenses actually planned to be specially
987 assessed pursuant to subsections A and B of § 55.1-1964 of the Code of Virginia or
988 similar law or condominium instrument provisions.

989 H. The section shall will indicate any fee, rent, or other charge to be payable by unit
990 owners other than through common expense assessments to any party for use of the
991 common elements or for use of recreational or parking facilities in the vicinity of the
992 condominium. As an exception to the provisions of this subsection, the section need
993 not discuss any fees provided for in subsection H of §§ 55.1-1966 and 55.1-1969 of the
994 Code of Virginia, or similar laws or condominium instrument provisions or any costs
995 for certificates for resale.

996 I. The section shall will discuss disclose the effect of failure of a unit owner to pay the
997 assessments levied against the condominium unit. Such discussion shall disclosure will
998 indicate provisions for charges or other remedies that may be imposed to be applied in
999 the case of overdue assessments and for acceleration of unpaid assessments. The
1000 section shall will indicate the existence of a lien for unpaid assessments and where
1001 applicable the bond or letter of credit conditioned on the payment of assessments filed
1002 with the board in accordance with § 55.1-1968 of the Code of Virginia. The section shall
1003 will include, to the extent applicable, the substance of the following statement:

1004 "The unit owners' association may obtain payment of overdue assessments by
1005 bringing legal action against the unit owner or by foreclosure of the lien resulting in
1006 a forced sale of the condominium unit."

1007 **18VAC48-30-330. Narrative sections; insurance.**

1008 A. The public offering statement shall must contain a section captioned "Insurance."
1009 The section shall will describe generally the insurance on the condominium to be
1010 maintained by the unit owners' association. The section shall state, with respect to
1011 such insurance, each of the following circumstances, to the extent applicable: (i)

Commented [JH95]: Get clarification on what is contemplated here.

1012 property damage coverage will not insure personal property belonging to unit owners;
1013 (ii) property damage coverage will not insure improvements to a unit that increase its
1014 value beyond the limits of coverage provided in the unit owners' association's policy;
1015 and (iii) liability coverage will not insure against liability arising from an accident or
1016 injury occurring within a unit or as a result of the act or negligence of a unit owner. The
1017 section shall will include a statement whether the unit owner is obligated to obtain
1018 coverage for any or all of the coverages described. The section shall will also include a
1019 statement that the unit owner should consult with an insurance professional to
1020 determine the appropriate coverage.

Commented [JH96]: Discuss whether this disclosure is necessary.

1021 B. The section shall will indicate any conditions imposed by the condominium
1022 instruments or the rules and regulations to which insurance obtained directly by unit
1023 owners will be subject. Such indication may be made by reference to pertinent
1024 provisions of the condominium instruments or the rules and regulations.

1025 C. The section shall will explain that the association is the only party that can make a
1026 claim under the master policy and is the sole decision-maker as to whether to make a
1027 claim, including a statement as to the circumstances under which a unit owner could be
1028 responsible for payment of the deductible.

1029 D. The section shall will state that the unit owners' association is required to obtain
1030 and maintain a blanket fidelity bond or employee dishonesty insurance policy in
1031 accordance with subsection B of § 55.1-1963 of the Code of Virginia.

Commented [JH97]: Discuss whether this is necessary to protect purchasers.

1032 **18VAC48-30-340. Narrative sections; taxes.**

1033 A. The public offering statement shall must contain a section captioned "Taxes." The
1034 section shall will describe all existing or pending taxes to be levied against
1035 condominium units individually including, without limitation, real property taxes,
1036 sewer connection charges, and other special assessments.

Commented [JH98]: Discuss whether these disclosures are necessary. Wouldn't a purchaser of any other type of property (i.e. single family home) be subject to the same types of taxes or charges?

If keeping, could this be consolidated in the "Financial Matters" narrative section?

1037 B. With respect to real property taxes, the section shall will state the current tax rate or
1038 provide information for obtaining the current tax rate. The section shall will also state
1039 a procedure or formula by means of which the taxes may be estimated.

1040 C. With respect to other taxes, the section shall will describe each tax in sufficient
1041 detail as to indicate the time at which the tax will be levied and the actual or estimated
1042 amount to be levied, or a procedure or formula by means of which the taxes may be
1043 estimated.

1044 **18VAC48-30-350. Narrative sections; governmental review.**

1045 The public offering statement shall must contain a section captioned "Governmental
1046 Reviews." The section shall will discuss governmental reviews applicable to the
1047 condominium property and the status of any governmental approvals required for the

1048 development of the condominium. In addition, the section ~~shall~~will discuss approval of
1049 the zoning application and site plan and issuance of building permits by appropriate
1050 governmental authorities. The section shall state the current zoning classification for
1051 the condominium property. The section ~~shall~~will also include a statement regarding
1052 any zoning, subdivision, or land use obligations or proffers that would be imposed on
1053 the unit owner or the association, but need not disclose any zoning, subdivision, or
1054 land use obligations or proffers that do not impose any obligation on the association.

1055 **18VAC48-30-360. Narrative sections; warranties.**

1056 The public offering statement ~~shall~~must contain a section captioned "Warranties." The
1057 section ~~shall~~will describe any warranties provided by or through the declarant on the
1058 units or the common elements ~~and a summary of the process for commencement of an~~
1059 ~~action for breach of warranty in accordance with subsection C of § 55.1-1955 of the~~
1060 ~~Code of Virginia.~~ The section ~~shall~~will describe the structural defect warranty required
1061 by and described in subsection B of § 55.1-1955 of the Code of Virginia ~~and describe a~~
1062 ~~summary of the process for commencement of an action for breach of warranty in~~
1063 ~~accordance with subsection C of § 55.1-1955 of the Code of Virginia.~~ The section ~~shall~~
1064 ~~will also include the substance of the following statement:~~

1065 "Nothing contained in the warranty provided by the declarant shall limit the
1066 protection afforded by the statutory warranty."

1067 **18VAC48-30-370. Documents from other jurisdictions.**

1068 A. A substituted public offering statement shall only be permitted for a condominium
1069 located outside of Virginia.

1070 B. The substituted public offering statement shall be prepared by deleting from the
1071 original disclosure document (i) references to any governmental agency of another
1072 jurisdiction to which application has been made or will be made for registration or
1073 related action; (ii) references to the action of such governmental agency relative to the
1074 condominium; (iii) statements of the legal effect in another jurisdiction of delivery,
1075 failure to deliver, acknowledgment of receipt, or related events involving the disclosure
1076 document; (iv) the effective dates in another jurisdiction of the disclosure document;
1077 and (v) all other information that is untrue, inaccurate, or misleading with respect to
1078 marketing, offers, or disposition of condominium units in Virginia.

1079 C. The substituted public offering statement shall incorporate all information not
1080 otherwise included that is necessary to effect fully and accurately the disclosures
1081 required by subsection A of § 55.1-1976 of the Code of Virginia and, if applicable,
1082 subsection B of § 55.1-1982 of the Code of Virginia. The substituted disclosure
1083 document shall clearly explain any nomenclature that is different from the definitions
1084 provided in § 55.1-1900 of the Code of Virginia.

Commented [JH99]: Discuss whether structural defect warranty includes "fit for habitation."

Commented [JH100]: Discuss whether these provisions are necessary.

1085 D. The substituted public offering statement shall include as the first item of the
1086 summary of important considerations a statement that includes the following
1087 information: (i) the designation by which the original disclosure document is identified
1088 in the original jurisdiction, (ii) the governmental agency of such other jurisdiction
1089 where the original disclosure document is or will be filed, and (iii) the jurisdiction of
1090 such filing.

1091 E. The provisions of subdivision 2 of § 55.1-1974, § 55.1-1976, and subsection B of §
1092 55.1-1982 of the Code of Virginia and 18VAC48-30-160, 18VAC48-30-170, and
1093 18VAC48-30-180 shall apply to substituted public offering statements in the same
1094 manner and to the same extent that they apply to public offering statements.

1095 **18VAC48-30-380. Condominium securities.**

1096 A prospectus filed in compliance with the securities laws of a state or federal agency
1097 used in lieu of a public offering statement shall contain or have attached thereto copies
1098 of documents, other than the projected budget required to be attached to a public
1099 offering statement by subsection E of 18VAC48-30-180. Such prospectus shall be
1100 deemed to satisfy all of the disclosure requirements of subsections C and D of
1101 18VAC48-30-180 and 18VAC48-30-190 through 18VAC48-30-360. In the case of a
1102 conversion condominium, the prospectus shall have attached thereto, in suitable form,
1103 the information required by 18VAC48-30-420, subsections C and D of 18VAC48-30-
1104 430, and 18VAC48-30-440 to be disclosed in public offering statements for conversion
1105 condominiums. The provisions of subdivision 2 of § 55.1-1974 of the Code of Virginia
1106 shall apply to the delivery of the prospectus in the same manner and to the same extent
1107 that they apply to the delivery of a public offering statement.

1108 ~~**18VAC48-30-390. Board oversight of public offering statement.**~~

1109 ~~The board at any time may require a declarant to alter or amend the public offering~~
1110 ~~statement to assure full and fair disclosure to prospective purchasers and to ensure~~
1111 ~~compliance with the Virginia Condominium Act and this chapter.~~

Commented [JH101]: Moved to section -170.

1112 ~~In accordance with subsection B of § 55.1-1976 of the Code of Virginia, the board does~~
1113 ~~not approve or recommend the condominium or disposition thereof. The board's~~
1114 ~~issuance of an effective date for a public offering statement shall not be construed to (i)~~
1115 ~~constitute approval of the condominium, (ii) represent that the board asserts that~~
1116 ~~either all facts or material changes of both concerning the condominium have been~~
1117 ~~fully or adequately disclosed, or (iii) indicate that the board has made judgment on the~~
1118 ~~value or merits of the condominium.~~

Commented [JH102]: Moved to new section -175.

1119 **Part V. Conversion Condominiums**

1120 **18VAC48-30-400. Public offering statement for conversion condominium;**
1121 **general instructions.**

1122 The public offering statement for a conversion condominium shall conform in all
1123 respects to the requirements of 18VAC48-30-160 through 18VAC48-30-380. In
1124 addition, the public offering statement for a conversion condominium shall (i) contain
1125 special disclosures in the narrative sections captioned "Description of the
1126 Condominium," "Terms of the Offering," and "Financial Matters"; and (ii) incorporate
1127 narrative sections captioned "Present Condition of the Condominium" and
1128 "Replacement Requirements." Provisions for such additional disclosure are set forth in
1129 18VAC48-30-410 through 18VAC48-30-440.

1130 **18VAC48-30-410. Description of conversion condominium.**

1131 In addition to the information required by 18VAC48-30-210, the section captioned
1132 "Description of the Condominium" shall indicate that the condominium is a conversion
1133 condominium. The term conversion condominium shall be defined and the particular
1134 circumstances that bring the condominium within the definition shall be stated. The
1135 nature and inception date of prior occupancy of the property being converted shall be
1136 stated.

