



Department of Professional and Occupational Regulation

COMMON INTEREST COMMUNITY BOARD
TIMESHARE COMMITTEE
REGULATORY REVIEW MEETING
TENTATIVE AGENDA
Monday, May 20, 2024 -10:00 a.m.
2nd Floor - Board Room # 1
9960 Mayland Drive
Richmond, Virginia 23233
804-367-8526

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

II. APPROVAL OF DRAFT AGENDA

**III. REVIEW AND DISCUSS COMMON INTEREST COMMUNITY BOARD
TIMESHARE REGULATIONS TO DETERMINE NEEDED AMENDMENTS**

IV. OTHER BUSINESS

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

VI. NEW BUSINESS

VII. ADJOURN

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

1 Part I. General

2 18VAC48-45-10. (Reserved).

3
4 18VAC48-45-20. Definitions.

5 A. Section 55.1-2200 of the Code of Virginia provides definitions of the following terms and phrases
6 as used in this chapter:

"Affiliate"	"Offering" or "offer"
"Alternative purchase"	"Person"
"Association"	"Product"
"Board"	"Public offering statement"
"Board of directors"	"Purchaser"
"Common elements"	"Resale purchase contract"
"Contact information"	"Resale service"
"Contract" or "purchase contract"	"Resale time-share"
"Conversion time-share project"	"Resale transfer contract"
"Default"	"Reseller"
"Developer"	"Reverter deed"
"Developer control period"	"Situs"
"Development right"	"Time-share"
"Dispose" or "disposition"	"Time-share estate"
"Exchange company"	"Time-share expense"
"Exchange program"	"Time-share instrument"
"Guest"	"Time-share owner" or "owner"
"Incidental benefit"	"Time-share program" or "program"
"Lead dealer"	"Time-share project" or "project"
"Managing agent"	"Time-share unit" or "unit"
"Managing entity"	"Time-share use"
"Material change"	"Transfer"

7 B. The following words and terms when used in this chapter shall have the following meanings
8 unless the context clearly indicates otherwise:

9 "Alternative disclosure statement" means a disclosure statement for an out-of-state time-share
10 program or time-share project that is properly registered in the situs.

11 "Annual report" means a completed, board-prescribed form and required documentation submitted
12 in compliance with § 55.1-2242 of the Code of Virginia.

13 "Application" means a completed, board-prescribed form submitted with the appropriate fee and
14 other required documentation in compliance with the Virginia Real Estate Time-Share Act and this
15 chapter.

16 "Blanket bond" means a blanket surety bond issued in accordance with the requirements of § 55.1-
17 2220 of the Code of Virginia obtained and maintained by a developer in lieu of escrowing deposits
18 accepted by a developer in connection with the purchase or reservation of a product.

19 "Blanket letter of credit" means a blanket irrevocable letter of credit issued in accordance with the
20 requirements of § 55.1-2220 of the Code of Virginia obtained and maintained by a developer in lieu
21 of escrowing deposits accepted by a developer in connection with the purchase or reservation of a
22 product.

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

24 "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical,
25 electromagnetic, or similar capabilities.

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

29 "Full and accurate disclosure" means the degree of disclosure necessary to ensure reasonably
30 complete and materially accurate representation of the time-share in order to protect the interests
31 of purchasers.

32 "Individual bond" means an individual surety bond issued in accordance with the requirements of
33 § 55.1-2220 of the Code of Virginia obtained and maintained by a developer in lieu of escrowing a
34 deposit accepted by a developer in connection with the purchase or reservation of a product.

35 "Individual letter of credit" means an individual irrevocable letter of credit issued in accordance
36 with the requirements of § 55.1-2220 of the Code of Virginia obtained and maintained by a
37 developer in lieu of escrowing a deposit accepted by a developer in connection with the purchase or
38 reservation of a product.

39 "Registration file" means the application for registration, supporting materials, annual reports, and
40 amendments that constitute all information submitted and reviewed pertaining to a particular
41 time-share program, alternative purchase, exchange program, or time-share reseller registration. A
42 document that has not been accepted for filing by the board is not part of the registration file.

43 "Virginia Real Estate Time-Share Act" means Chapter 22 (§ 55.1-2200 et seq.) of Title 55.1 of the
44 Code of Virginia.

45

46 **18VAC48-45-30. Explanation of terms.**

47 ~~Each reference in this chapter to a "developer," "purchaser," and "time-share owner" or to the plural~~
48 ~~of those terms shall be deemed to refer, as appropriate, to the masculine and the feminine, to the~~
49 ~~singular and the plural, and to natural persons and organizations. The term "developer" shall refer~~
50 ~~to any successors to the persons referred to in § 55.1-2200 of the Code of Virginia who come to~~
51 ~~stand in the same relation to the time-share as their predecessors in that they assumed rights~~
52 ~~reserved for the benefit of a developer that (i) offers to dispose of its interest in a time-share not~~
53 ~~previously disposed of or (ii) applies for registration of the time-share program.~~

Commented [JH1]: Being removed from Condo Regs.

Commented [JH2]: Not necessary. 1VAC7-10-30 provides for general rules of construction for regulations.

54 **18VAC48-45-40. Time-shares located outside of Virginia.**

55 A. In any case involving a time-share located outside of Virginia in which the laws or practices of
56 the jurisdiction in which such time-share is located prevent compliance with a provision of this
57 chapter, the board ~~shall will~~ prescribe by order a substitute provision to be applicable in such case
58 that is as nearly equivalent to the original provision as is reasonable under the circumstances.

59 B. The words "time-share instrument" and "public offering statement," when used in this chapter
60 with reference to a time-share located outside of Virginia, mean documents, portions of documents,
61 or combinations thereof, by whatever name denominated, that have a content and function
62 identical or substantially equivalent to the content and function of their Virginia counterparts.

63 C. The word "recording" or "recordation" when used with reference to time-share instruments of a
64 time-share located outside of Virginia means a procedure that, in the jurisdiction in which such
65 time-share is located, causes the time-share instruments to become legally effective.

66 D. This chapter ~~shall apply~~ applies to a contract for the disposition of a time-share located outside
67 of Virginia only to the extent permissible under the provisions of subsections C and D of § 55.1-
68 2201 of the Code of Virginia.

69 E. In accordance with subsection D of § 55.1-2201 of the Code of Virginia, this chapter applies to
70 any time-share program wherein the time-share interests are either direct or indirect beneficial
71 interests in a trust created pursuant to a situs time-sharing law, or other applicable law of the situs.

72 ~~F. The time-share shall be properly registered in the state or other jurisdiction where the project is~~
73 ~~located.~~

Commented [JH3]: Does this need to be a requirement.

Commented [JH4R3]: Per committee on 3/14/24. Delete.

74 **Part II. General Application Requirements**

75 **18VAC48-45-50. Application procedures.**

76 A. A developer seeking registration of a time-share program or an alternative purchase, an
77 exchange company seeking registration of an exchange program, or a reseller seeking
78 registration in order to offer or provide resale services, all in accordance with the Virginia Real
79 Estate Time-Share Act, ~~shall must~~ submit an application on the appropriate form provided by
80 the board, along with the appropriate fee specified in 18VAC48-45-70.

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(68,68,68), Ligatures: None

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(68,68,68), Ligatures: None

Formatted: List Paragraph, Indent: Left: 0.25"

81
82 1. By submitting the application to the board, the applicant certifies that the applicant has
83 read and understands the applicable statutes and this chapter.

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(68,68,68), Ligatures: None

Formatted: List Paragraph, Indent: Left: 0.75"

84
85 2. The receipt of an application and the deposit of fees by the board do not indicate
86 approval or acceptance of the application by the board.

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

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

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(RGB(68,68,68)), Ligatures: None

91
92 C. Applications that are not complete within 12 months after receipt of the application in the
93 board's office will be purged, and a new application and fee must be submitted ~~in order to~~ to be
94 reconsidered for registration.

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(RGB(68,68,68)), Ligatures: None

Formatted: List Paragraph, Indent: Left: 0.25"

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25"

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(RGB(68,68,68)), Ligatures: None

95 **18VAC48-45-60. Review of application for registration, generally.**

96 A. Upon the review of the application for registration, if the requirements of this chapter have not
97 been met, the board ~~shall~~ will notify the applicant.

98 B. The board may refuse initial registration due to an applicant's failure to comply with entry
99 requirements or for any of the reasons for which the board may discipline a regulant.

100 C. ~~At such time as~~ When the board affirmatively determines that the requirements of this chapter
101 have been met, the board ~~shall~~ will issue the applicable registration.

102 ~~D. Notwithstanding the provisions of 18VAC48-45-130 for a time-share program registration,~~
103 ~~applications that do not meet the requirements of this chapter may be accepted following~~
104 ~~consideration by the board in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of~~
105 ~~the Code of Virginia).~~

106 D. Applications that do not meet the requirements of this chapter may be considered by the board in
107 accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

Commented [JH5]: Consider alternative language.

Commented [JH6R5]: Per committee on 314/24. Go with alternate language.

108 **18VAC48-45-70. Fees.**

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

112 B. Fees are as follows:

Time-share program registration application	\$1,500
Time-share program phase amendment filing	\$250
Time-share program registration annual report	\$500
Alternative purchase registration application	\$100
<u>Alternative purchase registration annual report renewal</u>	<u>\$100</u>
Exchange program registration application	\$1,000
Exchange program registration annual report	\$250
Time-share reseller registration application	\$250

Commented [JH7]: Alternative purchase registrations have an expiration date and must be renewed.

Time-share reseller registration renewal	\$250
Time-share reseller registration reinstatement (includes a \$100 reinstatement fee in addition to the \$250 renewal fee)	\$350

113 **Part III. Marketing and Advertising**

114 **18VAC48-45-80. Time-share marketing activities.**

115 A. Time-share marketing activities ~~shall~~ include ~~every any~~ contact by or on behalf of the developer
 116 for the purpose of promoting disposition of a time-share or alternative purchase. Such ~~contacts~~
 117 ~~contact~~ may be ~~personal in-person~~, by telephone, by mail, by electronic means ~~including social~~
 118 ~~media~~, or by advertisement. ~~A promise, assertion, representation, or statement of fact or opinion~~
 119 ~~made in connection with a time-share marketing activity may be oral, written, electronic, or~~
 120 ~~graphic.~~

121 B. No time-share marketing activity ~~shall will~~ be deemed an offer unless, by its express terms, it
 122 induces, solicits, or encourages a prospective purchaser to (i) execute a contract of sale of the time-
 123 share or alternative purchase or (ii) perform some other act that would create or purport to create a
 124 legal or equitable interest in the time-share until the board has issued an order of registration.

125 ~~C. The current and planned time-share advertising activities of the developer shall comply with §~~
 126 ~~18.2-216 of the Code of Virginia and this chapter.~~

127 **18VAC48-45-90. Offering of gifts or prizes.**

128 A. Any offering that includes a gift or prize ~~shall must~~ include the disclosures contained in ~~comply~~
 129 ~~with § 55.1-2218~~ of the Code of Virginia. ~~Such disclosures shall be made with the same prominence~~
 130 ~~as the offer. Such gift or prize must include the following disclosures:~~

- 131 1. ~~The retail value of each gift or prize;~~
- 132 2. ~~The approximate odds against any given person obtaining each gift or prize if all~~
 133 ~~persons to whom the advertisement is disseminated do what is necessary to qualify for~~
 134 ~~the award of the gift or prize;~~
- 135 3. ~~If the number of gifts or prizes to be awarded is limited, a statement of the number of~~
 136 ~~gifts or prizes to be awarded or, in lieu of such statement, the nature of such limitation;~~
- 137 4. ~~All rules, terms, requirements, and conditions that shall be fulfilled before a prospective~~
 138 ~~purchaser may claim any gift or prize, including whether the prospective purchaser is~~
 139 ~~required to attend a sales presentation in order to receive the gift or prize;~~
- 140 5. ~~The date upon which the offer expires; and~~
- 141 6. ~~A statement to the effect that the offer is being made for the purpose of soliciting the~~
 142 ~~purchase of a time-share, time-share interest, interval ownership, interval ownership~~
 143 ~~interest, vacation ownership, vacation ownership interest, or product, as appropriate.~~

144 ~~Such disclosures will be made with the same prominence as the offer.~~

145 B. The board may at any time require a developer to alter or amend any offering that includes a gift
 146 or prize ~~in order~~ to ensure compliance with this section.

147 **Part IV. Application for Time-Share Program Registration**

148 **18VAC48-45-100. (Repealed.)**

Commented [JH8]: Similar change to Condo Regs.

Formatted: Strikethrough

Commented [JH9]: Relocated from section -110.

Discuss whether this requirement is necessary.

Commented [JH10R9]: Per committee on 3/14/24, delete.

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Normal, No bullets or numbering

Commented [JH11]: Disclosures required under § 55.1-2218.

- +1 R/S - Retail value of each gift/prize.
- +1 R/S - Approximate odds of obtaining each gift or prize if all persons to whom advertisement is disseminated do what is necessary to qualify.
- +1 R/S - A statement of the limitation of gifts/prizes.
- +1 R/S - All rules, requirements, and conditions that must be fulfilled before prospective purchaser may claim gift/prize, including whether attendance as sales presentation is required.
- +1 R/S - The expiration date of the offer.
- +1 R/S - Statement that offer is being made for the purpose of soliciting the purchase of a time-share, etc. as appropriate.

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(68,68,68)), Ligatures: None

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(68,68,68)), Ligatures: None

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(68,68,68)), Ligatures: None

Formatted: Indent: Left: 0.5"

149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188

18VAC48-45-110. Prerequisites for registration of a time-share program.

The following provisions are prerequisites for registration and are supplementary to the provisions of § 55.1-2239 of the Code of Virginia.

