



Department of Professional and Occupational Regulation

COMMON INTEREST
COMMUNITY BOARD
CONDOMINIUM REGULATORY
REVIEW COMMITTEE MEETING
TENTATIVE AGENDA

Wednesday, April 10, 2024
10:00 a.m. 2nd Floor –Board Room #1
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
CONDOMINIUM REGULATIONS TO DETERMINE NEEDED AMENDMENTS**

IV. OTHER BUSINESS

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

VI. NEW BUSINESS

VII. ADJOURN

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

1

2 Part I. General

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

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

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

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

11 "Association"

12 "Board"

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

"Common elements"

"Identifying number"

"Common expenses"

"Land"

"Condominium"

"Leasehold condominium"

"Condominium instruments"

"Limited common element"

"Condominium unit"

"Nonbinding reservation agreement"

"Conversion condominium"

"Offer"

"Convertible land"

"Person"

"Convertible space"

"Purchaser"

"Declarant"

"Special declarant rights"

"Dispose" or "disposition"

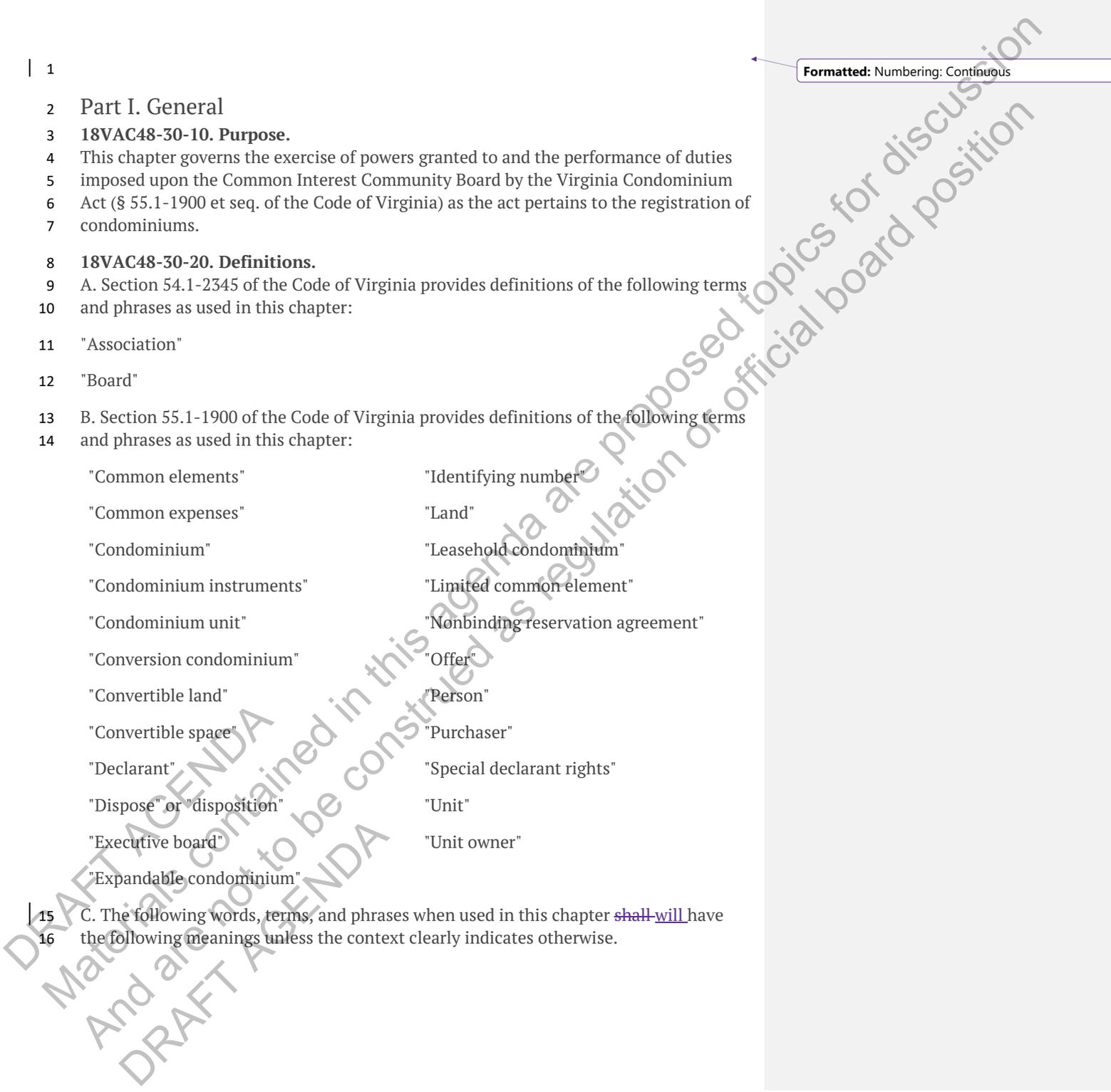
"Unit"