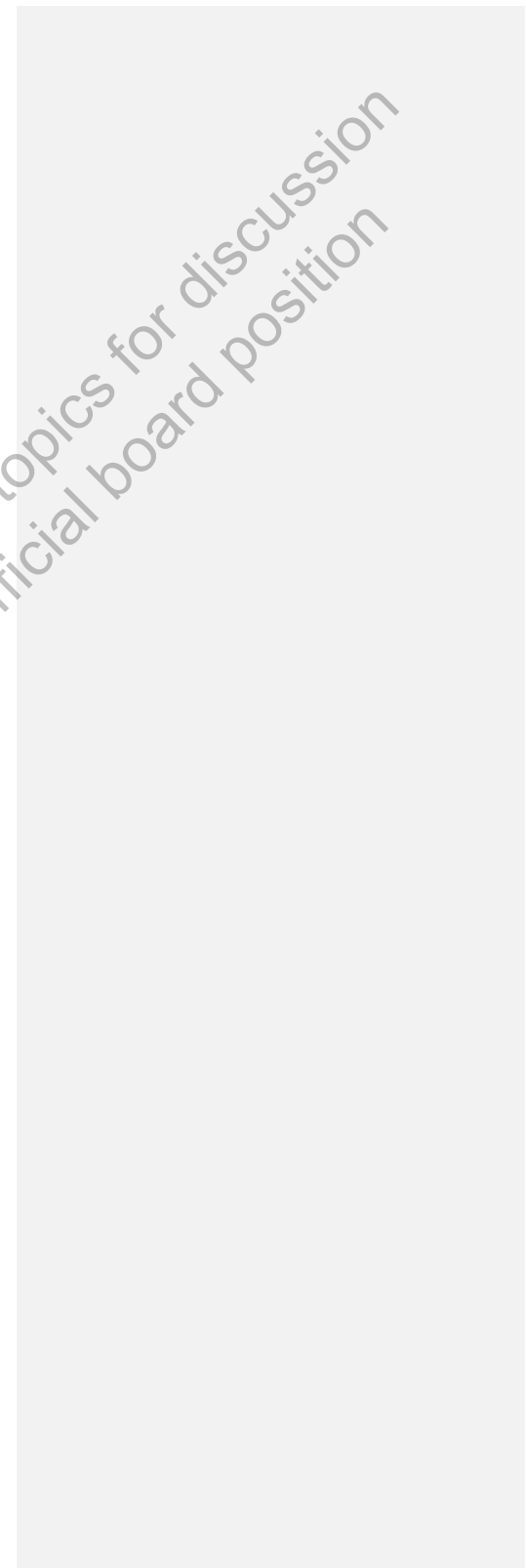
1137 **18VAC48-30-420. Financial matters, conversion condominium.**

1138 A. The provisions for capital reserves described in the section captioned "Financial
1139 Matters" shall conform with 18VAC48-30-320 and shall be supplemented by the
1140 information set forth in subsections B and C of this section.

1141 B. The section shall state the aggregate replacement cost of all physical assets whose
1142 replacement costs will constitute regular common expenses and whose expected useful
1143 lives are 10 years or less. For the purposes of this subsection, an expected useful life
1144 that is stated as being within a range of years pursuant to subsection E of 18VAC48-30-
1145 440 shall be deemed to be 10 years or less, if the lower limit of such range is 10 years or
1146 less. The total common expense assessments per unit that would be necessary in order
1147 to accumulate an amount of capital reserves equal to such aggregate replacement cost
1148 shall be stated.

1149 C. The section shall state the amount of capital reserves that will be accumulated by the
1150 unit owners' association during the period of declarant control together with any
1151 provisions of the condominium instruments specifying the rate at which reserves are to
1152 be accumulated thereafter. If any part of the capital reserves will or may be obtained
1153 other than through regular common expense and limited common expense
1154 assessments, such fact shall be stated.

1155 D. The actual expenditures made over a three-year period on operation, maintenance,
1156 repair, or other upkeep of the property prior to its conversion to condominium shall be
1157 set forth in tabular form as an exhibit immediately preceding or following the budget
1158 attached to the public offering statement pursuant to subsection C of 18VAC48-30-320,



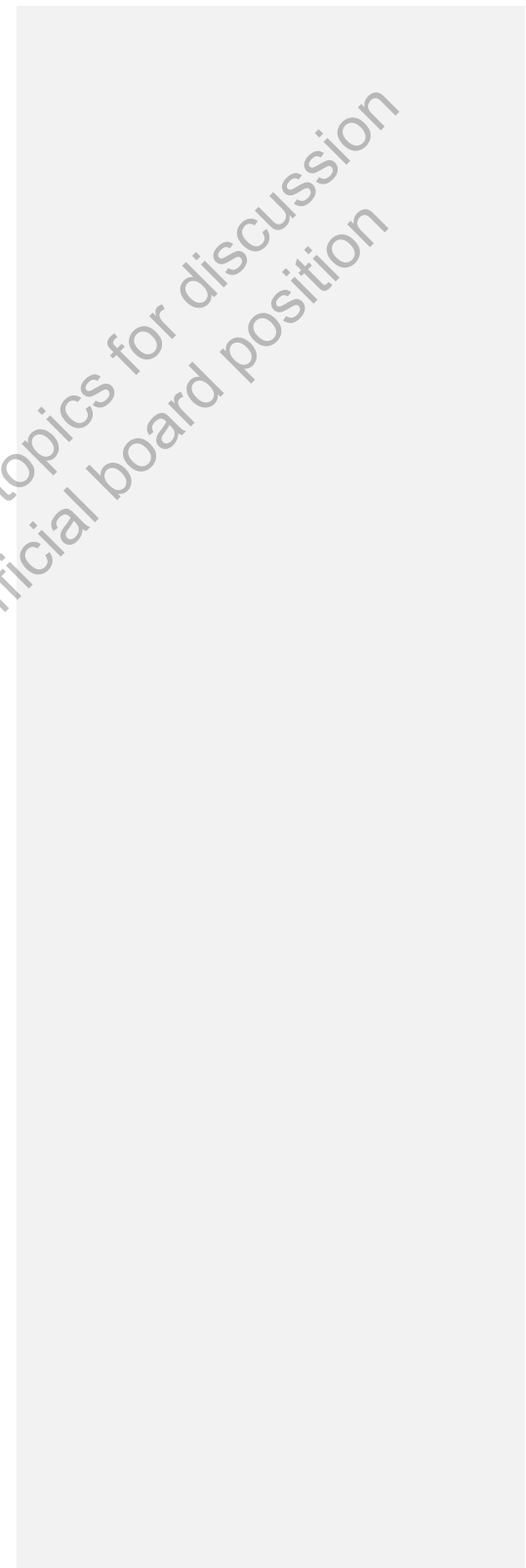
1159 and shall be presented in a manner that is not misleading. Distinction shall be made
1160 between expenditures that would have constituted regular common expenses and
1161 limited common expenses, and expenditures that would have been borne by unit
1162 owners individually if the property had been converted to a condominium prior to the
1163 commencement of the three-year period. To the extent that it is impossible or
1164 impracticable to so distinguish the expenditures it shall be assumed that they would
1165 have constituted regular common expenses or limited common expenses.

1166 Both types of expenditures shall be cumulatively broken down on a per unit basis in the
1167 same proportion that common expenses are or will actually be assessed against the
1168 condominium units. The three-year period to which this subsection refers shall be the
1169 most recent three-year period prior to application for registration during which the
1170 property was occupied and for which expenditure information is available. The
1171 expenditure information shall indicate the years for which expenditures are stated. If
1172 any portion of the property being converted to condominium was not occupied for the
1173 full three-year period, expenditure information shall be set forth only for the entire
1174 time period that portion of the property was occupied. The "Financial Matters" section
1175 shall direct the purchaser's attention to the expenditure information.

1176 **18VAC48-30-430. Present condition of conversion condominium.**

1177 A. The section captioned "Present Condition of the Condominium" shall contain a
1178 statement of the approximate dates of original construction or installation of all
1179 physical assets in the condominium. A single construction or installation date may be
1180 stated for all of the physical assets (i) in the condominium, (ii) within a distinctly
1181 identifiable portion of the condominium, or (iii) within a distinctly identifiable
1182 category of physical assets. A statement made pursuant to the preceding sentence shall
1183 include a separate reference to the construction or installation date of any physical
1184 asset within a stated group of physical assets that was constructed or installed
1185 significantly earlier than the construction or installation date indicated for the group
1186 generally. No statement shall be made that a physical asset or portion thereof has been
1187 repaired, altered, improved, or replaced subsequent to its construction or installation
1188 unless the approximate date, nature, and extent of such repair, alteration,
1189 improvement, or replacement is also stated.

1190 B. Subject to the exceptions provided in subsections D, E, and F of this section, the
1191 section captioned "Present Condition of the Condominium" shall contain a description
1192 of the present condition of all physical assets within the condominium. The description
1193 of present condition shall disclose all structural defects and incapacities of major utility
1194 installations to perform their intended functions as would be observable, detectable, or
1195 deducible by means of standard inspection and investigative techniques employed by
1196 architects or professional engineers, as the case may be.



1197 C. The section shall indicate the dates of inspection by means of which the described
1198 present condition was determined; provided, however, that such inspections shall have
1199 been conducted not more than one year prior to the date of filing the application for
1200 registration. The section shall identify the party by whom present condition was
1201 ascertained and shall indicate the relationship of such party to the declarant.

1202 D. A single statement of the present condition of a class of physical assets shall suffice
1203 to disclose the present condition of each physical asset within the class; provided,
1204 however, that, unless subsection F of this section applies, such statement shall include
1205 a separate reference to the present condition of any physical asset within the class that
1206 is significantly different from the present condition indicated for the class generally.

1207 E. The description of present condition may include a statement that all structural
1208 components in the condominium or in a distinctly identifiable portion thereof are in
1209 sound condition except those for which structural defects are noted.

1210 F. In a case in which there are numerous physical assets within a class of physical assets
1211 and inspection of each such physical asset is impracticable, the description of present
1212 condition of all the physical assets within the class may be based upon an inspection of
1213 a number of them selected at random, provided that the number selected is large
1214 enough to yield a reasonably reliable sample and that the total number of physical
1215 assets within the class and the number selected are disclosed.