1. The developer shall own or have the right to acquire an estate in the land constituting or to constitute any time-share project included in the time-share program that is of at least as great a degree and duration as the estate to be conveyed in the time-shares.
2. The time-share instrument of any time-share project included in the time-share program must be adequate to bring a time-share project and time-share program into existence upon recordation. This subdivision does not apply to a time-share instrument that may be recorded after the time-share project and time-share program have been created.
3. The current and planned time-share advertising activities of the developer shall comply with § 18.2-216 of the Code of Virginia and this chapter.
4. If the developer is a firm, it shall be organized as a business entity under the laws of the Commonwealth of Virginia or otherwise authorized to transact business in Virginia. Firms shall register any trade or fictitious names with the State Corporation Commission in accordance with Chapter 5 of Title 59.1 (§ 59.1-69 et seq.) of the Code of Virginia before submitting an application to the board.

18VAC48-45-120. Review of application for registration of a time-share program.

A. Upon receipt of an application for registration of a time-share program, the board shall will issue the notice of filing required by subsection A of § 55.1-2241 of the Code of Virginia.

B. Upon the review of the application for registration, if the requirements of § 55.1-2239 of the Code of Virginia and this chapter have not been met, the board shall will notify the applicant if the requirements of § 55.1-2239 of the Code of Virginia and this chapter have been met as required by subsection C of § 55.1-2241 of the Code of Virginia. If the requirements have not been met, the board will notify the applicant of what is necessary to satisfy the requirements.

C. If the requirements for registration are not met within the application review period or a valid extension thereof, the board shall must, upon the expiration of such period, enter an order rejecting the registration as required by subsection C of § 55.1-2241 of the Code of Virginia. The order rejecting the registration shall become effective 20 days after issuance.

D. An applicant may submit a written request for an informal conference in accordance with § 2.2-4019 of the Code of Virginia at any time between receipt of a notification pursuant to subsection B of this section and the effective date of the order of rejection entered pursuant to subsection C of this section. A request for such proceeding shall be deemed a consent to delay within the meaning of subsection A of § 55.1-2241 of the Code of Virginia.

E. The board shall receive and act upon corrections to the application for registration at any time prior to the effective date of an order rejecting the registration. If the board determines after review of the corrections that the requirements for registration have not been met, the board may proceed with an informal conference in accordance with § 2.2-4019 of the Code of Virginia in order to allow reconsideration of whether the requirements for registration are met. If the board does not opt to

Commented [JH12]: Merge applicable provisions into section -130. Similar to Condo Regs.

189 proceed with an informal conference, the applicant may submit a written request for an informal
190 conference in accordance with § 2.2-4019 of the Code of Virginia in order to reconsider whether the
191 requirements for registration are met. If the board does not proceed with an informal conference
192 and no request for an informal conference is received from the applicant, an amended order of
193 rejection stating the factual basis for the rejection shall be issued. A new 20-day period for the order
194 of rejection to become effective shall commence.

Commented [JH13]: Similar change being made to the Condo Regs.

195 F.D. At such time as the board affirmatively determines that the requirements of § 55.1-2239 of the
196 Code of Virginia have been met, the board shall will enter an order registering the time-share
197 program and shall designate the form, content, and effective date of the public offering statement.

198 E. Applications that do not meet the requirements of this chapter may be reviewed by the board in
199 accordance with Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) at the
200 request of the developer. Such request will be deemed a consent to delay within the meaning of
201 subsection A of § 55.1-2241 of the Code of Virginia and will stay any order of rejection pursuant to
202 subsection C of § 55.1-2241 of the Code of Virginia.

203 **18VAC48-45-130. Minimum application requirements for registration of a time-share**
204 **program.**

205 A. The documents and information contained in §§ 55.1-2208, 55.1-2209, 55.1-2210, 55.1-2214,
206 55.1-2217, and 55.1-2239 of the Code of Virginia, as applicable, shall be included in the application
207 for registration of a time-share program.

208 A. Applications for registration must include the following information:

209 1. The developer's name, address, and the organizational form, including the date and
210 jurisdiction under which the applicant was organized, and the address of its principal office
211 and each of its sales offices in the Commonwealth of Virginia; and proof of registration with
212 the State Corporation Commission, when applicable.

213 a. If the developer is a firm, it must be organized as a business entity under the laws
214 of the Commonwealth of Virginia or otherwise authorized to transact business in
215 Virginia.

216 b. Firms must register any trade or fictitious names with the State Corporation
217 Commission in accordance with Chapter 5 of Title 59.1 (§ 59.1-69 et seq.) of the
218 Code of Virginia before submitting an application to the board.

Formatted: Indent: Left: 1"

Commented [JH14]: Consider removing requirement.

Commented [JH15R14]: Per committee on 3/14/24, remove.

Formatted: Strikethrough

219 2. The name, address, and principal occupation for the past five years of every officer of
220 the developer or person occupying a similar status or performing similar functions and
221 the extent and nature of such person's interest in the developer or the time-share
222 program as of a specified date within 30 days of the filing of the application;

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(RGB(68,68,68)), Ligatures: None

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(RGB(68,68,68)), Ligatures: None

223 3. A statement whether any of the individuals or entities named in subdivision A 2 of this
224 section are or have been involved as defendants in any indictment, conviction,
225 judgment, decree, or order of any court or administrative agency against the developer
226 or managing entity for violation of a federal, state, local, or foreign country law or
227 regulation in connection with activities relating to time-share sales, land sales, land
228

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(RGB(68,68,68)), Ligatures: None

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(RGB(68,68,68)), Ligatures: None

Formatted: Indent: Left: 0.75", No bullets or numbering

229 investments, security sales, construction or sale of homes or improvements, or any
230 similar or related activity.

231
232 4. A statement whether, during the preceding five years, any of the individuals or entities
233 named in subdivision A 2 of this section have been adjudicated bankrupt or have
234 undergone any proceeding for the relief of debtors.

235
236 5. The states or jurisdictions in which an application for registration or similar document
237 has been filed and any adverse order or judgment entered in connection with the time-
238 share program by the regulatory authorities in each jurisdiction or by any court; and

239
240 6. A statement of the zoning, subdivision, or land use obligations or proffers and other
241 governmental regulations affecting the use of each time-share project included in the
242 time-share program, including the site plans and building permits and their status, any
243 existing tax, and existing or proposed special taxes or assessments that affect the time-
244 share. This requirement may be satisfied by indicating disclosure of this information in
245 the public offering statement.

246
247 7. An irrevocable appointment to the board to receive service of process in any proceeding
248 arising under this chapter against the developer or the developer's agent, if
249 nonresidents of the Commonwealth.

250 B. The application for registration of a time-share program shall include the fee specified in
251 18VAC48-45-70.

252 C. The following documents shall must be included as labeled exhibits in to the application for
253 registration of a time-share program as exhibits. All exhibits shall be labeled as indicated and
254 submitted in a format acceptable to the board.

255 1. Exhibit A: A copy of the certificate of incorporation or certificate of authority to transact
256 business in Virginia issued by the Virginia State Corporation Commission, or any other entity
257 formation documents, together with any trade or fictitious name certificate.

258 2. Exhibit B: A certificate of recordation or other acceptable documents from the city or county
259 where the time-share is located.

260 3. Exhibit C: 1. A copy of the title opinion, the title policy, or a statement of the condition of the
261 title to each time-share project included in the time-share program, including encumbrances as
262 of a specified date within 30 days of the date of application by a title company or licensed
263 attorney who is not a salaried employee, officer, or director of the developer or owner, in
264 accordance with subdivision A 5 of § 55.1-2239 of the Code of Virginia.

265 a. If the developer is not the record owner of the land, a copy of any contract the developer
266 has executed to purchase the land, any option the developer holds for the purchase of the
267 land, or any lease under which the developer holds the land.

268 4. Exhibit D: 3. Proof that the applicant or developer owns or has the right to acquire an estate in
269 the land constituting or to constitute each time-share project included in the time-share

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(RGB(68,68,68)), Ligatures: None

Formatted: Indent: Left: 0.5", Space After: 8 pt, Line spacing: Multiple 1.08 li, No bullets or numbering, Font Alignment: Auto

Formatted: Indent: Left: 0.75", No bullets or numbering

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(RGB(68,68,68)), Ligatures: None

Formatted: Indent: Left: 0.5", Space After: 8 pt, Line spacing: Multiple 1.08 li, No bullets or numbering, Font Alignment: Auto

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(RGB(68,68,68)), Ligatures: None

Formatted: Indent: Left: 0.5", Space After: 8 pt, Line spacing: Multiple 1.08 li, No bullets or numbering, Font Alignment: Auto

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 2 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Font: (Default) PT Serif, 10.5 pt, Font color: Custom Color(RGB(68,68,68)), Ligatures: None

Commented [HJ(16)]: Already covered in section -50.

Commented [HJ(17)]: Requirement eliminated as it is unnecessary.

Commented [HJ(18)]: Is this requirement necessary?

Commented [JH19R18]: Per committee on 3/14/24, remove.

Formatted: Indent: Left: 0.5"

270 program, which is of at least as great a degree and duration as the estate to be conveyed in the
271 time-share.

Commented [JH20]: Is this requirement necessary in light of title report requirement?

272 ~~5. Exhibit E: A statement of the zoning, subdivision, or land use obligations or proffers and other~~
273 ~~governmental regulations affecting the use of each time-share project included in the time-share~~
274 ~~program, including the site plans and building permits and their status, any existing tax, and~~
275 ~~existing or proposed special taxes or assessments that affect the time-share.~~

Commented [JH21R20]: Per committee on 3/14/24, revisit.

Commented [JH22]: Moved to subsection A of -130.

276 ~~6. Exhibit F: 4. A copy of the time-share instrument, including all applicable amendments and~~
277 ~~exhibits, that will be delivered to a purchaser and copies of the contracts and other agreements~~
278 ~~that a purchaser will be required to agree to or sign, including the buyer's acknowledgment~~
279 ~~required by § 55.1-2226 of the Code of Virginia.~~

Commented [JH23]: Section 55.1-2239(A)(6) says "copy of the instruments that will be delivered to a purchaser..." What is this intended to include?

280 ~~7. Exhibit G: 5. A narrative description of the promotional plan for the disposition of the time-~~
281 ~~shares.~~

Commented [JH(24R23): Per committee on 3/14/24, documents that will be given to purchaser.

282 ~~8. Exhibit H: 6. A copy of the proposed public offering statement that complies with § 55.1-2217~~
283 ~~of the Code of Virginia and this chapter. Pursuant to subsection H of § 55.1-2217, a similar~~
284 ~~disclosure statement required by other situs laws governing time-sharing may be submitted for a~~
285 ~~time-share located outside of the Commonwealth.~~

286 ~~9. Exhibit I: A copy of the buyer's acknowledgment. Pursuant to § 55.1-2226 of the Code of~~
287 ~~Virginia, the purchaser shall be given this document prior to signing a purchase contract, and the~~
288 ~~document shall contain the information required by subsection B of § 55.1-2226.~~

Commented [JH25]: Merge with "copies of contracts" exhibit above.

289 ~~10. Exhibit J: 7. The signed original of (i) any bond or letter of credit obtained pursuant to § 55.1-~~
290 ~~2220 of the Code of Virginia in lieu of escrowing deposits and (ii) any bond or letter of credit~~
291 ~~required by subsection B of § 55.1-2234 of the Code of Virginia, as applicable.~~

Commented [JH(26R25): Per committee on 3/14/24, okay to merge.

292 ~~11. Exhibit K: 8. A copy of any management agreements, employment contracts, and/or other~~
293 ~~contracts or agreements affecting the overall use, maintenance, management, or access of all or~~
294 ~~any part of the time-share program.~~

Commented [JH27]: Revised to parallel statutory provision.

295 ~~12. Exhibit L: A list with the names of every officer, manager, owner, or principal, as applicable to~~
296 ~~the type of firm under which the developer is organized to do business, of the developer or~~
297 ~~persons occupying a similar status within or performing similar functions for the developer. The~~
298 ~~list must include each individual's residential address or other address valid for receipt of service,~~
299 ~~principal occupation for the past five years, and title.~~

Commented [JH28]: Consider eliminating.

Commented [JH(29R28): Per committee on 3/14/24, remove.

300 ~~13. Exhibit M: A statement whether any of the individuals or entities named in Exhibit L are or~~
301 ~~have been involved as defendants in any indictment, conviction, judgment, decree, or order of~~
302 ~~any court or administrative agency against the developer or managing entity for violation of a~~
303 ~~federal, state, local, or foreign country law or regulation in connection with activities relating to~~
304 ~~time-share sales, land sales, land investments, security sales, construction or sale of homes or~~
305 ~~improvements, or any similar or related activity.~~

Commented [JH30]: Is this requirement necessary?

Consider making an application question instead of application exhibit.

Commented [JH(31R30): Per committee on 3/14/24, make application question instead of exhibit.

306 ~~14. Exhibit N: A statement whether, during the preceding five years, any of the individuals or~~
307 ~~entities named in Exhibit L have been adjudicated bankrupt or have undergone any proceeding~~
308 ~~for the relief of debtors.~~

Commented [JH32]: Consider making an application question instead of an application exhibit.

Commented [JH(33R32): Per committee on 3/14/24, make application question instead of exhibit.

309 15. Exhibit O: If the developer has reserved the right to add to or delete from the time-share
310 program any incidental benefit, a description of the incidental benefit shall be provided pursuant
311 to subdivision A 13 of § 55.1-2239 of the Code of Virginia.

312 16. Exhibit P:9. For any time-share program containing a conversion time-share project, a copy of
313 the notice required by subsection D of § 55.1-2217 of the Code of Virginia and a certified
314 statement that such notice shall be mailed or delivered to each of the tenants in the building of
315 each conversion time-share project included in the time-share program.