"Executive board"

"Unit owner"

"Expandable condominium"

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

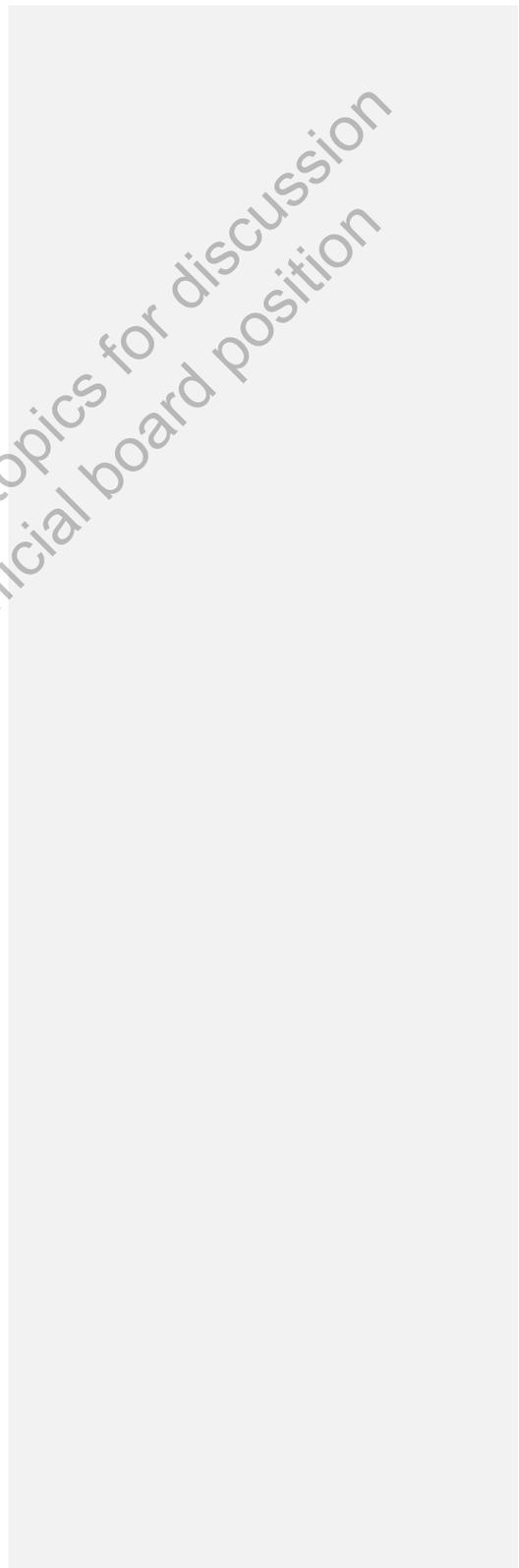
67 "Registration file" means the application for registration, supporting materials, annual
68 reports, and amendments that constitute all information submitted and reviewed
69 pertaining to a particular condominium registration. A document that has not been
70 accepted for filing by the board is not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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

137 Part II. Marketing

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

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

Commented [JH5]: Should this be a definition?

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

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

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

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

Commented [JH7]: Relocated from section -60.

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

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

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

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

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

166

167 Part III. Application for Registration

168 18VAC48-30-90. Application procedures.