1216 G. The section shall include statements disclosing any environmental issues pertaining
1217 to the building and the surrounding area, to include:

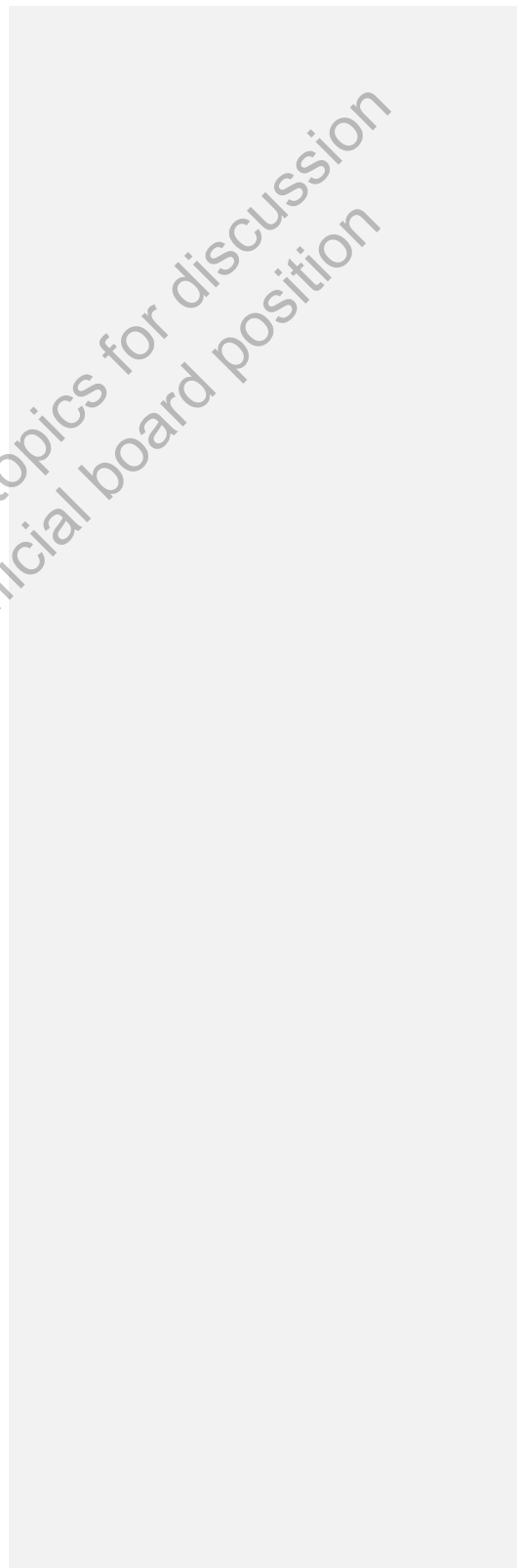
1218 1. The presence of any asbestos-containing material following an inspection of each
1219 building completed prior to July 1, 1978, as well as whether any response actions
1220 have been or will need to be taken as required by § 55.1-1982 B 5 of the Code of
1221 Virginia;

1222 2. Any known information on lead-based paint and lead-based paint hazards in each
1223 building constructed prior to 1978 pursuant to the Residential Lead-Based Paint
1224 Hazard Reduction Act of 1992 - Title X (42 USC § 4851 et seq.); and

1225 3. Any obligations related to the declarant's participation in voluntary or
1226 nonvoluntary remediation activities.

1227 **18VAC48-30-440. Replacement requirements in conversion condominium.**

1228 A. Subject to the exceptions provided in subsections B and H of this section, the section
1229 captioned "Replacement Requirements" shall state the expected useful lives of all
1230 physical assets in the condominium. The section shall state that expected useful lives



1231 run from the date of the inspection by means of which the expected useful lives were
1232 determined. Such inspection date shall be stated.

1233 B. A single statement of the expected useful life of a class of physical assets shall
1234 suffice to disclose the expected useful life of each physical asset within the class;
1235 provided, however, that such statement shall include a separate reference to the
1236 expected useful life of any physical asset within such class that is significantly shorter
1237 than the expected useful life indicated for the class generally.

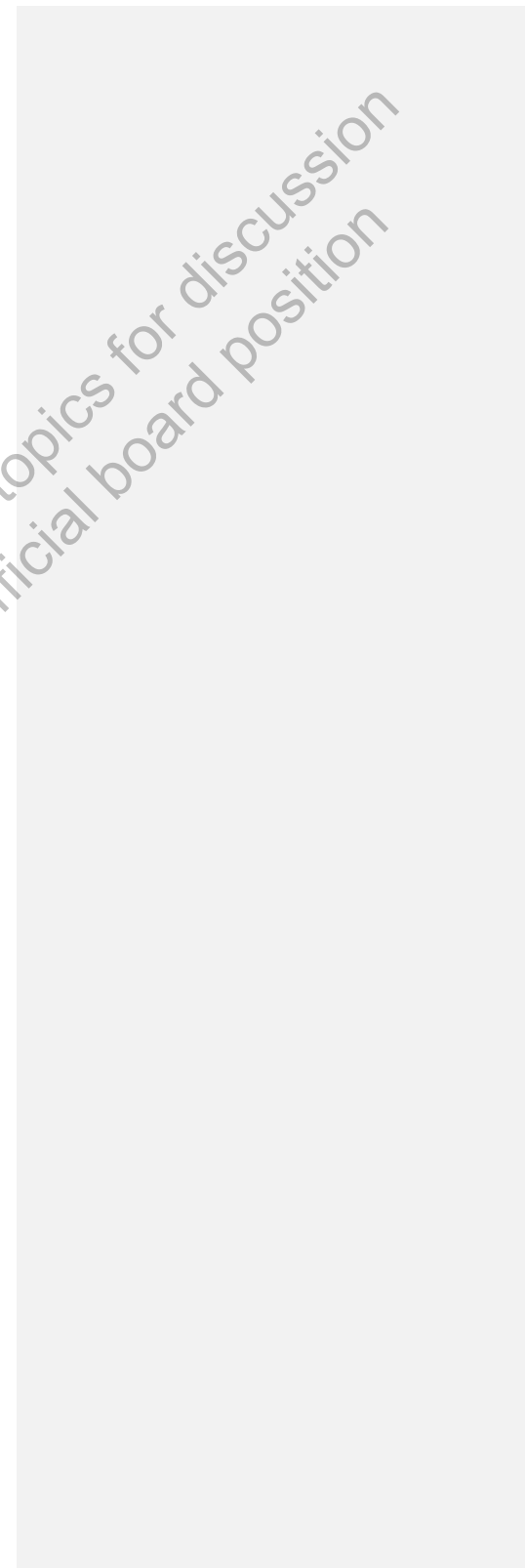
1238 C. An expected useful life may be qualified. A qualified expected useful life is an
1239 expected useful life expressly conditioned upon a given use or level of maintenance or
1240 other factor affecting longevity. No use, level of maintenance, or other factor affecting
1241 longevity shall be stated as a qualification unless such use, level of maintenance, or
1242 factor affecting longevity is normal or reasonably anticipated for the physical asset
1243 involved. If appropriate, an expected useful life may be stated as being indefinite,
1244 subject to the stated qualification that the physical asset involved must be properly
1245 used and maintained. An expected useful life may be stated as being within a range of
1246 years, provided that the range is not so broad as to render the statement meaningless.
1247 In no event shall the number of years constituting the lower limit of such range be less
1248 than two-thirds of the number of years constituting the upper limit.

1249 D. Subject to the exceptions provided in subsections E and H of this section, the section
1250 captioned "Replacement Requirements" shall state the replacement costs of all physical
1251 assets in the condominium including those whose expected useful lives are stated as
1252 being indefinite.

1253 E. A statement of the replacement cost of a representative member of a class of
1254 physical assets shall suffice to disclose the replacement cost of each physical asset
1255 within the class; provided, however, that such statement shall include a separate
1256 reference to the replacement cost of any physical asset within the class that is
1257 significantly greater than the replacement cost indicated for the representative
1258 member of the class.

1259 F. Distinction shall be made between replacement costs that will be common expenses
1260 and replacement costs that will be borne by unit owners individually. The latter type of
1261 replacement costs shall be broken down on a per unit basis. The purchaser's attention
1262 shall be directed to the "Financial Matters" section for an indication of the amount of
1263 the former type of replacement costs.

1264 G. In any case in which the replacement cost of a physical asset may vary depending
1265 upon the circumstances surrounding its replacement, the stated replacement cost shall
1266 reflect the circumstances under which replacement will most probably be undertaken.



1267 H. A single expected useful life and an aggregate replacement cost may be stated for all
1268 of the structural components of a building or structure that have both (i) the same
1269 expected useful lives and (ii) replacement costs that will constitute regular common
1270 expenses. A statement made pursuant to the preceding sentence shall be accompanied
1271 by statements of the expected useful lives and replacement costs, stated on a per unit
1272 basis, of all of the structural components of the building or structure whose expected
1273 useful lives differ from the general expected useful life or whose replacement costs will
1274 be borne by unit owners individually.

1275 **18VAC48-30-450. Notice to tenants.**

1276 No notice to terminate tenancy of a unit provided for by subsection C of § 55.1-1982 of
1277 the Code of Virginia shall be given prior to the registration of the condominium
1278 including such unit as to which the tenancy is to be terminated.

1279 **Part VI. Post-Registration Provisions**

1280 **18VAC48-30-460. Minimum post-registration reporting requirements.**

1281 A. Subsequent to the issuance of a registration for a condominium by the board, the
1282 declarant of a condominium shall:

- 1283 1. File an annual report in accordance with § 55.1-1979 of the Code of Virginia and
1284 this chapter.
- 1285 2. File a copy of the formal notice to the tenants of a conversion condominium upon
1286 delivery or no later than 15 days after delivery to such tenants in accordance with
1287 subsection C of § 55.1-1982.
- 1288 3. Upon the occurrence of a material or nonmaterial change, file an amended public
1289 offering statement or substituted public offering statement in accordance with the
1290 provisions of 18VAC48-30-480 or 18VAC48-30-490, as applicable.
- 1291 4. Notify the board of a change in the bond or letter of credit, as applicable, required
1292 by §§ 55.1-1921, 55.1-1968, and 55.1-1983 of the Code of Virginia.
- 1293 5. File a complete application for registration of unregistered additional units upon
1294 the expansion of the condominium or the formation of units out of additional land.
1295 Notwithstanding the preceding, nonresidential units created out of convertible space
1296 need not be registered. Documents on file with the board and not changed with the
1297 creation of additional units need not be refiled provided that the application
1298 indicates that such documents are unchanged.
- 1299 6. Notify the board of transition of control of the unit owners' association.

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1300 7. Notify the board upon the transfer of special declarant rights to a successor
1301 declarant.

1302 8. Submit appropriate documentation to the board once the registration is eligible for
1303 termination.

1304 9. Submit to the board any other document or information that may include
1305 information or documents that have been amended or may not have existed
1306 previously that affects the accuracy, completeness, or representation of any
1307 information or document filed with the application for registration.