316 C. The developer shall own or have the right to acquire an estate in the land constituting or to
317 constitute any time-share project included in the time-share program that is of at least as great a
318 degree and duration as the estate to be conveyed in the time-shares.

319 D. The time-share instrument of any time-share project included in the time-share program must
320 be adequate to bring a time-share project and time-share program into existence upon
321 recordation. This subdivision does not apply to a time-share instrument that may be recorded
322 after the time-share project and time-share program have been created.

Commented [JH34]: How to satisfy the requirement in § 55.1-2239(A)(13)?

Is this specific exhibit necessary?

Commented [HJ(35R34): Per committee on 3/14/24, remove.

323 Part V. Public Offering Statement

324 18VAC48-45-140. Public offering statement requirements, generally.

325 In addition to the provisions of § 55.1-2217 of the Code of Virginia, the following will be considered,
326 as applicable, during review of the public offering statement:

327 A. A public offering statement must meet the requirements of the Virginia Real Estate Time-
328 Share Act, and Part V (18VAC48-45-140 et seq.) of this chapter.

329 1. The public offering statement shall must provide full and accurate disclosure, in accordance
330 with 18VAC48-45-150.

331 2. 1. The public offering statement shall must pertain to the time-share program in which the
332 time-shares are offered.

333 3. 2. The public offering statement shall must be clear, organized, and legible.

334 4. Except for brief excerpts, the public offering statement may refer to, but should not
335 incorporate verbatim, portions of the time-share instruments, the Virginia Real Estate Time-
336 Share Act, or this chapter. This does not preclude compliance with 18VAC48-45-170.

Formatted: Font: PT Serif, 10.5 pt

Commented [AC36]: Consistent with Condo Regs

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

Commented [AC37]: Staff determined this was duplicative language and removed from Condo Regs.

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

Commented [AC38]: Moved to 18VAC48-45-150 A

Commented [LB39R38]: To mirror condominium regulations.

Formatted: Strikethrough

337 18VAC48-45-150. Full and accurate disclosure.

338 A. The provisions of § 55.1-2217 of the Code of Virginia and this chapter shall be strictly construed
339 to promote full and accurate disclosure in the public offering statement. In addition, the following
340 will be considered, as applicable, during review to assure full and accurate disclosure:

341 1. The information shall must be presented in a manner that is clear and understandable to a
342 reasonably informed consumer, while maintaining consistency with the requirements of this
343 chapter and the Virginia Real Estate Time-Share Act.

344 2. No information shall will be incorporated by reference to an outside source that is not
345 reasonably available to a prospective purchaser.

346 3. If required information is not known or not reasonably available, such fact shall must be stated
347 and explained in the public offering statement.

348 4. Except for brief excerpts, the public offering statement may refer to, but should not
349 incorporate verbatim, portions of the time-share instruments, the Virginia Real Estate Time-
350 Share Act, or this chapter. This does not preclude compliance with 18VAC48-45-170.

351 B. ~~The board has the sole discretion to require additional information or amendment of existing~~
352 ~~information as it finds necessary to ensure full and accurate disclosure. The board at any time may~~
353 ~~require a developer to alter or amend the public offering statement for a time share or an exchange~~
354 ~~program disclosure document to assure full and accurate disclosure to prospective purchasers and~~
355 ~~to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.~~

356 **18VAC48-45-160. Contents of public offering statement.**

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

358 ~~B.A.~~ The developer may include as part of the public offering statement a receipt page printed in
359 such a way that the developer may obtain verification that a prospective purchaser has received the
360 public offering statement. The receipt page ~~shall must~~ include the effective date of the public
361 offering statement as well as a place for the date of delivery and signature lines for the prospective
362 purchaser. The authorized receipt page in proper form, duly executed, ~~shall will~~ be evidence that the
363 public offering statement was delivered.

364 ~~C.B.~~ The first substantive page of the public offering statement ~~shall must~~ be substantially as
365 follows:

366 **PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S PROTECTION**

PUBLIC OFFERING STATEMENT

NAME OF TIME-
SHARE
PROGRAM:

LOCATION OF
TIME-SHARE
PROJECT:

NAME OF
DEVELOPER:

ADDRESS OF
DEVELOPER:

EFFECTIVE DATE
OF PUBLIC
OFFERING
STATEMENT:

Commented [JH40]: We are taking this verbiage out of the Condo Regs.

Also in the working copy of the Condo Regs, the provisions in this subdivision are part of the first subdivision and not a stand-alone subdivision.

Formatted: Strikethrough

Formatted: Font: PT Serif, 10.5 pt

Commented [AC41]: Which sentence does the board prefer? Pulled from 750.

Commented [JH42R41]: Section -750 applies to both POS and exchange program disclosure document. This section of the regulation only pertains to POS. We need to drop reference to the exchange program disclosure document here if we want to use the language from -750.

Commented [AC43]: Eliminated in Condo Regs.

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

Commented [AC44]: Make this a form provided by the Board.

Commented [LB47]: Should staff also create a form for the first page TS POS as in the condominium regulations?

Commented [JH45]: Need to address how to approach re: multi-site time-share programs.

Consider taking this out.

REVISSED:

367 THE PURCHASER OF A TIME-SHARE MAY CANCEL THE CONTRACT UNTIL MIDNIGHT OF THE
368 SEVENTH CALENDAR DAY FOLLOWING THE EXECUTION OF SUCH CONTRACT. THE
369 PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S OWN PROTECTION.

Commented [JH46]: Need to discuss effective date vs. revised date.

370 **Purchasing a time-share carries with it certain rights, responsibilities, and benefits,**
371 **including certain financial obligations, rights, and restrictions concerning the use and**
372 **maintenance of units and common elements. The purchaser will be bound by the provisions**
373 **of the time-share instruments and should review the Public Offering Statement, the time-**
374 **share instruments, and other exhibits carefully prior to purchase.**

Commented [JH48]: Make text bold.

375 This Public Offering Statement presents information regarding ~~time-share(s)~~ ~~time-shares~~ being
376 offered for sale by the developer. The Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq. of the
377 Code of Virginia) requires that a Public Offering Statement be given to every Purchaser in order to
378 provide full and accurate disclosure of the characteristics of and material circumstances affecting
379 the time-share program and the characteristics of the ~~time-share(s)~~ ~~time-shares~~ being offered. The
380 Public Offering Statement is not intended, however, to be all-inclusive. The Purchaser should
381 consult other sources for details not covered by the Public Offering Statement.

382 The Public Offering Statement summarizes information and documents furnished by the developer
383 to the Virginia Common Interest Community Board. The Board has carefully reviewed the Public
384 Offering Statement but does not guarantee the accuracy or completeness of the Public Offering
385 Statement. In the event of any inconsistency between the Public Offering Statement and the
386 material it is intended to summarize, the material ~~shall will~~ control.

387 If the Purchaser elects to cancel the contract within the seven-day cancellation period, all payments
388 made in connection with the purchase contract ~~shall will~~ be refunded to the Purchaser within 45
389 days. If the Purchaser elects to cancel the contract, the Purchaser ~~shall must~~ do so either by (i)
390 hand-delivering the notice to the developer at its principal office or at the project or (ii) mailing the
391 notice by certified United States mail, return receipt requested, to the developer or its agent
392 designated in the contract.

Commented [JH49]: Need to address programs where states offer a longer cancellation window.

393 Allegations of violation of any law or regulation contained in the Virginia Real Estate Time-Share
394 Act or the Time-Share Regulations (18VAC48-45) should be reported to the Common Interest
395 Community Board, at:

[Department of Professional and Occupational Regulation](#)

Perimeter Center, Suite 400,

9960 Mayland Drive, Richmond, Virginia 23233.

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

Formatted: Indent: First line: 0.5"

400 D. A summary of important considerations ~~shall must~~ immediately follow the first page for the
401 purpose of reinforcing the disclosure of significant information. The summary ~~shall must~~ be titled
402 as such and ~~shall must~~ be introduced by the following statement: "The following are important
403 matters to be considered in acquiring a time-share. They are highlights only. The Public Offering

Commented [JH50]: Discuss whether TS POS should have this summary.

404 Statement and any exhibits or supplements to the statement should be examined in its entirety to
405 obtain detailed information." Appropriate modifications ~~shall will~~ must be made to reflect facts and
406 circumstances that may vary. The ~~summary shall consist of, but not be limited to,~~ must include the
407 following including appropriate references to the narrative sections in the public offering
408 statement, as applicable:

Commented [LB51]: Consider adding for clarity as was done in condominium regulations.

Formatted: Strikethrough

Commented [LB52]: Added in condominium regs.b

409 1. A brief description of the time-share program and any time-share project included in the time-
410 share program.

411 2. A statement regarding all incidental benefits or alternative purchases that may be offered by
412 the developer.

Commented [JH53]: Is this necessary?

Many programs do not offer either of these.

413 3. A brief description of all amenities located within or outside of any time-share project included
414 in the time-share program and available to time-share owners by virtue of ownership in the time-
415 share program. If such amenities are not common elements of the time-share project, identify
416 who owns the amenities and whether time-share owners are required to pay to access and use.

417 4. A statement describing any exchange program that may be offered to the purchaser.

418 5. A statement describing (i) the purchaser's responsibility to make principal and interest
419 payment in connection with the purchase of the time-share as well as to pay maintenance fees or
420 assessments, special assessments, user fees, insurance premiums, and real estate taxes and (ii)
421 that a time-share owner cannot reduce the amount of any owner obligation for any reason.

422 6. A statement regarding the consequences for failure to pay maintenance fees or any special
423 assessment when due. The statement may reference the enforcement mechanisms available to
424 the developer, and if applicable the association, by describing (i) any declaration of an owner
425 being an "Owner Not in Good Standing"; (ii) any civil action taken for the collection of a debt; (iii)
426 means for pursuing foreclosure or obtaining a lien against the time-share unit; and (iv) denial of
427 access to the time-share project and participation in the time-share program.

428 7. A statement indicating whether the developer or managing agent has indictments, convictions,
429 judgments, decrees, or order of any court or administrative agency for matters related to fraud or
430 consumer protection violations that may be required to be disclosed by subdivisions A 1 c and A 1
431 d of § 55.1-2217 of the Code of Virginia.

Commented [JH54]: Discuss whether this is necessary.

Similar requirement is being removed in the Condo Regs.

432 8. A statement indicating the period of time the developer will retain control of the association.

433 9. A statement disclosing any management agreement with a managing agent to perform certain
434 duties for any time-share project included in the time-share program.

435 10. A statement indicating whether the developer may expand the time-share program.

436 11. A statement indicating whether the right of the time-share owner to resell or transfer the
437 time-share is subject to restrictions.

438 12. A statement indicating the time-share units are restricted to lodging only.

439 13. A statement indicating that the time-share owner may not alter the interior or exterior of the
440 time-share unit.

441 14. A statement regarding the obligation of the developer or association to obtain certain
 442 insurance benefiting the time-share owner.

443 15. A statement regarding a time-share estate and time-share owner's obligation to pay real
 444 estate taxes.

445 E. The content after the summary of important considerations shall must include the narrative
 446 sections in 18VAC48-45-170 through 18VAC48-45-310. Supplementary sections may be included as
 447 necessary to ensure full and fair accurate disclosure.

448 F. Clear and legible copies of the following documents shall must be included as either supplements
 449 or exhibits to the public offering statement:

- 450 1. Time-share instrument;
- 451 2. Association articles of incorporation;
- 452 3. Bylaws;
- 453 4. Association annual report or projected budget for time-share estate programs;
- 454 5. Rules and regulations of the association, if available;
- 455 6. Any management contract, if applicable;
- 456 7. Exchange program disclosure document and narrative statement required pursuant to
 457 subsection B of § 55.1-2217 of the Code of Virginia, if applicable; and
- 458 8. Other documents obligating the association or time-share owner to perform duties or
 459 obligations or pay charges or fees, if applicable.

460 G. Other information and documentation may be included as necessary to ensure full and accurate
 461 disclosure. ~~The board may also require additional information as necessary to ensure full and~~
 462 ~~accurate disclosure.~~

463 **18VAC48-45-170. Narrative sections; time-share concept.**
 464 The public offering statement shall must contain a section captioned "The Time-Share Concept."
 465 The section shall must consist of a brief discussion of the form of time-share ownership being
 466 offered.

467 **18VAC48-45-180. Narrative sections; creation of time-share program.**
 468 The public offering statement shall must contain a section captioned "Creation of the Time-Share
 469 Program." The section shall must briefly explain the manner in which the time-share program was
 470 or will be created, the locality wherein the time-share instrument will be or has been recorded, and
 471 the procedure for its amendment.

472 **18VAC48-45-190. Narrative sections; description of time-share project.**
 473 A. The public offering statement shall must contain a section captioned "Description of the Time-
 474 Share Project." The section shall must provide a general description of any time-share project
 475 included in the time-share program and the units and common elements promised available to

Commented [JH55]: This is redundant of -150.

Commented [JH56]: The requirement here re: form of ownership is duplicated in section -200.

Is this section necessary?

Commented [JH57]: Discuss whether this section is necessary.

What information required by this section is critical for a prospective purchaser to know during the offering?

Commented [JH58]: Consider adding a provision that for a multi-site TS program the information required by subsection A may be satisfied with a tabular description of the projects in the program that is an exhibit to the POS.

476 purchasers. This section shall must also provide the developer's estimated schedule of
477 commencement and completion of all promised and incomplete units and common elements.

478 B. The section shall must state whether the developer has reserved the right to add and delete from
479 the time-share program a time-share project or any incidental benefit.

480 C. The section shall must refer the purchaser to the reverter deed for an explanation if the developer
481 utilized the possibility of a reverter.