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

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

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

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

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

185 18VAC48-30-100. Fee requirements.

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

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

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

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

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

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

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

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

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

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

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

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

222

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

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

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

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

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

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

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

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

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

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

DRAFT - ALL COMMENTS AND REVISIONS MUST BE MADE TO THE OFFICIAL BOARD POSITION
Materials contained in this draft are not to be construed as an official board position
And are not to be construed as an official board position
DRAFT ALL COMMENTS AND REVISIONS MUST BE MADE TO THE OFFICIAL BOARD POSITION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

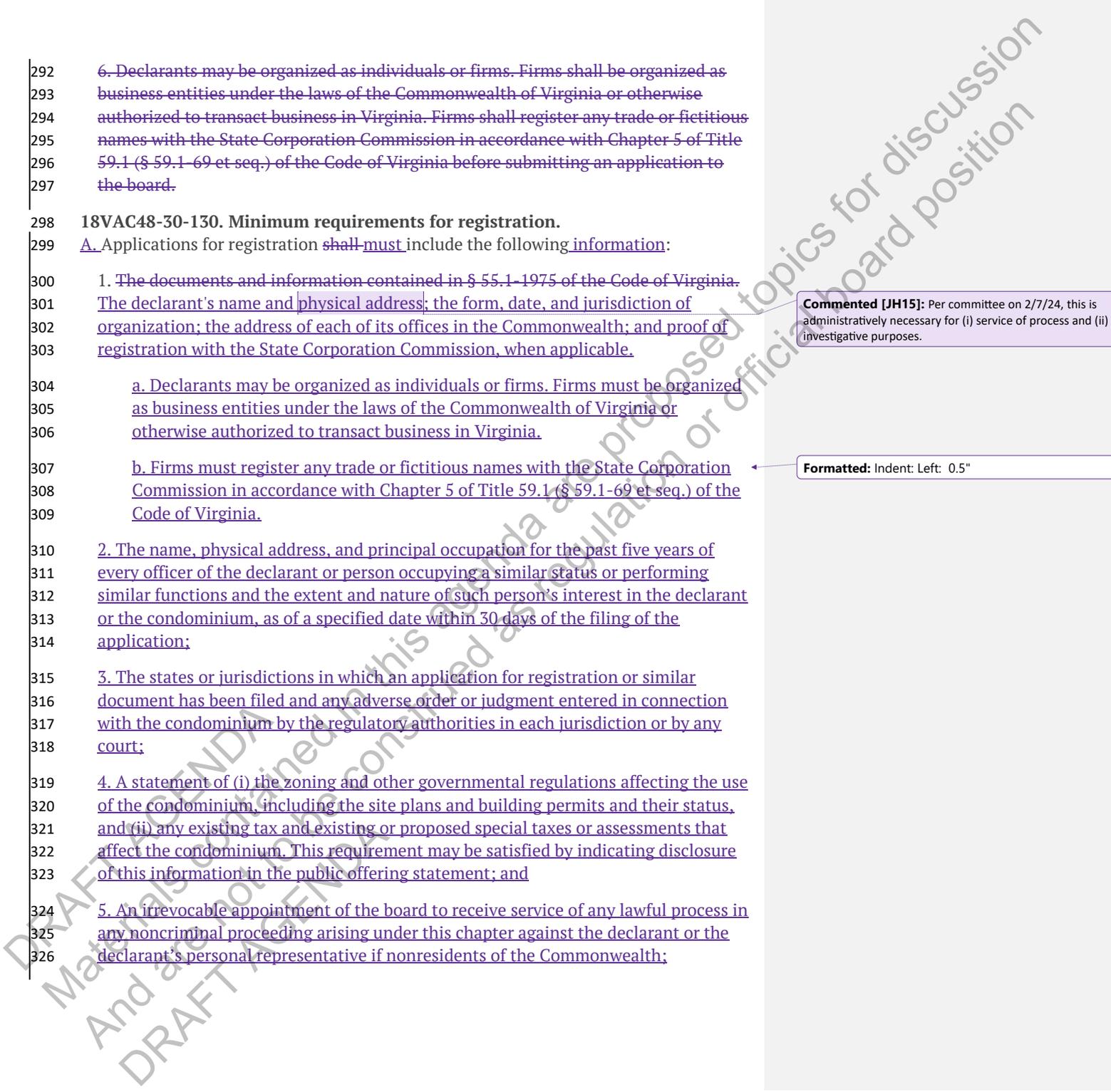
315 3. The states or jurisdictions in which an application for registration or similar
316 document has been filed and any adverse order or judgment entered in connection
317 with the condominium by the regulatory authorities in each jurisdiction or by any
318 court;