1308 10. Submit to the board any document or information to make the registration file
1309 accurate and complete.

1310 B. Notwithstanding the requirements of subsection A of this section, the board at any
1311 time may require a declarant to provide information or documents, or amendments
1312 thereof, to assure full and fair disclosure to prospective purchasers and to ensure
1313 compliance with the Virginia Condominium Act and this chapter.

1314 **18VAC48-30-470. Amendment of public offering statement.**

1315 Any amendment of the public offering statement or substituted public offering
1316 statement shall comply with this chapter.

1317 **18VAC48-30-480. Nonmaterial changes to the public offering statement.**

1318 A. Changes to the public offering statement that are not material shall be filed with the
1319 board but shall not be deemed an amendment of the public offering statement for the
1320 purposes of this chapter and shall not give rise to a renewed right of rescission in any
1321 purchase. Nonmaterial changes to the public offering statement include the following:

1322 1. Correction of spelling, grammar, omission, or other similar errors not affecting the
1323 substance of the public offering statement;

1324 2. Changes in presentation or format;

1325 3. Substitution of an executed, filed, or recorded copy of a document for the
1326 otherwise substantially identical unexecuted, unfiled, or unrecorded copy of the
1327 document that was previously submitted;

1328 4. Inclusion of updated information such as identification or description of the
1329 current officers and directors of the declarant;

1330 5. Disclosure of completion of improvements for improvements that were previously
1331 proposed or not complete;



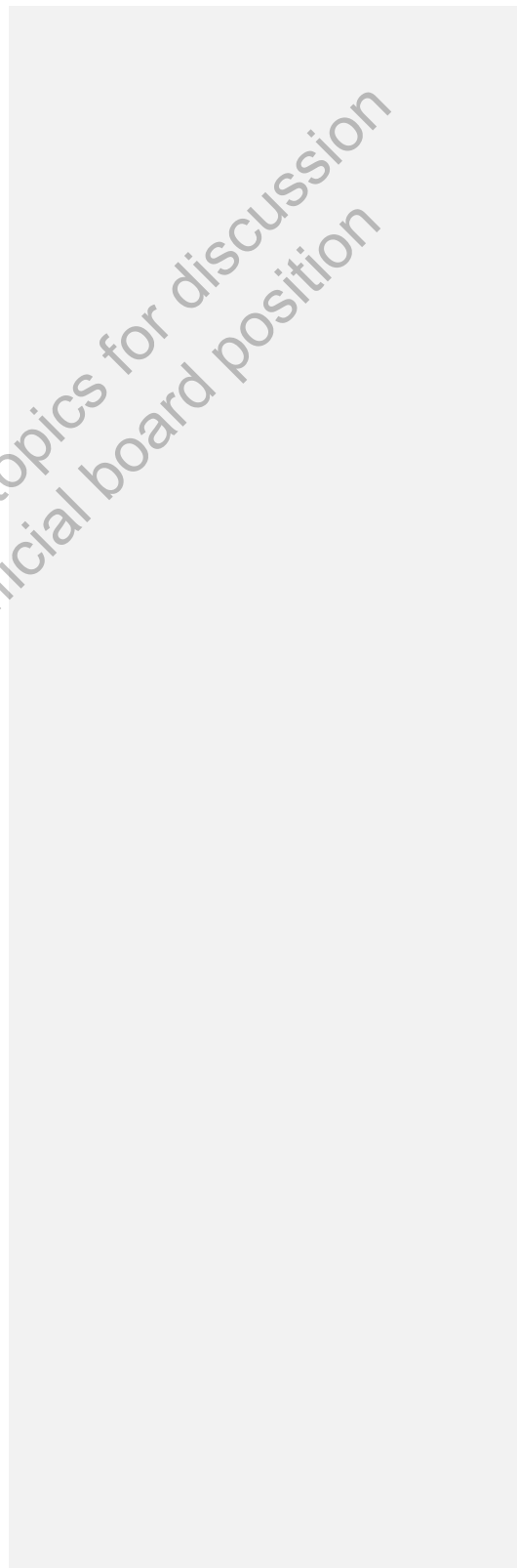
- 1332 6. Changes in real estate tax assessment or rate or modifications related to those
1333 changes;
- 1334 7. Changes in utility charges or rates or modifications related to those changes;
- 1335 8. Adoption of a new budget that does not result in a significant change in the
1336 common expense assessment or significantly impact the rights or obligations of the
1337 prospective purchasers;
- 1338 9. Modifications related to changes in insurance company or financial institution,
1339 policy, or amount for bonds or letters of credit required pursuant to §§ 55.1-1921,
1340 55.1-1968, and 55.1-1983 of the Code of Virginia;
- 1341 10. Changes in management agent or common interest community manager; and
- 1342 11. Any change that is the result of orderly development of the condominium in
1343 accordance with the condominium instruments as described in the public offering
1344 statement.

1345 B. Nonmaterial changes to the public offering statement shall be submitted with the
1346 effective date of the changes detailed. All changes shall be clearly represented in the
1347 documentation presented. The additions and deletions of text in the public offering
1348 statement and exhibits shall be identified by underlining and striking through text to
1349 be added and deleted, and any documents being added to or deleted from the contents
1350 of the public offering statement shall be clearly and accurately reflected in the table of
1351 contents utilizing underlines and strike-throughs for additions and deletions. In
1352 addition to the copies showing edits to the text, a clean copy of all new and amended
1353 documents shall be provided. In addition, the declarant shall include a statement with
1354 the submission of the declarant's plans, if any, to deliver the public offering statement
1355 to purchasers pursuant to subdivision 2 of § 55.1-1974 of the Code of Virginia.

1356 C. The board has the sole discretion for determining whether a change is nonmaterial.
1357 The declarant will be notified in writing within 15 days of receipt by the board if the
1358 submitted changes are determined to be material. Should a change be submitted as
1359 nonmaterial but determined to be a material change during review, the requirements
1360 contained in 18VAC48-30-470 and 18VAC48-30-490 shall be applicable.

1361 **18VAC48-30-490. Filing of amended public offering statement.**

1362 A. The declarant shall promptly file with the board for review a copy of the amended
1363 public offering statement or substituted public offering statement together with a copy
1364 of a summary of proposed amendments that shall be distributed to purchasers during
1365 the board review period. The summary of proposed amendments shall enumerate the
1366 amendments to the public offering statement submitted for board review and include a



1367 statement that the amendments to the public offering statement have been filed with
1368 the board but have not yet been accepted. The form of the submission is at the
1369 discretion of the declarant provided, however, that (i) all amendments are clearly
1370 represented in the documentation presented, (ii) the additions and deletions of text in
1371 the public offering statement and exhibits shall be identified by underlining and
1372 striking through text to be added and deleted, and (iii) any documents being added to
1373 or deleted from the contents of the public offering statement shall be clearly and
1374 accurately reflected in the table of contents utilizing underlines and strike-throughs for
1375 additions and deletions. In addition to the copies showing edits to the text, a clean
1376 copy of all new and amended documents shall be provided.

1377 B. The amended public offering statement submitted to the board for review shall
1378 include the effective date of the amendments.

1379 C. The board shall issue a notice of filing within five business days following receipt of
1380 the amended public offering statement.

1381 D. Within 30 days of the issuance of the notice of filing required by subsection C of this
1382 section, the board shall review the amended public offering statement and supporting
1383 materials to determine whether the amendment complies with this chapter. If the
1384 board's review determines that the amended public offering statement complies with
1385 this chapter, it shall notify the declarant in writing and confirm the new effective date
1386 of the public offering statement.

1387 E. If the board's review determines that the amended public offering statement does
1388 not comply with this chapter, it shall immediately notify the declarant in writing that
1389 the review has determined the amended public offering statement is not in compliance
1390 and shall specify the particulars of such noncompliance. The declarant shall then have
1391 20 days in which to correct the particulars of noncompliance identified by the board.
1392 The declarant may, prior to the completion of the 20-day correction period, request an
1393 extension in writing of the 20-day correction period. Upon expiration of the 20-day
1394 correction period, if requested corrections have not been made or a request for
1395 extension properly received, the board may issue a temporary cease and desist order in
1396 accordance with § 55.1-1986 B of the Code of Virginia to require the cessation of sales
1397 until such time as affirmative action as directed by the board is taken. Use of the
1398 noncompliant public offering statement may result in further action by the board
1399 pursuant to §§ 55.1-1986, 55.1-1987, and 55.1-1989 of the Code of Virginia.

1400 F. Notwithstanding an extension of the 30-day period for review agreed to in writing by
1401 the board and declarant, if the board does not perform the required review of the public
1402 offering statement in accordance with subsection D of this section, the amendment
1403 shall be deemed to comply with 18VAC48-30-160 through 18VAC48-30-380, and the

1404 new effective date shall be the effective date of the amendment provided pursuant to
1405 subsection B of this section.

1406 G. In each case in which an amended document is filed pursuant to this section and the
1407 manner of its amendment is not apparent on the face of the document, the declarant
1408 shall provide an indication of the manner and extent of amendment.

1409 **18VAC48-30-500. Current public offering statement.**

1410 A. Upon issuance of an effective date by the board, any purchasers who received a
1411 public offering statement and summary of proposed amendments during the board
1412 review period pursuant to subsection A of 18VAC48-30-490 shall be provided with the
1413 public offering statement as accepted by the board. A public offering statement
1414 remains current until such time as the occurrence of a material change requires
1415 amendment of the public offering statement pursuant to this chapter and a new
1416 effective date is issued by the board.

1417 B. Upon issuance of an effective date by the board, a public offering statement remains
1418 current until such time as a new effective date is established pursuant to this chapter.

1419 C. Notwithstanding the board's authority to issue a cease and desist order pursuant to
1420 § 55.1-1986 of the Code of Virginia, the filing of an amended public offering statement
1421 shall not require the declarant to cease sales provided that the declarant provides to
1422 purchasers the summary of proposed amendments pursuant to subsection A of
1423 18VAC48-30-490 pending the issuance of a new effective date by the board.

1424 **18VAC48-30-510. Public offering statement not current; notification of
1425 purchasers.**

1426 A. A purchaser who has been delivered a public offering statement that is not current
1427 due to a material change and was not provided with the summary of proposed
1428 amendments containing the proposed changes to the amended public offering
1429 statement pursuant to subsection A of 18VAC48-30-490 pending the issuance of a new
1430 effective date by the board shall be notified of such fact by the declarant.

1431 B. A purchaser who has been delivered a public offering statement and summary of
1432 proposed amendments pursuant to subsection A of 18VAC48-30-490, but the amended
1433 public offering statement is determined to be noncompliant in accordance with
1434 subsection E of 18VAC48-30-490 shall be notified of such fact by the declarant.