482 D. The section shall must indicate all provisions that have been made for public utilities in the time-
483 share project, including water, electricity, telephone, and sewerage facilities.

484 **18VAC48-45-200. Narrative sections; individual time-shares.**

485 A. The public offering statement shall must contain a section captioned "Individual Time-Shares."
486 The section shall must indicate (i) the form of time-share ownership being offered; (ii) the types,
487 duration, and number of units and time-shares in the time-share program; (iii) identification of
488 units that are subject to the time-share program; and (iv) the estimated number of units that may
489 become subject to the time-share program.

490 B. This section shall must explain the extent to which financial arrangements, if any, have been
491 provided for completion of any incomplete but promised time-share unit or common element being
492 offered for sale. The section shall must contain a statement of the developer's obligation to
493 complete any promised time-share unit or common element being offered for sale comprising the
494 time-share project that have not begun or begun but not yet completed.

495 C. The section shall must explain the extent to which a time-share unit may become subject to a tax
496 or other lien arising out of claims against other owners of the same unit.

497 **18VAC48-45-210. Narrative sections; developer.**

498 The public offering statement shall must contain a section captioned "The Developer." The section
499 shall must disclose the following information concerning the developer:

- 500 1. The name and principal address of the developer.
- 501 2. The name, principal occupation, and address of every director, partner, limited liability
502 company manager, or trustee of the developer.
- 503 3. The name and address of each person owning or controlling an interest of at least 20% in each
504 time-share project included in the registration.
- 505 4. The particulars of any indictment, conviction, judgment, decree, or order of any court or
506 administrative agency against the developer or managing entity for violation of a federal, state,
507 local, or foreign country law or regulation in connection with activities relating to time-share
508 sales, land sales, land investments, security sales, construction or sale of homes or
509 improvements, or any similar or related activity.
- 510 5. The nature of each unsatisfied judgment, if any, against the developer or the managing entity;
511 the status of each pending suit involving the sale or management of real estate to which the
512 developer, the managing entity, or any general partner, executive officer, director, limited

Commented [JH59]: Consider merging the disclosures in this section with the disclosures in section -190.

513 liability company manager, or majority stockholder thereof, is a defending party; and the status
514 of each pending suit, if any, of significance to any time-share project included in the registration.

515 6. The name and address of the developer's agent for service of any notice permitted by this
516 chapter.

517 7. The section shall must describe the type of legal entity of the developer and explain if other
518 entities have any obligation to satisfy the financial obligations of the developer.

519 8. For a time-share use program, a statement as to whether a developer's net worth is more than
520 or less than \$250,000. If the developer's net worth is less than \$250,000, a current audited
521 balance sheet shall must be provided with the public offering statement. If the developer's net
522 worth exceeds \$250,000, a statement by the developer that its equity in the time-share program
523 exceeds \$250,000.

524 **18VAC48-45-220. Narrative sections; terms of offering.**

525 A. The public offering statement shall must contain a section captioned "Terms of the Offering."
526 The section shall must discuss the expenses to be borne by a purchaser in acquiring a time-share
527 and present information regarding the settlement of purchase contracts as provided in subsections
528 B through H of this section.

529 B. The section shall must indicate any initial or special fees due from the purchaser at settlement
530 including a description of the purpose of such fees.

531 C. The section shall must set forth a general description of any financing offered by or available
532 through the developer to purchasers.

533 D. The section shall must describe (i) services that the developer provides or expenses it pays and
534 that it expects may become at any subsequent time a time-share expense of the owners and (ii) the
535 projected time-share expense liability attributable to each of those services or expenses for each
536 time-share.

537 E. The section shall must discuss all penalties or forfeitures to be incurred by a purchaser upon
538 default in performance of a purchase contract.

539 F. The section shall must discuss the process for cancellation of a purchase contract by a purchaser
540 in accordance with § 55.1-2221 of the Code of Virginia. The section shall include a statement that
541 the purchaser has a nonwaivable right of cancellation and refer such purchaser to that portion of
542 the contract in which the right of cancellation may be found.

543 G. The section shall must describe the terms of the deposit escrow requirements, including a
544 statement, if applicable, that the developer has filed a surety bond or letter of credit with the board
545 in lieu of escrowing deposits, in accordance with § 55.1-2220 of the Code of Virginia. The section
546 shall must also state that deposits received by the developer may be removed from escrow or are no
547 longer protected by a surety bond or letter of credit after the expiration of the cancellation period.

548 H. The section shall must set forth all restrictions in the purchase contract that limit the time-share
549 owner's right to bring legal action against the developer or the association. The section shall must
550 set forth the paragraph or section and page number of the purchase contract where such provision is

Commented [JH60]: Discuss whether this information is necessary.
If so, what harm is being addressed?

551 located. Nothing in this statement shall will be deemed to authorize such limits where those limits
552 are otherwise prohibited by law.

553 **18VAC48-45-230. Narrative sections; encumbrances.**

554 The public offering statement shall must contain a section captioned "Encumbrances" that shall
555 must describe all liens, defects, or encumbrances affecting the time-share project and in particular
556 the time-share offered to the purchaser.

Commented [JH61]: Consider adding a provision that for a multi-site TS program the information required by this section may be satisfied with disclosure in a tabular form.

557 **18VAC48-45-240. Narrative sections; exchange program.**

558 If any prospective purchaser is offered the opportunity to subscribe to or participate in any
559 exchange program, the public offering statement shall must contain a section captioned "Exchange
560 Program" that shall must include the following:

Commented [JH62]: Discuss whether this section is necessary. The POS must already include the disclosure document for the exchange program, which contains this same information.

561 1. A statement of whether membership or participation in the exchange program is voluntary or
562 mandatory; and

563 2. A statement that the purchaser's contract with the exchange company is a contract separate
564 and distinct from the purchaser's contract with the developer and whether there is a fee
565 associated with membership or participation in the exchange program.

566 **18VAC48-45-XXX. Use of time-share.**

567 **18VAC48-45-250. Narrative sections; financial matters.**

568 A. The public offering statement shall must contain a section captioned "Financial Matters." The
569 section shall must discuss the expenses incident to the ownership of a time-share.

Commented [JH63]: Discuss adding a section to disclose the process for how a purchaser can make use of their right to occupy the time-share (e.g. reservation procedures, use of points, etc.).

571 B. The section shall must distinguish, in general terms, the following categories of costs of
572 operation, maintenance, repair, and replacement of various portions of the time-share as follows:

Commented [JH64]: The great majority of these disclosures are not mandated by the TS Act.
Discuss which requirements are really necessary for a prospective purchaser to know before making a decision on purchasing a time-share.

573 1. (i) ~~time~~Time-share expenses;

574 2. (ii) ~~time~~Time-share estate occupancy expenses as defined in § 55.1-2200 of the Code of
575 Virginia; and

576 (iii) ~~3. a~~All other costs that may be borne directly by individual time-share owners.

Formatted: Indent: Left: 0.5"

577 C. A budget shall must show projected common expenses in each of the categories in subsection B
578 of this section for the first year of the time-share program's operation or, if different, the latest year
579 for which a budget is available. The projected budget shall be attached to the public offering
580 statement as an exhibit and the section shall must direct the purchaser's attention to such exhibit
581 the budget exhibit. The section shall must describe the manner in which the projected budget is
582 established. If the time-share is phased, the budget shall will project future years until all phases are
583 projected to be developed and all common elements that must be built have been completed. The
584 budget shall must include an initial working capital budget showing sources and uses of initial
585 working capital and a reserve table showing amounts to be collected to fund those reserves. The
586 budget shall must show regular individual assessments by unit type. The budget shall must note
587 that the figures are not guaranteed and may vary.

Commented [LB65]: Eliminate? Already required by 45-160.F and eliminated as redundant in condo regs.

588 D. The section shall-must describe the manner in which (i) time-share expenses; (ii) time-share
589 estate occupancy expenses as defined in § 55.1-2200 of the Code of Virginia; and (iii) all other costs
590 that may be borne directly by individual time-share owners are apportioned among and assessed to
591 the time-share units. The section shall-must include the substance of the following statement, if
592 applicable: "A time-share owner cannot obtain a reduction of the (i) time-share expenses; (ii) time-
593 share estate occupancy expenses as defined in § 55.1-2200 of the Code of Virginia; and (iii) any
594 other costs that may be borne directly by individual time-share owners assessed against the unit by
595 refraining from use of any of the common elements."

596 E. The section shall-must describe budget provisions for reserves for capital expenditures, if any. If
597 there are no reserves, the section shall-must so state.

598 F. The section shall-must discuss (i) time-share expenses; (ii) time-share estate occupancy expenses
599 as defined in § 55.1-2200 of the Code of Virginia; (iii) all other costs that may be borne directly by
600 individual time-share owners; and (iv) any right the developer or association has to institute special
601 assessments.

602 G. The section shall-must indicate any fee, rental, or other charge to be payable by unit owners
603 other than through assessments and maintenance fees to any party for use of the common elements
604 or for use of recreational or parking facilities in the vicinity of the time-share project.

605 H. The section shall-must discuss the effect of failure of a time-share owner to pay the assessments
606 and maintenance fees levied against the time-share unit. Such discussion shall-must indicate
607 provisions for charges or other remedies that may be imposed to be applied in the case of unpaid
608 and past due assessments and for acceleration of unpaid assessments.

609 **18VAC48-45-255. Narrative sections; governmental reviews.**

610 The public offering statement shall-must contain a section captioned "Governmental Reviews." The
611 section shall-will discuss governmental approvals required for the development of each time-share
612 project included in the time-share program. In addition, the section shall-will discuss approval of
613 the zoning application and site plan and issuance of building permits by appropriate governmental
614 authorities. The section shall-must state the current zoning classification for each time-share
615 project property included in the time-share program. The section shall-must also include a
616 statement regarding zoning, subdivision, or land use obligations or proffers that would be imposed
617 on the time-share owner or the association, but need not disclose zoning, subdivision, or land use
618 obligations or proffers that do not impose any obligation on the association.

619 **18VAC48-45-260. Narrative sections; restrictions on transfer.**

620 The public offering statement shall-must include a section captioned "Restrictions on Transfer." The
621 section shall-must describe and explain limitations on leasing or other restraints on free alienability
622 created by the time-share instrument or the rules and regulations of the association that affect a
623 time-share owner's right to resell, lease, or otherwise transfer an interest in the time-share.

624 **18VAC48-45-270. Narrative sections; time-share owners' association.**

625 A. For time-share estate programs the public offering statement shall-must contain a section
626 captioned "Time-Share Owners' Association." The section shall-will discuss the arrangements for
627 the management and operation of the time-share estate program and for the maintenance, repair,

Commented [HJ(66)]: Consider merging with subsection A.

Discuss the types of expenses and the right of the association to impose assessments for these expenses.

Commented [HJ(67)]: Discuss whether this section is necessary.

Commented [HJ(68)]: Discuss a comprehensive section on "Operation and Management of the Time-Share Program."

Commented [LB69]: Can the provisions for managing agent moved to "Managing Entity" narrative?

628 and furnishing of units and ~~shall~~must include the information required by subdivisions 1 through
629 15 of this subsection. The section ~~shall~~must describe or discuss the following:

- 630 1. The creation of the association.
- 631 2. The payment of costs and expenses of operating the time-share estate program and owning
632 and maintaining the time-share units.
- 633 3. Employment and termination of employment of the managing agent for each time-share estate
634 project included in the time-share program.
- 635 4. Termination of leases and contracts for goods and services for each time-share estate project
636 included in the time-share program that were entered into during the developer control period.
- 637 5. Preparation and dissemination of the annual report required by § 55.1-2213 of the Code of
638 Virginia to the time-share estate owners.
- 639 6. Adoption of standards and rules of conduct for the use, enjoyment, and occupancy of units by
640 the time-share estate owners.
- 641 7. Collection of regular assessments, fees or dues, and special assessments from time-share estate
642 owners to defray all time-share expenses.
- 643 8. Comprehensive general liability insurance for death, bodily injury, and property damage
644 arising out of or in connection with the use and enjoyment of any time-share project included in
645 the time-share program by time-share estate owners, their guests, and other users. The cost for
646 such insurance shall be a time-share expense.
- 647 9. Methods for providing compensation or alternate use periods or monetary compensation to a
648 time-share estate owner if his contracted-for unit cannot be made available for the period to
649 which the owner is entitled by schedule or by confirmed reservation.
- 650 10. Procedures for imposing a monetary penalty or suspension of a time-share estate owner's
651 rights and privileges in the time-share estate program or any time-share project included in the
652 time-share program for failure to comply with provisions of the time-share instrument or the
653 rules and regulations of the association with respect to the use and enjoyment of the units and
654 the time-share project. Under these procedures a time-share estate owner must be given
655 reasonable notice and reasonable opportunity to be heard and explain the charges against him in
656 person or in writing to the board of directors of the association before a decision to impose
657 discipline is rendered.
- 658 11. Employment of attorneys, accountants, and other professional persons as necessary to assist
659 in the management of the time-share estate program and any time-share project included in the
660 time-share program.
- 661 12. Developer control period, during which time period the developer, or a managing agent
662 selected by the developer, ~~shall~~will manage and control any time-share estate project included in
663 the time-share program and the common elements and units, including decisions about the
664 financial operation of the association.

Commented [LB70]: Should this be moved to Section 280
- Managing Entity?

Commented [LB71]: Consider eliminating?

Commented [LB72]: Move this to 45-300 - Insurance?

665 13. The managing agent, if any, shall must be identified, and the section shall indicate any
666 relationship between the managing agent and the developer. The duration of any management
667 agreement shall be stated.

Commented [LB73]: Can this be moved to Section 280 - Managing Entity?

668 14. Except to the extent otherwise disclosed in connection with discussion of a management
669 agreement, the significant terms of any lease of recreational areas or similar contract or
670 agreement affecting the use, maintenance, or access of all or any part of any time-share project
671 included in the time-share program shall must be stated. The section shall must include a brief
672 narrative statement of the effect of each such agreement upon a purchaser.

673 15. Rules and regulations of the association shall must be discussed. The purchaser's attention
674 shall must be directed to the copy of rules and regulations, if any, attached to the public offering
675 statement.

676 B. For time-share use programs, if an association is formed for management and operation of the
677 time-share use program and for the maintenance, repair, and furnishing of time-share use units
678 comprising the time-share, the public offering statement shall must contain a section captioned
679 "Time-Share Owners' Association." This section shall must contain the information required by
680 subdivisions A 1 through 15 of this section as applicable to the association for the time-share use
681 program.

682 **18VAC48-45-280. Narrative sections; managing entity.**

683 The public offering statement shall must include a section captioned "Managing Entity." This
684 section shall must provide the name and address of the managing entity for each time-share project
685 included in the time-share program. The section shall must also provide a description of the
686 facilities, if any, provided by the developer to the association in a time-share estate program for the
687 management of the program.

Commented [HJ(74): Consider merging with section - 270.

688 **18VAC48-45-290. Narrative sections; conversion time-share projects.**

689 A. ~~The For any time-share program containing a conversion time-share project, the~~ public offering
690 ~~statement of a conversion time-share project shall must~~ contain a section captioned "Conversion
691 Time-Share Projects." The section shall must include the following:

692 1. A specific statement of the amount of any initial or special fee, if any, due from the purchaser
693 of a time-share on or before settlement of the purchase contract and the basis of such fee
694 occasioned by the fact that the project is a conversion time-share project.

695 2. Information on the actual expenditures, if available, made on all repairs, maintenance,
696 operation, or upkeep of the building within the last three years. This information shall must be
697 set forth in a tabular manner within the proposed budget. If such building has not been occupied
698 for a period of three years, then the information shall will be set forth for the period during which
699 such building was occupied.

700 3. A description of any provisions made in the budget for reserves for capital expenditures and an
701 explanation of the basis for such reserves occasioned by the fact that the project is a conversion
702 time-share project, or, if no provision is made for such reserves, a statement to that effect.

703 4. A statement of the present condition of all structural components and major utility
704 installations in the building, which statement shall must include the approximate dates of

705 construction, installations, and major repairs as well as the expected useful life of each such item,
706 together with the estimated cost, in current dollars, of replacing each such component.

707 B. In lieu of a narrative section pursuant to this section, the requirements of this section may be
708 satisfied in the form of an exhibit to the public offering statement.

709 **18VAC48-45-300. Narrative sections; insurance.**

710 The public offering statement shall ~~must~~ contain a section captioned "Insurance." The section shall
711 ~~must~~ describe generally the insurance coverage provided by the developer or the association for the
712 benefit of time-share owners not otherwise described in the public offering statement. The section
713 shall ~~must~~ state, with respect to such insurance, each of the following circumstances, to the extent
714 applicable: (i) property damage coverage will not insure personal property belonging to unit owner;
715 and (ii) liability coverage will not insure against liability arising from an accident or injury occurring
716 within a unit or as a result of the act or negligence of a time-share owner. The section shall ~~must~~
717 include a statement whether the time-share owner is obligated to obtain coverage for any or all of
718 the coverages described. The section shall include a statement indicating that the time-share owner
719 should consult with an insurance professional to determine appropriate coverage.

Commented [HJ(75)]: Consider merging with section - 270.

720 **18VAC48-45-310. Narrative sections; alternative purchase and incidental benefit.**

721 The public offering statement shall ~~must~~ contain a section entitled "Alternative Purchases and
722 Incidental Benefits." The section shall ~~must~~ state whether or not the developer has reserved the
723 right to add to or delete from the time-share program any incidental benefit. The section must state
724 whether the developer will offer any alternative purchase. The section shall state that such
725 alternative purchase has been or will be registered with the board.

Commented [LB76]: Consider striking as was done with condo regs.

Commented [LB77]: Is this necessary?

726 **18VAC48-45-320. Documents from other jurisdictions.**

727
728 **[ALTERNATE LANGUAGE]**

730 **A. A public offering statement for a time-share located outside Virginia must be filed in**
731 **accordance with department requirements to ensure full and fair accurate disclosure.**

733 ~~A. A substituted public offering statement shall only be permitted for a time-share program for
734 which some portion of the time-share project associated with the program is located outside of
735 Virginia.~~

736 ~~B. The substituted public offering statement shall be prepared by deleting from the original
737 disclosure document the following: (i) references to any governmental agency of another
738 jurisdiction to which application has been made or will be made for registration or related action;
739 (ii) references to the action of such governmental agency relative to the time-share project and its
740 time-share program; (iii) statements of the legal effect in another jurisdiction of delivery, failure to
741 deliver, acknowledgment of receipt, or related events involving the disclosure document; (iv) the
742 effective date in another jurisdiction of the disclosure document; and (v) all other information that
743 is untrue, inaccurate, or misleading with respect to marketing, offers, or disposition of time-shares
744 in Virginia.~~

745 ~~C. The substituted public offering statement shall incorporate all information not otherwise
746 included that is necessary to effect fully and accurately the disclosures required by § 55.1-2217 of~~

Formatted: Font: (Default) PT Serif, 10.5 pt, Bold, Font color: Custom Color(68,68,68), Ligatures: None

Formatted: Normal, No bullets or numbering

Commented [LB78]: This mirrors condominium regs.

Formatted: Font: (Default) PT Serif, 10.5 pt, Bold, Font color: Custom Color(68,68,68), Ligatures: None

Formatted: Font: (Default) PT Serif, 10.5 pt, Bold, Font color: Custom Color(68,68,68), Ligatures: None

Formatted: List Paragraph

747 the Code of Virginia. The substituted disclosure document shall clearly explain any nomenclature
748 that is different from the definitions provided in § 55.1-2200 of the Code of Virginia.

749 D. The substituted public offering statement shall include as the first item of the summary of
750 important considerations a statement that includes the following information: (i) the designation
751 by which the original disclosure document is identified in the original jurisdiction; (ii) the
752 governmental agency of such other jurisdiction where the original disclosure document is or will be
753 filed; and (iii) the jurisdiction of such filing.

754 E. The provisions of §§ 55.1-2217 and 55.1-2221 of the Code of Virginia and 18VAC48-45-140,
755 18VAC48-45-150, and 18VAC48-45-160 shall apply to substituted public offering statements in the
756 same manner and to the same extent that they apply to public offering statements.

757 F. In the case of a time-share project located outside of the Commonwealth, pursuant to subsection
758 H of § 55.1-2217 of the Code of Virginia, similar disclosure statements required by other situs laws
759 governing time-sharing that are equivalent to the requirements of this chapter may be accepted by
760 the board as alternative disclosure statements to satisfy the requirements of this chapter.

761 Part VI. Time-Share Program Post-Registration Provisions

762 18VAC48-45-330. Minimum post-registration reporting requirements for a time-share 763 program.

764 A. Subsequent to the issuance of a registration for a time-share program by the board, the developer
765 shall do the following:

- 766 1. File an annual report in accordance with § 55.1-2242 of the Code of Virginia and this chapter.
- 767 2. Upon the occurrence of a material change, file an amended public offering statement in
768 accordance with the provisions of subsection E of § 55.1-2217 and subsection C of § 55.1-2242 of
769 the Code of Virginia and this chapter. These amendments shall be filed with the board within 20
770 business days after the occurrence of the material change.
- 771 3. In accordance with subsection G of § 55.1-2217, amend the public offering statement to reflect
772 any addition of a time-share project to, or removal of a time-share project from, the existing
773 time-share program.
- 774 4. Upon the occurrence of any material change in the information contained in the registration
775 file, the developer shall immediately report such material changes to the board in accordance
776 with the provisions of subsection B of § 55.1-2239 of the Code of Virginia.
- 777 5. Notify the board of a change in any bond or letter of credit, as applicable, filed with the board
778 in accordance with § 55.1-2220 of the Code of Virginia or required by subsection B of § 55.1-2234
779 of the Code of Virginia.
- 780 6. File a completed application for registration of an unregistered phase upon the expansion of
781 the time-share program, along with the appropriate fee specified in 18VAC48-45-70.
- 782 7. Notify the board of transition of control from the developer to the time-share estate owners'
783 association (time-share estate projects only).

- 784 8. Submit appropriate documentation to the board once the registration is eligible for
785 termination.
- 786 9. Submit to the board any other document or information, which may include information or
787 documents that have been amended or may not have existed previously, that affects the accuracy,
788 completeness, or representation of any information or document filed with the application for
789 registration.
- 790 10. Submit to the board any document or information to make the registration file accurate and
791 complete.
- 792 B. Notwithstanding the requirements of subsection A of this section, the board at any time may
793 require a developer to provide information or documents, or amendments thereof, in order to assure
794 full and accurate disclosure to prospective purchasers and to ensure compliance with the Virginia
795 Real Estate Time-Share Act and this chapter.
- 796 **18VAC48-45-340. Amendment of public offering statement.**
797 Any amendment of the public offering statement or substituted public offering statement shall
798 comply with this chapter.
- 799 **18VAC48-45-350. Nonmaterial changes to the public offering statement.**
800 Changes to the public offering statement that are not material are not required to be filed with the
801 board, shall not be deemed an amendment of the public offering statement for the purposes of this
802 chapter, and shall not give rise to a renewed right of rescission in any purchase. Nonmaterial
803 changes to the public offering statement include the following:
- 804 1. Correction of spelling, grammar, omission, or other similar errors not affecting the substance
805 of the public offering statement;
 - 806 2. Changes in presentation or format;
 - 807 3. Substitution of an executed, filed, or recorded copy of a document for the otherwise
808 substantially identical unexecuted, unfiled, or unrecorded copy of the document that was
809 previously submitted;
 - 810 4. Inclusion of updated information such as identification or description of the current officers
811 and directors of the developer;
 - 812 5. Disclosure of completion of improvements for improvements that were previously proposed or
813 not complete;
 - 814 6. Changes in real estate tax assessment or rate or modifications related to those changes;
 - 815 7. Changes in utility charges or rates or modifications related to those changes;
 - 816 8. Addition or deletion of incidental benefits provided the developer reserved in the time-share
817 instrument the right to add or delete incidental benefits;
 - 818 9. Adoption of a new budget that does not result in a significant change in fees or assessments or
819 significantly impact the rights or obligations of the prospective purchasers;

820 10. Modifications related to changes in insurance company or financial institution, policy, or
821 amount for bonds or letters of credit filed with the board in accordance with § 55.1-2220 of the
822 Code of Virginia or required pursuant to § 55.1-2234 of the Code of Virginia;

823 11. Changes in personnel of the managing agent; and

824 12. Any change that is the result of orderly development of the time-share in accordance with the
825 time-share instruments as described in the public offering statement.

826 **18VAC48-45-360. Filing of amended public offering statement.**

827 A. The developer shall promptly file with the board for review a copy of the amended public offering
828 statement together with a copy of a summary of proposed amendments that shall be distributed to
829 purchasers during the board review period. The summary of proposed amendments shall enumerate
830 the amendments to the public offering statement submitted for board review and include a
831 statement that the amendments to the public offering statement have been filed with the board but
832 have not yet been accepted. The form of the submission is at the discretion of the developer
833 provided that (i) all amendments are clearly represented in the documentation presented; (ii) the
834 additions and deletions of text in the public offering statement and exhibits shall be identified by
835 underlining and striking through text to be added and deleted; and (iii) documents being added to
836 or deleted from the contents of the public offering statement shall be clearly and accurately
837 reflected in the table of contents utilizing underlines and strike-throughs for additions and
838 deletions. In addition to the copies showing edits to the text, a clean copy of all new and amended
839 documents shall be provided.

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

842 C. Within 30 days of receipt of the amended public offering statement, the board shall review the
843 amended public offering statement and supporting materials to determine whether the amendment
844 complies with this chapter. If the board's review determines that the amended public offering
845 statement complies with this chapter, it shall notify the developer in writing and confirm the new
846 effective date of the public offering statement.

847 D. If the board's review determines that the amended public offering statement does not comply
848 with this chapter, the board shall immediately notify the developer in writing that the review has
849 determined the amended public offering statement is not in compliance and shall specify the
850 particulars of such noncompliance. The developer shall then have 20 days in which to correct the
851 particulars of noncompliance identified by the board. The developer may, prior to the completion of
852 the 20-day correction period, request an extension in writing of the 20-day correction period. Upon
853 expiration of the 20-day correction period, if requested corrections have not been made or a request
854 for extension properly received, the board may issue a temporary cease and desist order in
855 accordance with subdivision D 2 of § 55.1-2247 of the Code of Virginia to require the cessation of
856 sales until such time as affirmative action as directed by the board is taken. Use of the noncompliant
857 public offering statement may result in further action by the board pursuant to §§ 55.1-2247 and
858 55.1-2252 of the Code of Virginia.

859 E. Notwithstanding an extension of the 30-day period for review agreed to in writing by the board
860 and developer, if the board does not perform the required review of the public offering statement in

861 accordance with subsection C of this section, the amendment shall be deemed to comply with
862 18VAC48-45-150 through 18VAC48-45-310, and the new effective date shall be the effective date of
863 the amendment provided pursuant to subsection B of this section.

864 F. In each case in which an amended document is filed pursuant to this section and the manner of
865 its amendment is not apparent on the face of the document, the developer shall provide an
866 indication of the manner and extent of amendment.