1435 1. The notification shall indicate that any contract for disposition of a condominium
1436 unit may be canceled by the purchaser pursuant to subdivision 2 of § 55.1-1974 of the
1437 Code of Virginia.

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1438 2. The declarant shall file a copy of the notification with the board and provide proof
1439 that such notification has been delivered to all purchasers under contract.

1440 **18VAC48-30-520. Provisions applicable to substituted public offering statement**
1441 **and prospectus.**

1442 A. The provisions of 18VAC48-30-470 through 18VAC48-30-510 shall apply to a
1443 substituted public offering statement in the same manner and to the same extent that
1444 they apply to public offering statements.

1445 B. The provisions of 18VAC48-30-470 through 18VAC48-30-510 shall apply to a
1446 prospectus only to the extent that amendment of the information or documents
1447 attached to the prospectus pursuant to 18VAC48-30-380 is required or permitted. The
1448 body of the prospectus shall be amended only as provided in applicable securities law.
1449 The declarant shall immediately file with the board any amendments to the body of the
1450 prospectus and, upon receipt thereof, the board shall notify the declarant in writing
1451 and confirm the new effective date for use of the prospectus. A prospectus is current so
1452 long as it is effective under applicable securities law and the information and attached
1453 documents are current under the provisions of 18VAC48-30-490. The declarant shall
1454 immediately notify the board if the prospectus ceases being effective. If no prospectus
1455 is effective and the declarant proposes to continue offering condominium units, the
1456 declarant shall file a public offering statement with the board pursuant to 18VAC48-30-
1457 490.

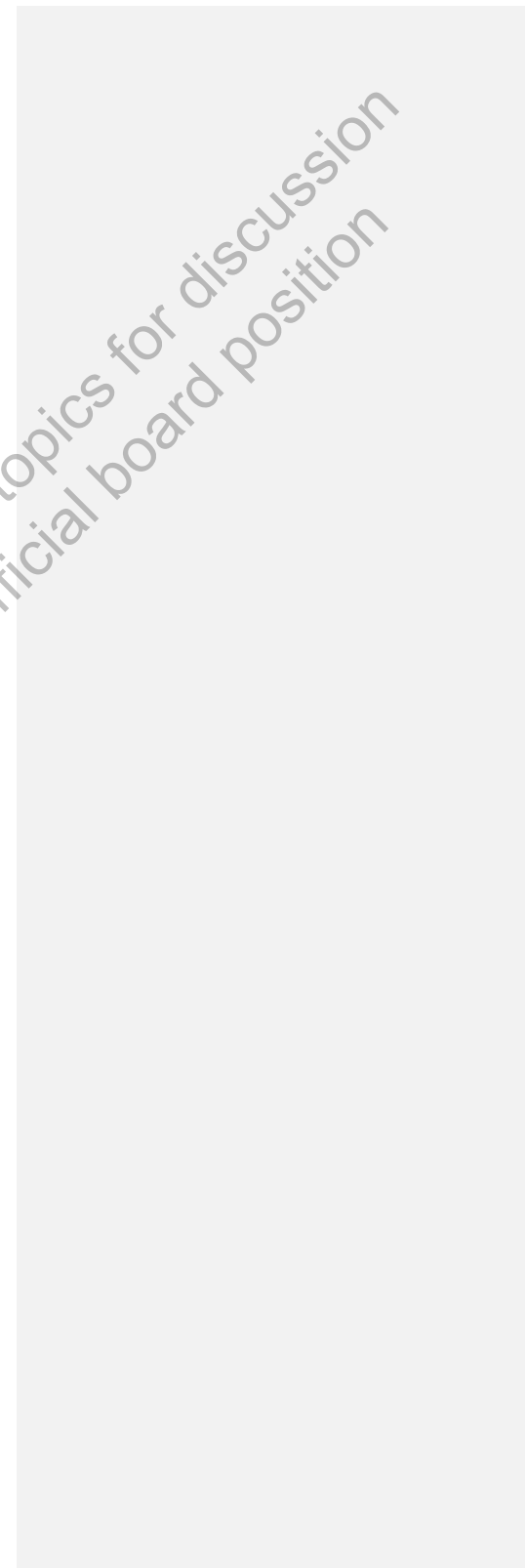
1458 C. The provisions of 18VAC48-30-510 shall apply to a prospectus in the same manner
1459 and to the same extent that they apply to a public offering statement.

1460 D. In an annual report involving a prospectus, the declarant shall comply with all of the
1461 provisions of 18VAC48-30-540 applicable to public offering statements and, in
1462 addition, shall certify that an effective prospectus is available for delivery to purchasers
1463 and shall indicate the declarant's plans or expectations regarding the continuing
1464 effectiveness of the prospectus.

1465 **18VAC48-30-530. Filing of phase amendment application.**

1466 A. A phase amendment application shall be filed when adding land to or converting
1467 land in the condominium, provided that no such application need be filed for units
1468 previously registered. Such phase amendment application shall be accompanied by the
1469 fee provided for in 18VAC48-30-100 and shall be subject to all of the provisions of
1470 18VAC48-30-90 through 18VAC48-30-150. Documents on file with the board that have
1471 not changed in connection with the additional units need not be refiled, provided that
1472 the phase amendment application indicates that such documents are unchanged.

1473 B. The application shall include a new or amended bond or letter of credit required
1474 pursuant to § 55.1-1968 of the Code of Virginia for the additional units.



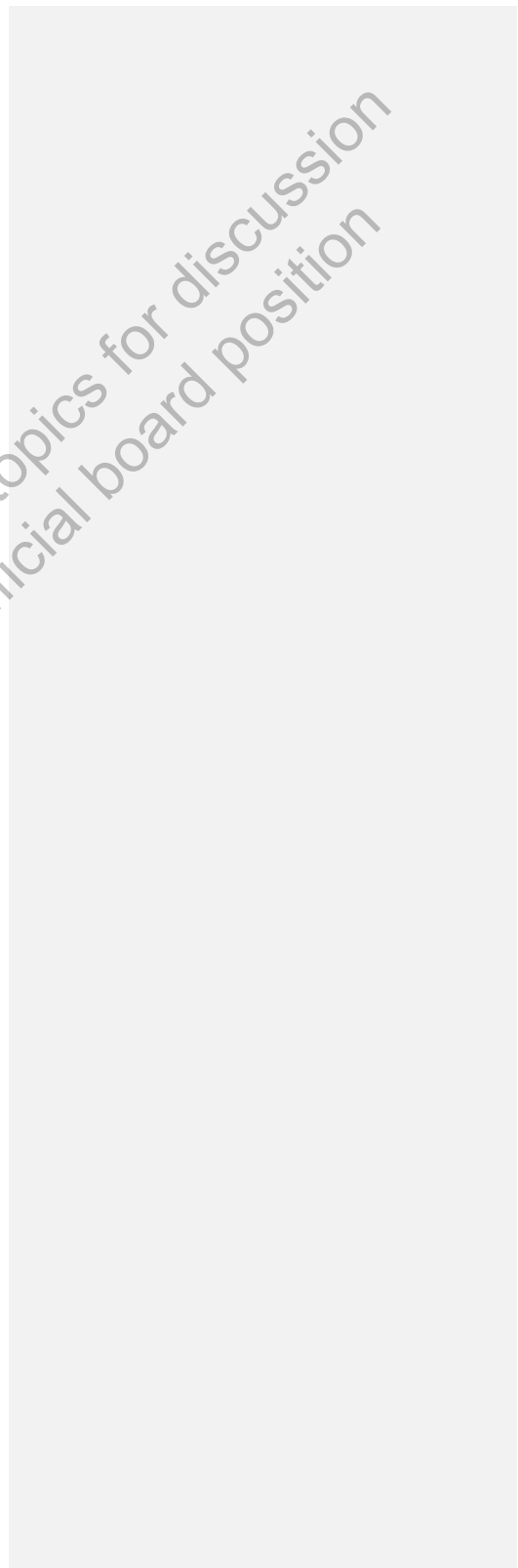
1475 C. The board shall review the phase amendment application and supporting materials
1476 to determine whether the amendment complies with this chapter. If the board's review
1477 determines the phase amendment application complies with this chapter, it shall issue
1478 an amended order of registration for the condominium and shall provide that any
1479 previous orders and designations of the form, content, and effective date of the public
1480 offering statement, substituted public offering statement, or prospectus to be used are
1481 superseded. If the board's review determines that the phase amendment application is
1482 not complete, the board shall correspond with the declarant to specify the particulars
1483 that must be completed to obtain compliance with this chapter.

1484 **18VAC48-30-540. Annual report by declarant.**

1485 A. A declarant shall file an annual report on a form provided by the board to update the
1486 material contained in the registration file at least 30 days prior to the anniversary date
1487 of the order registering the condominium. Prior to filing the annual report required by
1488 § 55.1-1979 of the Code of Virginia, the declarant shall review the public offering
1489 statement then being delivered to purchasers. If such public offering statement is
1490 current, the declarant shall so certify in the annual report. If such public offering
1491 statement is not current, the declarant shall amend the public offering statement, and
1492 the annual report shall, in that event, include a filing in accordance with 18VAC48-30-
1493 490.

1494 B. The annual report shall contain, but may not be limited to, the following:

- 1495 1. Current contact information for the declarant;
- 1496 2. Current contact information for the declarant's attorney, if applicable;
- 1497 3. Date of the public offering statement currently being delivered to purchasers;
- 1498 4. Date the condominium instruments were recorded and locality wherein recorded;
- 1499 5. Number of phases registered with the board, if applicable;
- 1500 6. Number of phases recorded, if applicable;
- 1501 7. Number of units recorded;
- 1502 8. Number of units conveyed;
- 1503 9. Status of completion of all common elements within the condominium;
- 1504 10. Status of declarant control;
- 1505 11. Whether the declarant is current in the payment of assessments; and



1506 12. Current evidence from the surety or financial institution of any bond or letters of
1507 credit, or submittal of replacement bonds or letters of credit, required pursuant to §§
1508 55.1-1921, 55.1-1968, and 55.1-1983 of the Code of Virginia. Such verification shall
1509 provide the following:

- 1510 a. Principal of bond or letter of credit;
- 1511 b. Beneficiary of bond or letter of credit;
- 1512 c. Name of the surety or financial institution that issued the bond or letter of credit;
- 1513 d. Bond or letter of credit number as assigned by the issuer;
- 1514 e. The dollar amount; and
- 1515 f. The expiration date or, if self-renewing, the date by which the bond or letter of credit
1516 shall be renewed.

1517 **18VAC48-30-550. Board review of annual report.**

1518 A. During review of the annual report, the board may make inquiries or request
1519 additional documentation to amplify or clarify the information provided.

1520 B. If the board does not accept the annual report and the annual report filing is not
1521 completed within 60 days of a request by the board for additional information, the
1522 board may take further action pursuant to §§ 55.1-1986, 55.1-1987, and 55.1-1989 of
1523 the Code of Virginia for failing to file an annual report as required by § 55.1-1979 of the
1524 Code of Virginia.