867 **18VAC48-45-370. Current public offering statement.**

868 A. Upon issuance of an effective date by the board, all purchasers who received a public offering
869 statement and summary of proposed amendments during the board review period pursuant to
870 subsection A of 18VAC48-45-360 shall be provided with the public offering statement as accepted
871 by the board. A public offering statement remains current until such time as the occurrence of a
872 material change requires amendment of the public offering statement pursuant to this chapter and
873 a new effective date is issued by the board.

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

876 C. Notwithstanding the board's authority to issue a cease and desist order pursuant to § 55.1-2247
877 of the Code of Virginia, the filing of an amended public offering statement shall not require the
878 developer to cease sales provided that the developer provides to purchasers the summary of
879 proposed amendments pursuant to subsection A of 18VAC48-45-360 pending the issuance of a new
880 effective date by the board.

881 **18VAC48-45-380. Public offering statement not current; notification of purchasers.**

882 A. A purchaser who has been delivered a public offering statement that is not current due to a
883 material change and was not provided with the summary of proposed amendments containing the
884 proposed changes to the amended public offering statement pursuant to subsection A of 18VAC48-
885 45-360 pending the issuance of a new effective date by the board shall be notified of such fact by the
886 developer.

887 B. A purchaser who has been delivered a public offering statement and summary of proposed
888 amendments pursuant to subsection A of 18VAC48-45-360, but the amended public offering
889 statement is determined to be noncompliant in accordance with subsection D of 18VAC48-45-360,
890 shall be notified of such fact by the developer.

891 1. The notification shall indicate that any contract for disposition of a time-share may be
892 canceled by the purchaser pursuant to subsection C of § 55.1-2221 of the Code of Virginia.

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

895 **18VAC48-45-390. Filing of phase amendment application.**

896 A. A phase amendment application for a time-share program shall be filed when adding a phase to
897 the time-share program. Such phase amendment application shall be accompanied by the fee
898 provided for in 18VAC48-45-70 and shall be subject to all of the provisions of 18VAC48-45-50,
899 18VAC48-45-110, 18VAC48-45-120, and 18VAC48-45-130. Documents on file with the board that

900 have not changed in connection with the additional phase or phases need not be refiled, provided
901 that the phase amendment application indicates that such documents are unchanged.

902 B. The application shall include a bond or letter of credit required pursuant to subsection B of
903 § 55.1-2234 of the Code of Virginia if any of the time-share units and common elements contained
904 in the submitted additional phase or phases have not been completed.

905 C. The board shall review the phase amendment application and supporting materials to determine
906 whether the amendment complies with this chapter. If the board's review determines the phase
907 amendment application complies with this chapter, it shall issue an amended order of registration
908 for the time-share program and shall provide that previous orders and designations of the form,
909 content, and effective date of the public offering statement are superseded. If the board's review
910 determines that the phase amendment application is not complete, the board shall correspond with
911 the developer to specify the particulars that must be completed to obtain compliance with this
912 chapter.

913 **18VAC48-45-400. Annual report for a time-share program registration required by**
914 **developer.**

915 A. A developer shall file an annual report for a time-share program registration on a form provided
916 by the board to update the material contained in the registration file by June 30 of each year the
917 registration is effective and shall be accompanied by the fee specified in 18VAC48-45-70. Prior to
918 filing the annual report required by § 55.1-2242 of the Code of Virginia, the developer shall review
919 the public offering statement then being delivered to purchasers. If such public offering statement
920 is current, the developer shall so certify in the annual report. If such public offering statement is not
921 current, the developer shall amend the public offering statement and the annual report shall, in that
922 event, include a filing in accordance with 18VAC48-45-360.

923 B. The annual report shall contain the following:

- 924 1. Current contact information for the developer;
- 925 2. Information concerning the current status of each time-share project included in the time-
926 share program;
- 927 3. Information concerning the current status of the time-share program, including (i) the type of
928 time-shares being offered and sold; (ii) the total number of time-share interests available in the
929 program; (iii) the total number of time-share interests sold; and (iv) information regarding any
930 incomplete units and common elements;
- 931 4. If the program is a time-share estate program and the developer control period has not yet
932 expired, a copy of the annual report that was prepared and distributed by the developer to the
933 time-share owners required by § 55.1-2213 of the Code of Virginia must accompany the annual
934 report;
- 935 5. Date of the public offering statement currently being delivered to purchasers; and
- 936 6. Current evidence from the surety or financial institution of bonds or letters of credit filed with
937 the board in accordance with § 55.1-2220 of the Code of Virginia or required pursuant to

938 subsection B of § 55.1-2234 of the Code of Virginia, or submittal of replacement bonds or letters
939 of credit. Such verification shall provide the following:

- 940 a. Principal of bond or letter of credit;
- 941 b. Beneficiary of bond or letter of credit;
- 942 c. Name of the surety or financial institution that issued the bond or letter of credit;
- 943 d. Bond or letter of credit number as assigned by the issuer;
- 944 e. The dollar amount;
- 945 f. The expiration date or, if self-renewing, the date by which the bond or letter of credit shall be
946 renewed; and
- 947 g. For any blanket bond or blanket letter of credit, a statement of the total amount of deposits held
948 by the developer as of May 31 of that calendar year.

949 **18VAC48-45-410. Board review of annual report for a time-share program registration.**

- 950 A. During review of the annual report, the board may make inquiries or request additional
951 documentation to amplify or clarify the information provided.
- 952 B. If the board does not accept the annual report and the annual report filing is not completed
953 within 60 days of a request by the board for additional information, the board may take further
954 action pursuant to §§ 55.1-2247 and 55.1-2252 of the Code of Virginia for failing to file an annual
955 report as required by § 55.1-2242 of the Code of Virginia.
- 956 C. If the board does not perform the required review of the annual report within 30 days of receipt
957 by the board, the annual report shall be deemed to comply with § 55.1-2242 of the Code of Virginia.

958 **18VAC48-45-420. Return of bond or letter of credit to ensure completion of promised units
959 and common elements to developer.**

960 A bond or letter of credit on file with the board pursuant to subsection B of § 55.1-2234 of the Code
961 of Virginia may be returned to the developer upon written request. Such request shall include a
962 statement from the developer that indicates the units and common elements for which the bond or
963 letter of credit was submitted have been completed. If the submitted statement is not sufficient to
964 confirm completion, the board may request additional documentation.

965 **18VAC48-45-430. Return of bond or letter of credit filed in lieu of escrowing deposits.**

966 A. An individual bond or individual letter of credit on file with the board in accordance with § 55.1-
967 2220 of the Code of Virginia may be returned to the developer upon written request. Such request
968 shall include a statement from the developer that indicates (i) the purchaser's cancellation period
969 has expired, (ii) the purchaser's default under a purchase contract for the time-share estate entitling
970 the developer to retain the deposit, or (iii) the purchaser's deposit was refunded.

971 B. Upon issuance of an order of termination of the time-share program registration pursuant to
972 18VAC48-45-450, a blanket bond or blanket letter of credit on file with the board in accordance with
973 § 55.1-2220 of the Code of Virginia will be returned to the developer.

974 **18VAC48-45-440. Maintenance of bond or letter of credit.**

975 A. The developer shall report the extension, cancellation, amendment, expiration, termination, or
976 any other change of any bond or letter of credit submitted in accordance with § 55.1-2220 and
977 subsection B of § 55.1-2234 of the Code of Virginia within five days of the change.

978 B. The board at any time may request verification from the developer of the status of a bond or
979 letter of credit on file with the board. Such verification shall comply with the provisions of
980 subdivision B 6 of 18VAC48-45-400.

981 C. Failure to report a change in the bond or letter of credit in accordance with this section shall
982 result in further action by the board pursuant to the Virginia Real Estate Time-Share Act.

983 **18VAC48-45-450. Termination of time-share program registration.**

984 A. The time-share program registration shall be terminated upon receipt of documentation of one
985 of the following:

986 1. In accordance with subsection A of § 55.1-2243 of the Code of Virginia, an annual report for a
987 time-share estate program filed pursuant to § 55.1-2242 of the Code of Virginia indicates that the
988 developer has transferred title to the time-share owners' association and that no further
989 development rights exist.

990 2. In accordance with subsection B of § 55.1-2243 of the Code of Virginia, written notification is
991 received from the developer attesting that no further development of the program is anticipated
992 and that the developer has ceased sales of time-shares in the program.

993 B. Upon receipt and review of documentation pursuant to subsection A of this section, the board
994 shall issue an order of termination for the time-share program registration. The board may request
995 additional information as necessary during the review of the submitted documentation to ensure
996 that the time-share program registration is eligible for termination.

997 **18VAC48-45-460. Administrative termination of time-share program registration.**

998 A. In accordance with subsection C of § 55.1-2243 of the Code of Virginia, the board may
999 administratively terminate the registration of a time-share program. Prior to the administrative
1000 termination of the registration, the board shall send written notice of its intent to terminate the
1001 registration to all known parties associated with the time-share program, including the registered
1002 agent, developer's attorney, and principals of the developer. Such written notice shall be given to
1003 the parties by mail or otherwise if acknowledged by them in writing.

1004 B. The board shall issue an order of termination for the time-share program registration if (i) a
1005 response is not received within 30 days after sending the written notice, or (ii) the response received
1006 does not indicate termination of the registration is inappropriate in accordance with the Virginia
1007 Real Estate Time-Share Act and this chapter.

1008 C. Nothing contained in this section shall prevent the board from taking further action as allowed
1009 by law including issuance of a temporary cease and desist order, issuance of a cease and desist
1010 order, revocation of registration, and bringing action in the appropriate circuit court to enjoin the
1011 acts or practices and to enforce compliance.

1012 **18VAC48-45-470. Reporting of other changes to the time-share program.**

1013 Any other change made or known by the developer that may affect the accuracy or completeness of
1014 the time-share program registration file shall be reported promptly to the board. Such change may
1015 include the name of the developer, name of the time-share program, or any other changes in
1016 information submitted in accordance with § 55.1-2239 of the Code of Virginia. The board may
1017 request additional information as necessary to ensure compliance with the Virginia Real Estate
1018 Time-Share Act and this chapter.

1019 Part VII. Alternative Purchase Registration

1020 **18VAC48-45-480. Registration of alternative purchase required.**

1021 As required by § 55.1-2246 of the Code of Virginia, a developer shall register an alternative purchase
1022 as defined by § 55.1-2200 of the Code of Virginia.

1023 **18VAC48-45-490. Application for registration of an alternative purchase.**

1024 Application for registration of alternative purchase shall be filed with the board on an application
1025 form furnished by the board and shall contain all of the documents and information required by
1026 § 55.1-2246 of the Code of Virginia.

1027 **18VAC48-45-500. (Reserved). 18VAC48-45-510. Review of application for registration of an 1028 alternative purchase.**

1029 At such time as the board affirmatively determines that the requirements of this chapter have been
1030 met, the board shall register the alternative purchase. The registration period of the alternative
1031 purchase shall expire the last day of the month one year from the date of issuance.

1032 **18VAC48-45-520. Minimum alternative purchase post-registration reporting requirements.**

1033 A. Subsequent to the issuance of a registration for an alternative purchase by the board, the
1034 developer offering the alternative purchase shall do the following:

- 1035 1. File the annual report required pursuant to 18VAC48-45-540.
- 1036 2. Upon the occurrence of any material change in the information contained in the registration
1037 file, the developer of a registered alternative purchase shall file the material change with the
1038 board within 30 days of the effective date of the material change.
- 1039 3. Submit appropriate documentation to the board once the registration is eligible for
1040 termination.
- 1041 4. Submit to the board any other document or information, which may include information or
1042 documents that have been amended or may not have existed previously, that affects the accuracy,
1043 completeness, or representation of any information or document filed with the application for
1044 registration.
- 1045 5. Submit to the board any document or information to make the registration file accurate and
1046 complete and to ensure compliance with the Virginia Real Estate Time-Share Act and this
1047 chapter.

1048 B. Notwithstanding the requirements of subsection A of this section, the board at any time may
1049 require the developer of a registered alternative purchase to provide information or documents, or
1050 amendments thereof, in order to assure full and accurate disclosure to prospective purchasers and
1051 to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

1052 **18VAC48-45-530. (Reserved).18VAC48-45-540. Annual report required for alternative**
1053 **purchase registration.**

1054 A. Prior to the expiration of the registration, the developer shall file an annual report in a form
1055 approved by the board for the registered alternative purchase affiliated with such time-share
1056 program registration. Such alternative purchase annual report shall be accompanied by the fee
1057 specified in 18VAC48-45-70.

1058 B. The annual report shall contain, but may not be limited to, the following:

1059 1. Current contact information for the developer.

1060 2. Information concerning the current status of the alternative purchase.

1061 C. Once the annual report has been accepted by the board, the registration shall be extended for an
1062 additional one-year period from the date of the expiration of the registration. If the developer fails
1063 to complete the annual report filing within one year after the date of expiration, the registration
1064 shall not be extended and the developer must apply as a new applicant.

1065 **18VAC48-45-550. (Reserved).18VAC48-45-560. Termination of registration for an alternative**
1066 **purchase.**

1067 A. The alternative purchase registration shall be terminated upon receipt of written notification
1068 from the developer attesting that the developer has ceased sales and requests termination of the
1069 alternative purchase. Should the developer later choose to offer alternative purchases for which the
1070 registration has been terminated in accordance with this subsection, prior to offering an alternative
1071 purchase, the developer must submit a new application for registration of the alternative purchase,
1072 meet all requirements in effect at the time of application, and obtain an alternative purchase
1073 registration from the board.

1074 B. Upon receipt and review of the notification pursuant to subsection A of this section, the board
1075 shall terminate the alternative purchase registration. The board may request additional information
1076 as necessary during the review of the submitted notification to ensure that the alternative purchase
1077 registration is eligible for termination.

1078 C. An alternative purchase registration shall be automatically terminated for failure to file an
1079 acceptable annual report within one year after the expiration of the registration.

1080 **18VAC48-45-570. Reporting of other changes to the alternative purchase.**

1081 In accordance with subsection B of § 55.1-2246 of the Code of Virginia, any material change made or
1082 known by the developer that may affect the accuracy or completeness of the alternative purchase
1083 registration file shall be filed with the board within 30 days of the effective date of the change. The
1084 board may request additional information as necessary to ensure compliance with the Virginia Real
1085 Estate Time-Share Act and this chapter.

1086 **Part VIII. Exchange Program Registration**

1087 **18VAC48-45-580. Registration of exchange program required.**

1088 As required by § 55.1-2219 of the Code of Virginia, an exchange company that offers an exchange
1089 program in the Commonwealth shall register the exchange program with the board.

1090 **18VAC48-45-590. Minimum requirements for registration of an exchange program.**

- 1091 An application for registration of an exchange program shall include the following:
- 1092 1. An application submitted in accordance with 18VAC48-45-50;
- 1093 2. Current contact information for the exchange company;
- 1094 3. A disclosure document that complies with § 55.1-2219 of the Code of Virginia; and
- 1095 4. A report independently audited by a certified public accountant or accounting firm in
1096 accordance with the standards of the Accounting Standards Board of the American Institute of
1097 Certified Public Accountants. The report shall provide the following for the preceding calendar
1098 year:
- 1099 a. The number of owners enrolled in the exchange program. Such numbers shall disclose the
1100 relationship between the exchange company and owners as being either fee paying or gratuitous in
1101 nature;
- 1102 b. The number of time-share properties, accommodations or facilities eligible to participate in the
1103 exchange program;
- 1104 c. The percentage of confirmed exchanges, which shall be the number of exchanges confirmed by
1105 the exchange company divided by the number of exchanges properly applied for, together with a
1106 complete and accurate statement of the criteria used to determine whether an exchange request was
1107 properly applied for;
- 1108 d. The number of time-shares for which the exchange company has an outstanding obligation to
1109 provide an exchange to an owner who relinquished a time-share during the year in exchange for a
1110 time-share in any future year; and
- 1111 e. The number of exchanges confirmed by the exchange company during the year.
- 1112 **18VAC48-45-600. Minimum exchange program post-registration reporting requirements.**
- 1113 A. Subsequent to the issuance of a registration for an exchange program by the board, the exchange
1114 company shall:
- 1115 1. File an annual report in accordance with subsection E of § 55.1-2219 of the Code of Virginia
1116 and this chapter.
- 1117 2. Upon the occurrence of a material change to the disclosure document, the exchange company
1118 shall file an amended disclosure document in accordance with the provisions of § 55.1-2219 of
1119 the Code of Virginia and this chapter. These amendments shall be filed with the board within 20
1120 business days after the occurrence of the material change.
- 1121 3. Upon the occurrence of any material change in the information contained in the registration
1122 file, the exchange company shall immediately report such material changes to the board.
- 1123 4. Submit appropriate documentation to the board once the registration is eligible for
1124 termination.
- 1125 5. Submit to the board any other document or information, which may include information or
1126 documents that have been amended or may not have existed previously, that affects the accuracy,

1127 completeness, or representation of any information or document filed with the application for
1128 registration.

1129 6. Submit to the board any document or information to make the registration file accurate and
1130 complete to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

1131 B. Notwithstanding the requirements of subsection A of this section, the board at any time may
1132 require an exchange company to provide information or documents, or amendments thereof, in
1133 order to assure full and accurate disclosure to prospective purchasers and to ensure compliance with
1134 the Virginia Real Estate Time-Share Act and this chapter.

1135 **18VAC48-45-610. Annual report required for an exchange program registration.**

1136 A. An exchange company shall file an annual report to update the material contained in the
1137 exchange program registration file by July 1 of each year the registration is effective and shall be
1138 accompanied by the fee specified in 18VAC48-45-70.

1139 B. The annual report shall contain, but may not be limited to, the following:

1140 1. Current contact information for the exchange company;

1141 2. Information concerning the current status of the exchange program; and

1142 3. A report that contains the information in subdivision 4 of 18VAC48-45-590 and submitted in
1143 compliance with subdivision A 17 of § 55.1-2219 of the Code of Virginia.

1144 **18VAC48-45-620. Board review of annual report for exchange program registration.**

1145 A. During review of the annual report, the board may make inquiries or request additional
1146 documentation to amplify or clarify the information provided.

1147 B. If the board does not accept the annual report and the annual report filing is not completed
1148 within 60 days of a request by the board for additional information, the board may take further
1149 action pursuant to §§ 55.1-2247 and 55.1-2252 of the Code of Virginia for failing to file an annual
1150 report as required by subsection E of § 55.1-2219 of the Code of Virginia.

1151 C. If the board does not perform the required review of the annual report within 30 days of receipt
1152 by the board, the annual report shall be deemed to comply with subsection E of § 55.1-2219 of the
1153 Code of Virginia.

1154 **18VAC48-45-630. Termination of an exchange program registration.**

1155 A. The exchange program registration shall be terminated upon receipt of written notification from
1156 the exchange company indicating that the exchange program is no longer being offered in the
1157 Commonwealth. Should the exchange company later choose to offer the exchange program for
1158 which the registration has been terminated in accordance with this subsection, prior to offering the
1159 exchange program, the exchange company must submit a new application for registration of the
1160 exchange program, meet all requirements in effect at the time of application, and be issued an order
1161 of registration for the exchange program by the board.

1162 B. Upon receipt and review of the notification pursuant to subsection A of this section, the board
1163 shall issue an order of termination for the exchange program registration. The board may request

1164 additional information as necessary during the review of the submitted notification to ensure that
1165 the exchange program registration is eligible for termination.

1166 **18VAC48-45-640. Reporting of other changes to an exchange program.**

1167 Any other change made or known by the exchange company that may affect the accuracy or
1168 completeness of the exchange program registration file shall be promptly reported to the board. The
1169 board may request additional information as necessary to ensure compliance with the Virginia Real
1170 Estate Time-Share Act and this chapter.

1171 **Part IX. Time-Share Reseller Registration**

1172 **18VAC48-45-650. Registration of time-share reseller required.**

1173 In accordance with § 55.1-2244 of the Code of Virginia, a reseller shall not offer or provide any
1174 resale service without holding a current time-share reseller registration issued by the board.

1175 **18VAC48-45-660. Exemptions from time-share reseller registration.**

1176 Time-share reseller registration shall not apply to the following:

1177 1. A person that solely or with affiliates engages in a resale service with respect to an aggregate of
1178 no more than 12 resale time-shares per calendar year;

1179 2. A person that owns or acquires more than 12 resale time-shares and subsequently transfers all
1180 such resale time-shares to a single purchaser in a single transaction;

1181 3. The owner, owner's agents, and employees of a regularly published newspaper, magazine, or
1182 other periodical publication of general circulation; broadcast station; website; or billboard, to the
1183 extent their activities are limited to solicitation and publication of advertisements and the
1184 transmission of responses to the persons who place the advertisements. Any person that would
1185 otherwise be exempt from this chapter pursuant to this section shall not be exempt if the person
1186 (i) solicits the placement of the advertisement by representing that the advertisement will
1187 generate cash, a certain price, or a similar type of representation for the time-share owner's
1188 resale time-share, (ii) makes a recommendation as to the sales price for which to advertise the
1189 resale time-share, (iii) makes representations to the person placing the advertisement regarding
1190 the success rate for selling resale time-shares advertised with such person, or (iv) makes
1191 misrepresentations as described in this chapter;

1192 4. Sale by a developer or a party acting on its behalf of a resale time-share under a current
1193 registration of the time-share program in which the resale time-share is included;

1194 5. Sale by an association, managing entity, or a party acting on its behalf of a resale time-share
1195 owned by the association provided the sale is in compliance with subsection C of § 55.1-2228; or

1196 6. Attorneys, title agents, title companies, or escrow companies providing closing services in
1197 connection with the transfer of a resale time-share.

1198 **18VAC48-45-670. Requirements for registration as a time-share reseller.**

1199 A. Individuals or firms that provide any time-share resale services shall submit an application on a
1200 form prescribed by the board and shall meet the requirements of this section, including:

1201 1. The information contained in § 55.1-2244 of the Code of Virginia.

- 1202 2. The application fee specified in 18VAC48-45-70.
- 1203 3. All contact information applicable to the time-share reseller and the lead dealer.
- 1204 B. Any individual or firm offering resale services as defined in § 55.1-2200 of the Code of Virginia
1205 shall be registered with the board. All names under which the time-share reseller conducts business
1206 shall be disclosed on the application. The name under which the firm conducts business and holds
1207 itself out to the public (i.e., the trade or fictitious name) shall also be disclosed on the application.
1208 Firms shall be organized as business entities under the laws of the Commonwealth of Virginia or
1209 otherwise authorized to transact business in Virginia. Firms shall register any trade or fictitious
1210 names with the State Corporation Commission in accordance with Chapter 5 of Title 59.1 (§ 59.1-69
1211 et seq.) of the Code of Virginia before submitting an application to the board.
- 1212 C. The applicant for a time-share reseller registration shall disclose the firm's mailing address and
1213 the firm's physical address. A post office box is only acceptable as a mailing address when a physical
1214 address is also provided.
- 1215 D. In accordance with § 54.1-204 of the Code of Virginia, each applicant for a time-share reseller
1216 registration shall disclose the following information about the firm, the lead dealer, and any of the
1217 principals of the firm, if applicable:
- 1218 1. All felony convictions.
- 1219 2. All misdemeanor convictions in any jurisdiction that occurred within three years before the
1220 date of application.
- 1221 3. Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred
1222 adjudication shall be considered a conviction for the purposes of this section. The record of
1223 conviction certified or authenticated in such form as to be admissible in evidence under the laws
1224 of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.
- 1225 E. The applicant for time-share reseller registration shall be in compliance with the standards of
1226 conduct set forth in Part X (18VAC48-45-720 et seq.) of this chapter at the time of application,
1227 while the application is under review by the board, and at all times when the registration is in effect.
- 1228 F. The applicant for time-share reseller registration, the lead dealer, and all principals of the firm
1229 shall be in good standing in Virginia and in every jurisdiction and with every board or
1230 administrative body where licensed, certified, or registered, and the board, in its discretion, may
1231 deny registration to any applicant who has been subject to, or whose lead dealer or principals have
1232 been subject to, any form of adverse disciplinary action, including reprimand, revocation,
1233 suspension or denial, imposition of a monetary penalty, required to complete remedial education,
1234 or any other corrective action, in any jurisdiction or by any board or administrative body or
1235 surrendered a license, certificate, or registration in connection with any disciplinary action in any
1236 jurisdiction prior to obtaining registration in Virginia.
- 1237 G. The applicant for time-share reseller registration shall provide all relevant information about the
1238 firm, the lead dealer, and of the principals of the firm for the seven years prior to application on
1239 outstanding judgments, past due tax assessments, defaults on bonds, or pending or past

1240 bankruptcies and specifically shall provide all relevant financial information related to providing
1241 resale services as defined in § 55.1-2200 of the Code of Virginia.

1242 H. The application for time-share reseller registration shall include the exhibits required pursuant
1243 to 18VAC48-45-680.

1244 **18VAC48-45-680. Exhibits required for registration as a time-share reseller.**

1245 A. The following documents shall be included as exhibits to the application for registration. All
1246 exhibits shall be labeled as indicated and submitted in a format acceptable to the board.

1247 1. Exhibit A: A copy of the certificate of incorporation or certificate of authority to transact
1248 business in Virginia issued by the Virginia State Corporation Commission, or any other entity
1249 formation documents, together with any trade or fictitious name certificate.

1250 2. Exhibit B: A copy of the resale purchase contract.

1251 3. Exhibit C: A copy of the resale transfer contract.

1252 4. Exhibit D: A copy of disclosures required by § 55.1-2228 of the Code of Virginia.

1253 5. Exhibit E: A narrative description of the marketing or advertising plan.

1254 B. The board has the sole discretion to require additional information or amendment of existing
1255 information as the board finds necessary to ensure full and accurate disclosure and compliance with
1256 the provisions of § 55.1-2228 of the Code of Virginia and to ensure compliance with the provisions
1257 of § 55.1-2244 of the Code of Virginia.