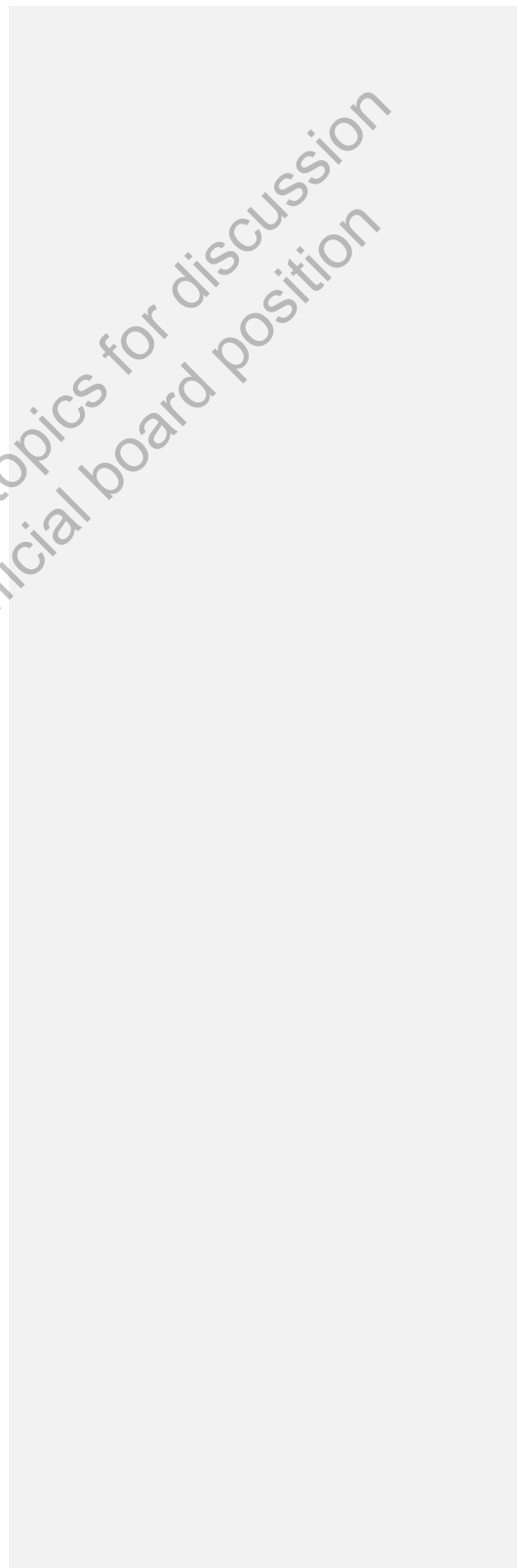
1525 C. If the board does not perform the required review of the annual report within 30 days
1526 of receipt by the board, the annual report shall be deemed to comply with § 55.1-1979
1527 of the Code of Virginia.

1528 **18VAC48-30-560. Transition of control of unit owners' association.**

1529 Upon transition of control of the association to the unit owners following the period of
1530 declarant control, the declarant shall, in addition to the requirements contained in
1531 subsection H of § 55.1-1943 of the Code of Virginia, notify the board in writing of the
1532 date of such transition and provide the name and contact information for members of
1533 the board of directors of the unit owners' association or the association's common
1534 interest community manager.

1535 **18VAC48-30-570. Return of assessment bond or letter of credit to declarant.**

1536 A. The declarant of a condominium required to post a bond or letter of credit pursuant
1537 to § 55.1-1968 of the Code of Virginia shall maintain such bond or letter of credit for all
1538 units registered with the board until the declarant owns less than 10% of the units in
1539 the condominium and is current in the payment of assessments. For condominiums



1540 containing less than 10 units, the bond or letter of credit shall be maintained until the
1541 declarant owns only one unit.

1542 B. The declarant shall submit a written request to the board for the return of the bond
1543 or letter of credit. The written request shall attest that the declarant (i) owns less than
1544 10% of the units or for condominiums containing less than 10 units, that the declarant
1545 owns only one unit and (ii) is current in the payment of assessments. The written
1546 request shall provide contact information for the unit owners' association.

1547 C. Upon receipt of the written request from the declarant, the board shall send a
1548 request to the unit owners' association to confirm the information supplied by the
1549 declarant. The person certifying the information on behalf of the unit owners'
1550 association must not be affiliated with the declarant. The managing agent may confirm
1551 the information supplied by the declarant.

1552 D. The board shall return the bond or letter of credit to the declarant if (i) the unit
1553 owners' association confirms that the declarant is current in the payment of
1554 assessments and owns less than 10% of the units in the condominium or (ii) no
1555 response is received from the unit owners' association within 90 days. The 90-day time
1556 frame in clause (ii) of this subsection may be extended at the discretion of the board.

1557 E. If the unit owners' association attests the declarant is not current in the payment of
1558 assessments, the board shall retain the bond or letter of credit until evidence is
1559 received satisfactory to the board that the declarant is current in the payment of
1560 assessments.

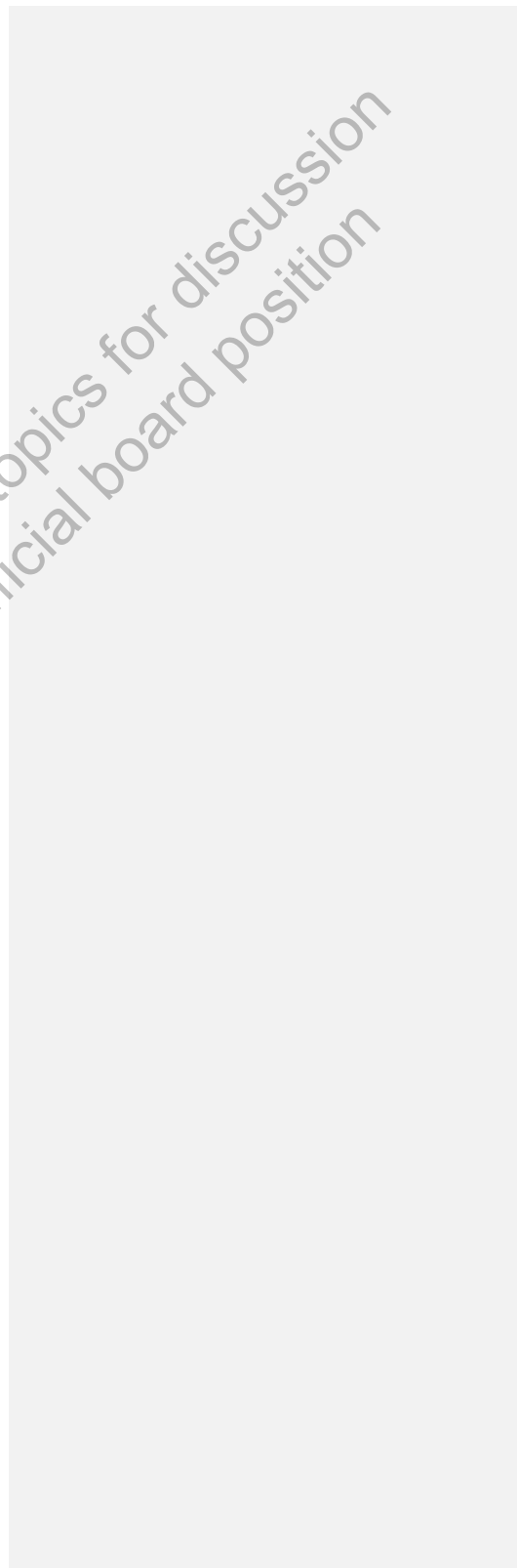
1561 F. The board may ask for additional information from the unit owners' association or
1562 the declarant as needed to confirm compliance with § 55.1-1968 of the Code of
1563 Virginia.

1564 **18VAC48-30-580. Return of completion bond or letter of credit to declarant.**

1565 A bond on file with the board pursuant to § 55.1-1921 of the Code of Virginia may be
1566 returned to the declarant upon written request. Such request shall include a copy of the
1567 recorded plat or plan showing completion or documentation acceptable to the board
1568 that the improvements to the common elements for which the bond was submitted is
1569 completed to the extent of the declarant's obligation.

1570 **18VAC48-30-590. Return of bond or letter of credit upon termination of**
1571 **registration.**

1572 Upon issuance of an order of termination of the condominium registration pursuant to
1573 18VAC48-30-610 and if the bond or letter of credit on file with the board has not been
1574 returned to the declarant or the declarant's agent previously, it will be considered for
1575 return in accordance with 18VAC48-30-570 or 18VAC48-30-580.



1576 **18VAC48-30-600. Maintenance of bond or letter of credit.**

1577 A. The declarant shall report the extension, cancellation, amendment, expiration,
1578 termination, or any other change of any bond or letter of credit submitted in
1579 accordance with §§ 55.1-1921, 55.1-1968, and 55.1-1983 of the Code of Virginia within
1580 five days of the change.

1581 B. The board at any time may request verification from the declarant of the status of a
1582 bond or letter of credit on file with the board. Such verification shall comply with the
1583 provisions of subdivision B 12 of 18VAC48-30-540.

1584 C. Failure to report a change in the bond or letter of credit in accordance with this
1585 section shall result in further action by the board pursuant to Chapter 19 (§ 55.1-1900
1586 et seq.) of Title 55.1 of the Code of Virginia.

1587 **18VAC48-30-610. Termination of condominium registration.**

1588 A. The condominium registration shall be terminated upon receipt of documentation of
1589 one of the following:

1590 1. In accordance with § 55.1-1979 of the Code of Virginia, an annual report filed
1591 pursuant to 18VAC48-30-540 indicates that all units in the condominium have been
1592 disposed of and all periods for conversion or expansion have expired.

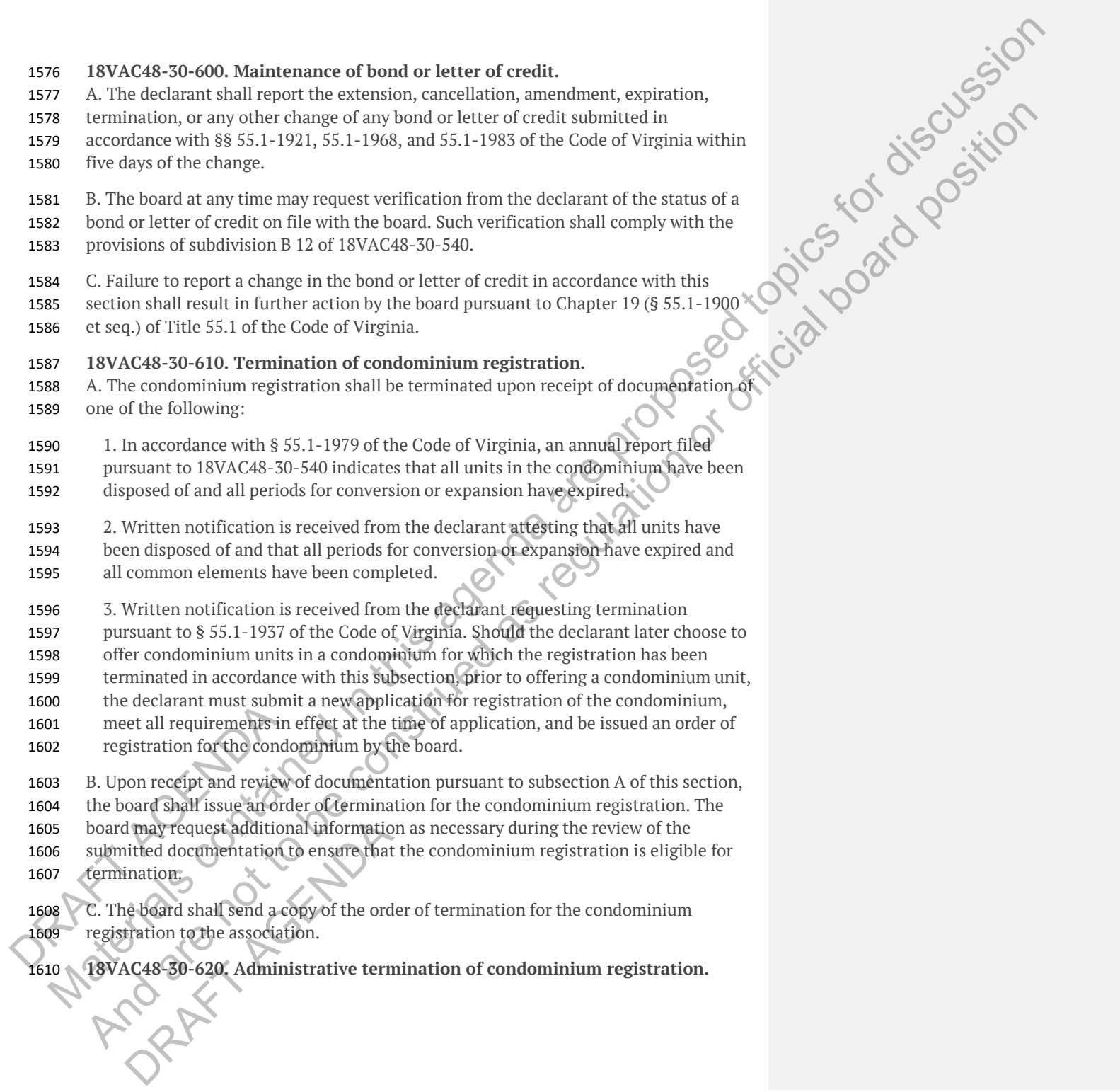
1593 2. Written notification is received from the declarant attesting that all units have
1594 been disposed of and that all periods for conversion or expansion have expired and
1595 all common elements have been completed.

1596 3. Written notification is received from the declarant requesting termination
1597 pursuant to § 55.1-1937 of the Code of Virginia. Should the declarant later choose to
1598 offer condominium units in a condominium for which the registration has been
1599 terminated in accordance with this subsection, prior to offering a condominium unit,
1600 the declarant must submit a new application for registration of the condominium,
1601 meet all requirements in effect at the time of application, and be issued an order of
1602 registration for the condominium by the board.

1603 B. Upon receipt and review of documentation pursuant to subsection A of this section,
1604 the board shall issue an order of termination for the condominium registration. The
1605 board may request additional information as necessary during the review of the
1606 submitted documentation to ensure that the condominium registration is eligible for
1607 termination.

1608 C. The board shall send a copy of the order of termination for the condominium
1609 registration to the association.

1610 **18VAC48-30-620. Administrative termination of condominium registration.**



1611 In accordance with subsection B of § 55.1-1981 of the Code of Virginia, the board may
1612 administratively terminate the registration of a condominium. Prior to the
1613 administrative termination of the registration, the board shall send written notice of its
1614 intent to terminate the registration to all known parties associated with the
1615 condominium, including the registered agent, officer of the unit owners' association,
1616 declarant's and association's attorneys, and principal of the declarant. Such written
1617 notice shall be given to the parties by mail or otherwise if acknowledged by them in
1618 writing.

1619 The board shall issue an order of termination for the condominium registration if (i) a
1620 response is not received within 30 days after sending the written notice or (ii) the
1621 response received does not indicate termination of the registration is inappropriate in
1622 accordance with Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1 of the Code of Virginia
1623 and this chapter.

1624 Nothing contained in this section shall prevent the board from taking further action as
1625 allowed by law including issuance of a temporary cease and desist order, issuance of a
1626 cease and desist order, revocation of registration, and bringing action in the
1627 appropriate circuit court to enjoin the acts or practices and to enforce compliance.

1628 **18VAC48-30-630. Notification of successor declarant and transfer of special**
1629 **declarant rights.**

1630 A. In the event the special declarant rights of a condominium are transferred to a
1631 successor in accordance with § 55.1-1947 of the Code of Virginia, the successor
1632 declarant shall notify the board within 30 days. Before units may be offered for sale, the
1633 successor declarant shall submit the following to the board:

- 1634 1. Completed application for the successor declarant;
- 1635 2. Copy of the recorded document evidencing the transfer;
- 1636 3. Copies of all condominium instruments that were amended to reflect the successor
1637 or transfer of special declarant rights;
- 1638 4. A public offering statement amended in accordance with this chapter;
- 1639 5. All bonds or letters of credit required pursuant to §§ 55.1-1921, 55.1-1968, and
1640 55.1-1983 of the Code of Virginia; and
- 1641 6. Other documents that may be required to ensure compliance with Chapter 19 (§
1642 55.1-1900 et seq.) of Title 55.1 of the Code of Virginia and this chapter.

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1643 B. Documents on file with the board that have not changed in connection with the
1644 transfer need not be refiled, provided that the application for successor declarant
1645 indicates that such documents are unchanged.

1646 **18VAC48-30-640. Reporting of other changes to the condominium project.**

1647 Any other change made or known by the declarant that may affect the accuracy or
1648 completeness of the condominium registration file shall be promptly reported to the
1649 board. Such change may include the name of the declarant, name of the condominium
1650 project, or any other changes in information submitted in accordance with § 55.1-1975
1651 of the Code of Virginia. The board may request additional information as necessary to
1652 ensure compliance with Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1 of the Code of
1653 Virginia and this chapter.

1654 **Part VII. Board Authority and Standards of Conduct**

1655 **18VAC48-30-650. Grounds for disciplinary action.**

1656 The board may revoke a registration upon a finding that the registration is not in
1657 compliance with, or the declarant has violated, any provision of the regulations of the
1658 board or Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1 of the Code of Virginia.
1659 Additional action may include issuance of a temporary cease and desist order, issuance
1660 of a cease and desist order, revocation of registration, and bringing action in the
1661 appropriate circuit court to enjoin the acts or practices and to enforce compliance.

1662 **18VAC48-30-660. Registration of condominium required.**

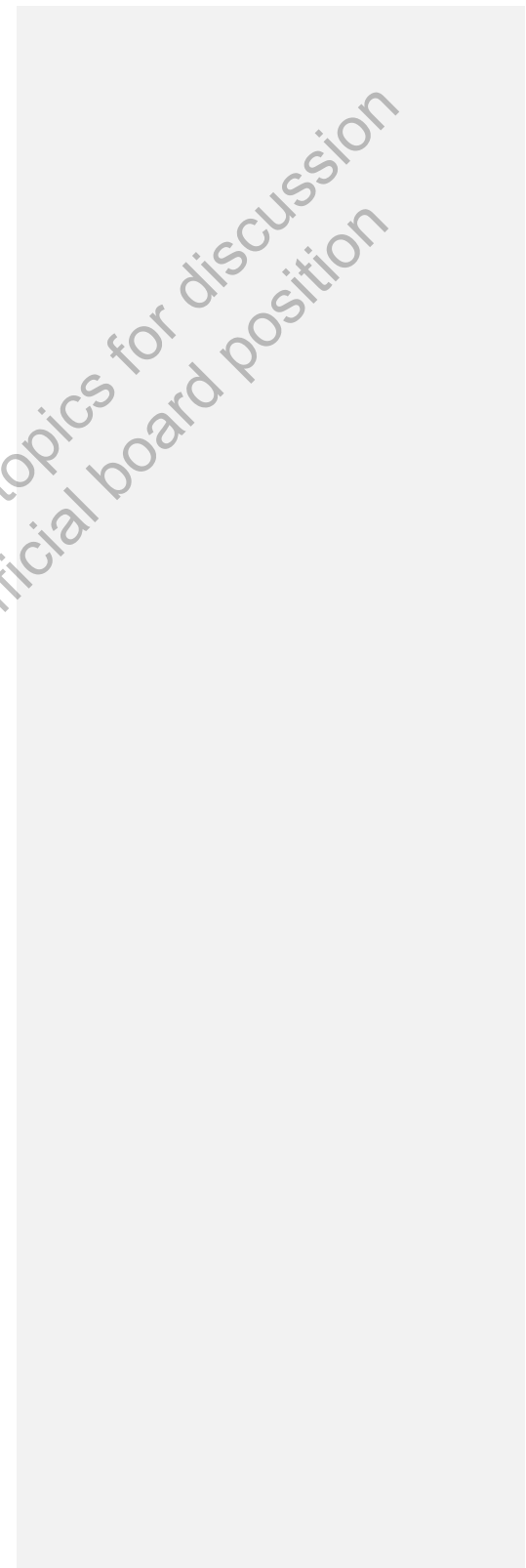
1663 No declarant or individual or entity acting on behalf of the declarant shall offer a
1664 condominium unit prior to the registration of the condominium including such unit.

1665 **18VAC48-30-670. Condominium advertising standards.**

1666 A. No promise, assertion, representation, or statement of fact or opinion in connection
1667 with a condominium marketing activity shall be made that is false, inaccurate, or
1668 misleading by reason of inclusion of an untrue statement of a material fact or omission
1669 of a statement of a material fact relative to the actual or intended characteristics,
1670 circumstances, or features of the condominium or a condominium unit.

1671 B. No promise, assertion, representation, or statement of fact or opinion made in
1672 connection with a condominium marketing activity shall indicate that an improvement
1673 will be built or placed on the condominium unless the improvement is a proposed
1674 improvement within the meaning of subdivision 3 of 18VAC48-30-120.