1258 **18VAC48-45-690. Renewal and reinstatement of a time-share reseller registration.**

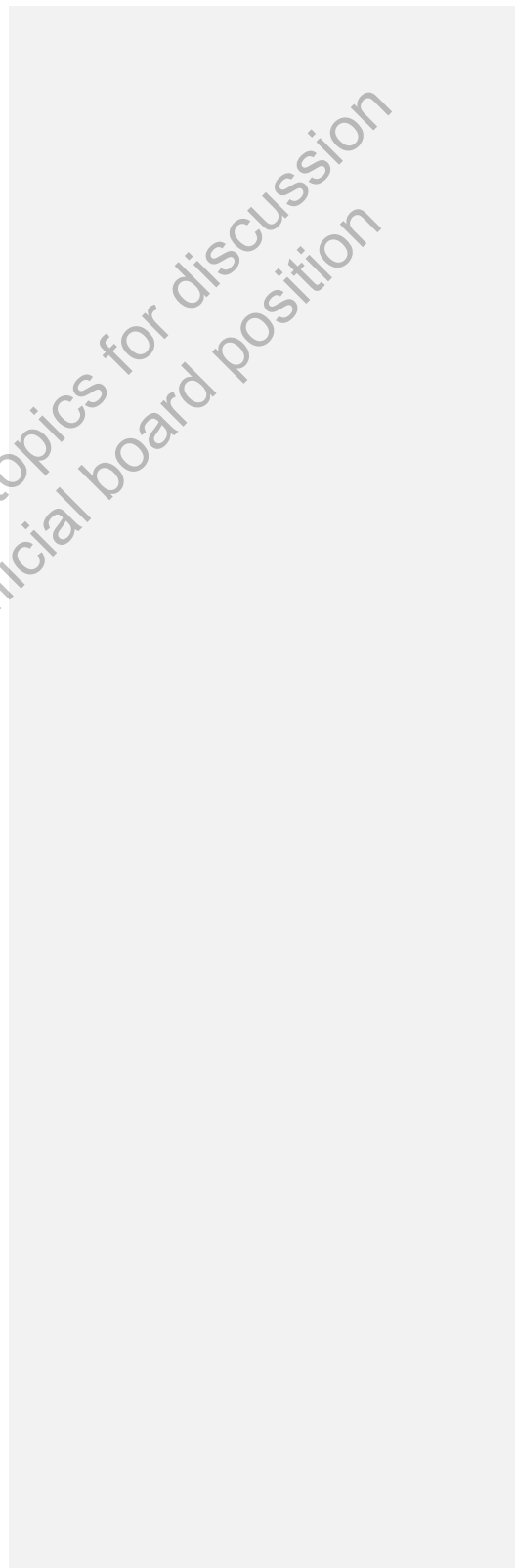
1259 A. A time-share reseller registration issued under this chapter shall expire one year from the last
1260 day of the month in which it was issued. The fee specified in 18VAC48-45-70 shall be required for
1261 renewal.

1262 B. Prior to the expiration date shown on the registration, a registration shall be renewed upon
1263 payment of the fees specified in 18VAC48-45-70.

1264 C. The board will send a renewal notice to the regulant at the last known address of record. Failure
1265 to receive this notice shall not relieve the regulant of the obligation to renew. If the regulant fails to
1266 receive the renewal notice, a copy of the registration may be submitted with the required fees as an
1267 application for renewal. By submitting a renewal fee, the regulant is certifying continued
1268 compliance with this chapter, as applicable, and certifying that all documents required for
1269 registration pursuant to 18VAC48-45-680 on file with the board reflect the most current version
1270 used by the reseller.

1271 D. If the requirements for renewal of a registration as specified in this chapter are not completed
1272 more than 30 days and within six months after the registration expiration date, the reinstatement
1273 fee specified in 18VAC48-45-70 shall be required.

1274 E. A registration may be reinstated for up to six months following the expiration date. After six
1275 months, the registration may not be reinstated under any circumstances, and the firm or individual
1276 must meet all current entry requirements and apply as a new applicant.



- 1277 F. The board may deny renewal or reinstatement of registration for the same reasons as it may
1278 refuse initial registration or discipline a registrant.
- 1279 G. The date the renewal application and fee are received in the office of the board shall determine
1280 whether a registration shall be renewed without reinstatement, or shall be subject to reinstatement
1281 application procedures.
- 1282 H. A registration that is reinstated shall be regarded as having been continuously registered without
1283 interruption. Therefore, the registration holder shall remain under the disciplinary authority of the
1284 board during the entire period and shall be accountable for its activities during the period. Nothing
1285 in this chapter shall divest the board of its authority to discipline a registration holder for a
1286 violation of the law or regulation during the period of time for which the registrant was registered.
- 1287 I. Applicants for renewal shall continue to meet all of the qualifications for registration set forth in
1288 18VAC48-45-680.
- 1289 **18VAC48-45-700. Maintenance of time-share reseller registration.**
1290 Any material changes made or known by the time-share reseller that may affect the accuracy or
1291 completeness of the time-share reseller registration file shall be promptly reported to the board.
1292 The board may request additional information as necessary to ensure compliance with the Virginia
1293 Real Estate Time-Share Act and this chapter.
- 1294 **18VAC48-45-710. Recordkeeping for a time-share reseller registration.**
1295 A time-share reseller registered by the board shall comply with the recordkeeping provisions of §
1296 55.1-2245 of the Code of Virginia.

1297 Part X. Board Authority and Standards of Conduct

- 1298 **18VAC48-45-720. Grounds for disciplinary action.**
1299 The board may revoke a registration that is not in compliance with any provision of the regulations
1300 of the board or the Virginia Real Estate Time-Share Act. Additional action may include issuance of a
1301 temporary cease and desist order, issuance of a cease and desist order, and bringing action in the
1302 appropriate circuit court to enjoin the acts or practices and to enforce compliance.
- 1303 **18VAC48-45-730. Registration required.**
1304 A. No developer or agent of a developer shall offer a time-share prior to the registration of the time-
1305 share program.
- 1306 B. No developer or agent of a developer shall offer an alternative purchase prior to the registration
1307 of the alternative purchase by the developer.
- 1308 C. No exchange company or agent of an exchange company shall offer an exchange program prior to
1309 the registration of the exchange program by the exchange company.
- 1310 D. No time-share reseller or agent of a time-share reseller shall offer any resale services prior to the
1311 registration of the time-share reseller.
- 1312 **18VAC48-45-740. Time-share advertising standards.**
1313 A. No promise, assertion, representation, or statement of fact or opinion in connection with a time-
1314 share marketing activity shall be made that is false, inaccurate, or misleading by reason of inclusion

1315 of an untrue statement of a material fact or omission of a statement of a material fact relative to the
1316 actual or intended characteristics, circumstances, or features of a time-share program.

1317 B. No promise, assertion, representation, or statement of fact or opinion made in connection with a
1318 time-share marketing activity shall indicate that a unit or common element will be built or placed
1319 on the time-share unless proposed within the meaning of subsection A of 18VAC48-45-200.

1320 C. No promise, assertion, representation, or statement of fact or opinion made in connection with a
1321 time-share marketing activity and relating to a time-share program not registered shall, by its
1322 express terms, induce, solicit, or encourage a contract for sale or performing some other act that
1323 would create or purport to create a legal or equitable interest in the time-share, other than a
1324 security interest in or a nonbinding reservation of the time-share, when to do so would circumvent
1325 the provisions of the Virginia Real Estate Time-Share Act.

1326 **18VAC48-45-750. Board oversight of public offering statement and exchange program**
1327 **disclosure document.**

1328 A. The board at any time may require a developer to alter or amend the public offering statement for
1329 a time-share or an exchange program disclosure document to assure full and accurate disclosure to
1330 prospective purchasers and to ensure compliance with the Virginia Real Estate Time-Share Act and
1331 this chapter.

1332 B. The board does not approve or recommend the time-share or exchange program, or disposition
1333 thereof. The board's issuance of an effective date for a public offering statement or acceptance of an
1334 exchange program disclosure document shall not be construed to (i) constitute approval of the
1335 time-share or exchange program; (ii) represent that the board asserts that either all facts or
1336 material changes or both concerning the time-share or exchange program have been fully and
1337 accurately disclosed; or (iii) indicate that the board has made judgment on the value or merits of the
1338 time-share or exchange program.

1339 **18VAC48-45-760. Response to inquiry and provision of records.**

1340 A. The developer, exchange company, or reseller must respond within 15 days to a request by the
1341 board or any of its agents regarding any complaint filed with the department. The board may extend
1342 such timeframe upon a showing of extenuating circumstances prohibiting delivery within such 15-
1343 day period.

1344 B. Unless otherwise specified by the board, the developer, exchange company, or reseller shall
1345 produce to the board or any of its agents within 15 days of the request any document, book, or
1346 record concerning any transaction in which the developer, exchange company, or reseller was
1347 involved, or for which the developer, exchange company, or reseller is required to maintain records,
1348 for inspection and copying by the board or its agents. The board may extend such timeframe upon a
1349 showing of extenuating circumstances prohibiting delivery within such 15-day period.

1350 C. A developer, exchange company, or reseller shall not provide a false, misleading, or incomplete
1351 response to the board or any agent of the board seeking information in the investigation of a
1352 complaint filed with the board.

1353 D. With the exception of the requirements of subsections A and B of this section, a developer,
1354 exchange company, or reseller must respond to an inquiry by the board or its agent within 21 days.

1355 **18VAC48-45-770. Prohibited acts.**

1356 The following acts are prohibited and any violation may result in action by the board, including
1357 issuance of a temporary cease and desist order in accordance with subdivision D 2 of § 55.1-2247 of
1358 the Code of Virginia:

- 1359 1. Violating, inducing another to violate, or cooperating with others in violating any of the
1360 provisions of any regulation of the board or the Virginia Real Estate Time-Share Act or engaging
1361 in any act enumerated in §§ 54.1-102 and 54.1-111 of the Code of Virginia.
- 1362 2. Obtaining or attempting to obtain a registration by false or fraudulent representation, or
1363 maintaining, renewing, or reinstating a registration by false or fraudulent representation.
- 1364 3. Failing to alter or amend the public offering statement or disclosure document as required in
1365 accordance with the provisions of this chapter.
- 1366 4. Providing information to purchasers in a manner that willfully and intentionally fails to
1367 promote full and accurate disclosure.
- 1368 5. Making any misrepresentation or making a false promise that might influence, persuade, or
1369 induce.
- 1370 6. Failing to provide information or documents, or amendments thereof, in accordance with this
1371 chapter.
- 1372 7. Failing to comply with the post-registration requirements of this chapter.
- 1373 8. Filing false or misleading information in the course of terminating a registration in accordance
1374 with 18VAC48-45-450, 18VAC48-45-460, 18VAC48-45-560, or 18VAC48-45-630.
- 1375 9. Failing to comply with the advertising standards contained in Part III (18VAC48-45-80 et seq.)
1376 of this chapter.
- 1377 10. Allowing a registration issued by the board to be used by another.
- 1378 11. A regulant having been convicted, found guilty, or disciplined in any jurisdiction of any
1379 offense or violation described in subdivisions C 13 and C 14 of 18VAC48-45-130, subdivisions 4
1380 and 5 of 18VAC48-45-210, and subsections D, E, and G of 18VAC48-45-670.
- 1381 12. Failing to inform the board in writing within 30 days that the regulant was convicted, found
1382 guilty, or disciplined in any jurisdiction of any offense or violation described in subsections D, F,
1383 and G of 18VAC48-45-670.
- 1384 13. Failing to report a change as required by 18VAC48-45-470.
- 1385 14. Failing to satisfy any judgments or restitution orders entered by a court or arbiter of
1386 competent jurisdiction.
- 1387 15. Misrepresenting or misusing the intended purpose of a power of attorney or similar document
1388 to the detriment of any grantor of such power of attorney.

- 1389 16. Engaging in dishonest or fraudulent conduct in providing resale services, including the
1390 following:
- 1391 a. The intentional and unjustified failure to comply with the terms of the resale purchase contract
1392 or resale transfer contract.
- 1393 b. Engaging in dishonest or fraudulent conduct in providing resale services.
- 1394 c. Failing to comply with the recordkeeping requirements of § 55.1-2245 of the Code of Virginia.
- 1395 d. Failing to disclose information in writing concerning the marketing, sale, or transfer of resale
1396 time-shares required by this chapter prior to accepting any consideration or with the expectation of
1397 receiving consideration from any time-share owner, seller, or buyer.
- 1398 e. Making false or misleading statements concerning offers to buy or rent; the value, pricing,
1399 timing, or availability of resale time-shares; or numbers of sellers, renters, or buyers when engaged
1400 in time-share resale activities.
- 1401 f. Misrepresenting the likelihood of selling a resale time-share interest.
- 1402 g. Misrepresenting the method by or source from which the reseller or lead dealer obtained the
1403 contact information of any time-share owner.
- 1404 h. Misrepresenting price or value increases or decreases, assessments, special assessments,
1405 maintenance fees, or taxes or guaranteeing sales or rentals in order to obtain money or property.
- 1406 i. Making false or misleading statements concerning the identity of the reseller or any of its
1407 affiliates or the time-share resale entity's or any of its affiliate's experience, performance,
1408 guarantees, services, fees, or commissions, availability of refunds, length of time in business, or
1409 endorsements by or affiliations with developers, management companies, or any other third party.
- 1410 j. Misrepresenting whether or not the reseller or its affiliates, employees, or agents hold, in any
1411 state or jurisdiction, a current real estate sales or broker's license or other government-required
1412 license.
- 1413 k. Misrepresenting how funds will be utilized in any time-share resale activity conducted by the
1414 reseller.
- 1415 l. Misrepresenting that the reseller or its affiliates, employees, or agents have specialized education,
1416 professional affiliations, expertise, licenses, certifications, or other specialized knowledge or
1417 qualifications.
- 1418 m. Making false or misleading statements concerning the conditions under which a time-share
1419 owner, seller, or buyer may exchange or occupy the resale time-share interest.
- 1420 n. Representing that any gift, prize, membership, or other benefit or service will be provided to any
1421 time-share owner, seller, or buyer without providing such gift, prize, membership, or other benefit
1422 or service in the manner represented.
- 1423 o. Misrepresenting the nature of any resale time-share interest or the related time-share plan.

1424 p. Misrepresenting the amount of the proceeds, or failing to pay the proceeds, of any rental or sale
1425 of a resale time-share interest as offered by a potential renter or buyer to the time-share owner who
1426 made such resale time-share interest available for rental or sale through the reseller.

1427 q. Failing to transfer any resale time-share interests as represented and required by this chapter or
1428 to provide written evidence to the time-share owner of the recording or transfer of such time-share
1429 owner's resale time-share interest as required by this chapter.

1430 r. Failing to pay any annual assessments, special assessments, personal property or real estate taxes,
1431 or other fees relating to an owner's resale time-share interest as represented or required by this
1432 chapter.

1433

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