1675 C. No promise, assertion, representation, or statement of fact or opinion made in
1676 connection with a condominium marketing activity and relating to a condominium unit
1677 not registered shall, by its express terms, induce, solicit, or encourage a prospective
1678 purchaser to leave Virginia for the purpose of executing a contract for sale or lease of



1679 the condominium unit or performing some other act that would create or purport to
1680 create a legal or equitable interest in the condominium unit other than a security
1681 interest in or a nonbinding reservation of the condominium unit.

1682 **18VAC48-30-680. Response to inquiry and provision of records.**

1683 A. The declarant must respond within 15 days to a request by the board or any of its
1684 agents regarding any complaint filed with the department. The board may extend such
1685 time frame upon a showing of extenuating circumstances prohibiting delivery within
1686 such 15-day period.

1687 B. Unless otherwise specified by the board, the declarant shall produce to the board or
1688 any of its agents within 15 days of the request any document, book, or record
1689 concerning any transaction in which the declarant was involved, or for which the
1690 declarant is required to maintain records for inspection and copying by the board or its
1691 agents. The board may extend such time frame upon a showing of extenuating
1692 circumstances prohibiting delivery within such 15-day period.

1693 C. A declarant shall not provide a false, misleading, or incomplete response to the
1694 board or any of its agents seeking information in the investigation of a complaint filed
1695 with the board.

1696 D. With the exception of the requirements of subsections A and B of this section, a
1697 declarant must respond to an inquiry by the board or its agent within 21 days.

1698 **18VAC48-30-690. Prohibited acts.**

1699 The following acts are prohibited and any violation may result in action by the board,
1700 including issuance of a temporary cease and desist order in accordance with § 55.1-
1701 1986 B of the Code of Virginia:

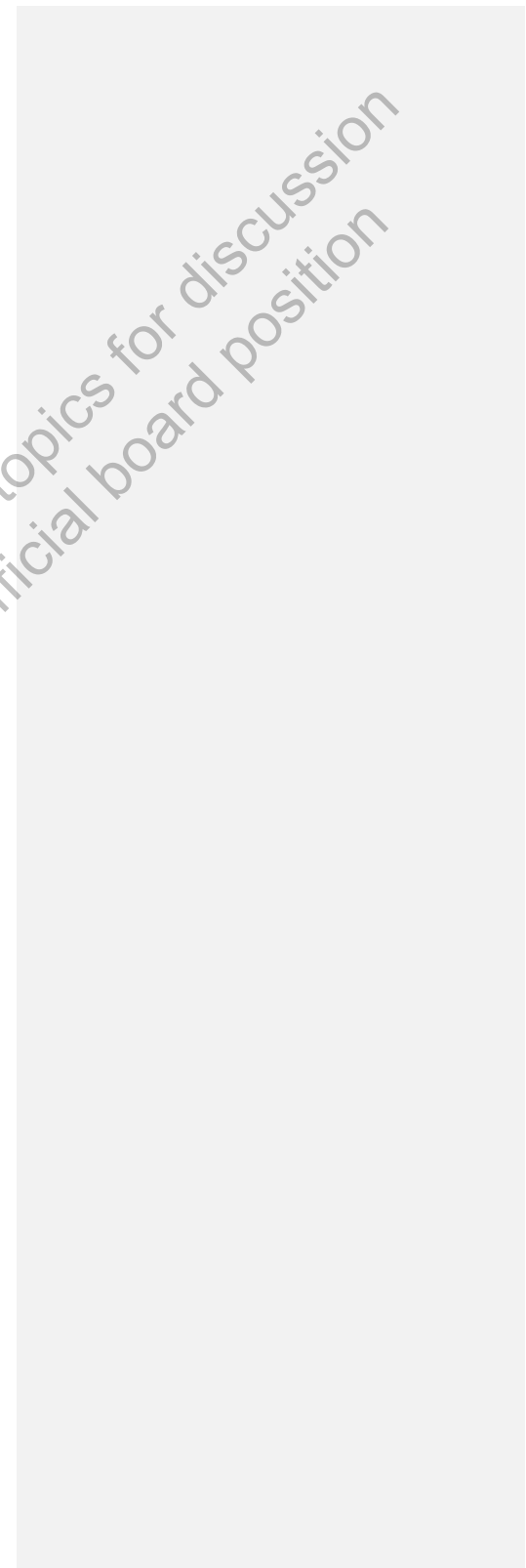
1702 1. Violating, inducing another to violate, or cooperating with others in violating any
1703 of the provisions of any of the regulations of the board, Chapter 23.3 (§ 54.1-2345 et
1704 seq.) of Title 54.1 of the Code of Virginia, or Chapter 19 (§ 55.1-1900 et seq.) or
1705 Chapter 20 (§ 55.1-2000 et seq.) of Title 55.1 of the Code of Virginia.

1706 2. Obtaining or attempting to obtain a registration by false or fraudulent
1707 representation, or maintaining a registration by false or fraudulent representation.

1708 3. Failing to comply with 18VAC48-30-80 in offering literature.

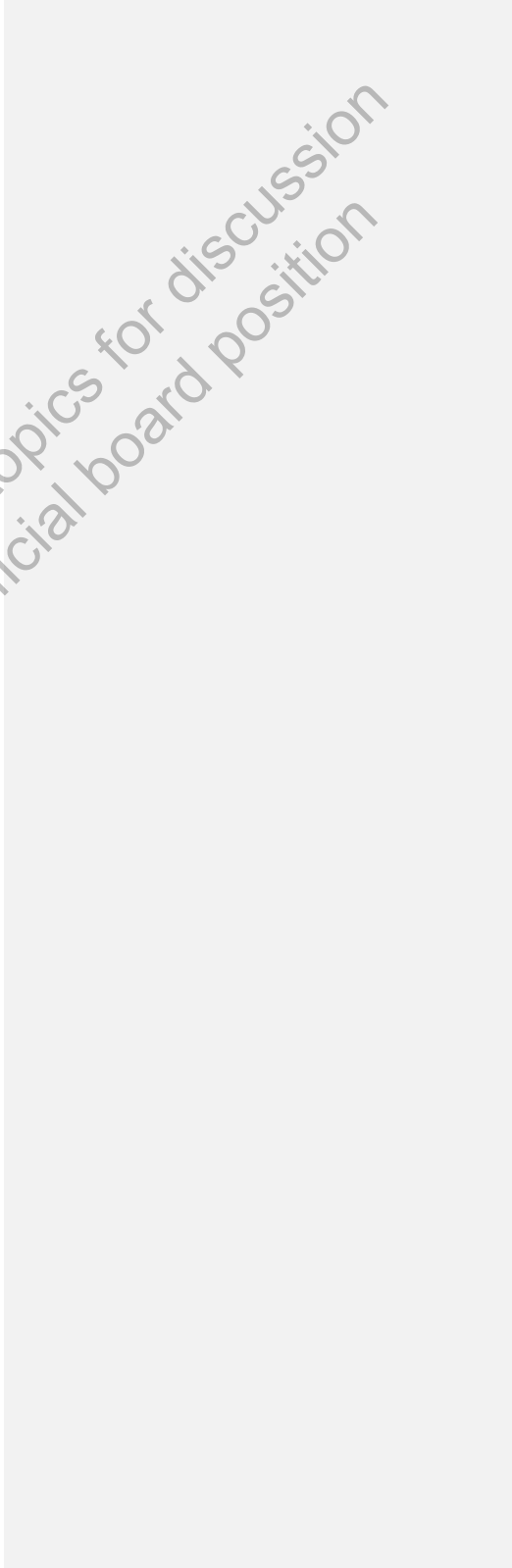
1709 4. Failing to alter or amend the public offering statement as directed in accordance
1710 with 18VAC48-30-390 or 18VAC48-30-490.

1711 5. Providing information to purchasers in a manner that willfully and intentionally
1712 fails to promote full and fair disclosure.



- 1713 6. Failing to provide information or documents, or amendments thereof, in
1714 accordance with subsection B of 18VAC48-30-460.
- 1715 7. Failing to comply with the post-registration requirements of 18VAC48-30-460,
1716 18VAC48-30-470, 18VAC48-30-480, 18VAC48-30-490, 18VAC48-30-500, 18VAC48-
1717 30-510, 18VAC48-30-520, 18VAC48-30-530, and 18VAC48-30-540.
- 1718 8. Failing to give notice to a purchaser in accordance with 18VAC48-30-510.
- 1719 9. Failing to give notice to the board of transition of control of unit owners'
1720 association in accordance with 18VAC48-30-560.
- 1721 10. Failing to transition control of the unit owners' association in accordance with
1722 § 55.1-1943 of the Code of Virginia.
- 1723 11. Failing to turn over books and records in accordance with subsection H of § 55.1-
1724 1943 of the Code of Virginia.
- 1725 12. Providing false information or misrepresenting an affiliation with an association
1726 in seeking return of a bond or letter of credit in accordance with 18VAC48-30-570 or
1727 18VAC48-30-580.
- 1728 13. Filing false or misleading information in the course of terminating a registration
1729 in accordance with 18VAC48-30-610 or 18VAC48-30-620.
- 1730 14. Failing to comply with 18VAC48-30-630 and 18VAC48-30-640.
- 1731 15. Failing to comply with the advertising standards contained in 18VAC48-30-670.
1732

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OTHER BUSINESS

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2023 LEGISLATIVE UPDATE

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OMBUDSMAN REPORT

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Department of Professional and Occupational Regulation
Statement of Financial Activity

**Common Interest Community Board
954520**

2022-2024 Biennium

January 2024

	January 2024 Activity	Biennium-to-Date Comparison	
		July 2020 - January 2022	July 2022 - January 2024
Cash/Revenue Balance Brought Forward			0
Revenues	75,547	949,817	1,015,734
Cumulative Revenues			1,015,734
Cost Categories:			
Board Expenditures	11,283	669,318	575,445
Board Administration	0	0	0
Administration of Exams	0	0	0
Enforcement	6,071	231,709	331,925
Legal Services	712	4,225	3,004
Information Systems	1,357	123,024	120,168
Facilities and Support Services	5,962	120,093	123,099
Agency Administration	2,954	81,133	132,211
Other / Transfers	0	5,006	4,415
Total Expenses	28,338	1,234,507	1,290,267
Transfer To/(From) Cash Reserves	0	0	(321,741)
Ending Cash/Revenue Balance			47,209

Cash Reserve Beginning Balance	2,378,453	0	2,700,194
Change in Cash Reserve	0	0	(321,741)
Ending Cash Reserve Balance	2,378,453	0	2,378,453

Number of Regulants

Current Month	7,683
Previous Biennium-to-Date	7,552

OTHER BOARD BUSINESS

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COMPLETE CONFLICT OF INTEREST
FORMS AND TRAVEL VOUCHERS

**PLEASE RETURN TO THE
ADMINISTRATIVE COORDINATOR.**

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ADJOURNMENT

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