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

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

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

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327 ~~2. The application fee specified in 18VAC48-30-100.~~

Commented [JH16]: Deleted as it is duplicative.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commented [JH21]: Covered under subdivision A 2.

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

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

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

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

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

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

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

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

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

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

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

Commented [JH26]: Per committee, consider eliminating.

432 Part IV. Public Offering Statement

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commented [JH31]: Relocated from section -390.

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

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

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

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

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

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

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

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

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

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

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

Commented [JH33]: Relocated from section -390.

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

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

Commented [JH34]: Consider eliminating.

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

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

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

**PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S
PROTECTION
PUBLIC OFFERING STATEMENT**

NAME OF

CONDOMINIUM: _____

LOCATION OF

CONDOMINIUM: _____

NAME OF DECLARANT: _____

ADDRESS OF

DECLARANT: _____

EFFECTIVE DATE OF

PUBLIC OFFERING

STATEMENT: _____

REVISED: _____

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

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

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

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

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

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

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

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

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

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

541 Perimeter Center, Suite 400,

542 9960 Mayland Drive, Richmond, Virginia 23233.

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

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

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

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

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

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

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

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

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

- 557 ~~shall must~~ include that all unit owners will be bound by the decisions made by the
558 unit owners' association, even if the individual unit owner disagrees.
- 559 2. A statement concerning the decision-making authority of the executive board of
560 the unit owners' association.
- 561 3. A statement regarding the payment of common expenses of the association on the
562 basis of a periodic budget, to include a disclosure of any provision for reserves,
563 including a statement if there are no reserves.
- 564 4. A statement detailing the requirement for each unit owner to pay a periodic
565 assessment and the inability to reduce the amount of an assessment by refraining
566 from the use of the common elements.
- 567 5. A statement of the unit owner's responsibility to pay any additional fees, charges,
568 or other assessments, ~~if any.~~
- 569 6. A statement regarding the consequences for failure to pay an assessment when
570 due. The statement ~~shall must~~ include reference to the enforcement mechanisms
571 available to the unit owners' association, including ~~obtaining filing of~~ a lien against
572 the condominium unit, ~~and~~ pursuing civil action against the unit owner, ~~and certain~~
573 ~~other penalties.~~
- 574 7. A statement that the declarant must pay assessments to the unit owners'
575 association on unsold condominium units the declarant owns once any other
576 condominium unit owners are required to pay.
- 577 ~~8. A statement indicating whether the declarant, its predecessors, or principal officer~~
578 ~~have undergone a debtor's relief proceeding.~~
- 579 9. A statement that the declarant will retain control of the unit owners' association
580 for an initial period.
- 581 10. A statement indicating whether a managing agent ~~will may perform the routine~~
582 ~~operations of provide services to~~ the unit owners' association. The statement ~~shall~~
583 ~~must~~ include whether the managing agent is ~~related to an affiliate of~~ the declarant,
584 ~~or related to any~~ director, or officer of the unit owners' association.
- 585 11. A statement indicating whether the declarant may lease unsold condominium
586 units ~~and a statement indicating whether the right of a unit owner to lease that~~
587 ~~owner's unit to another is subject to restrictions.~~
- 588 12. A statement indicating whether the declarant may ~~expand or contract~~ add or
589 withdraw land to the condominium or convert convertible land or space without the
590 consent of any unit owner.

Commented [JH44]: Consider eliminating this requirement.

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

Commented [JH46]: Or affiliated?

What is the problem this disclosure is attempting to address?

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

Commented [JH48]: Consolidate with subdivision C 13.

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

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

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

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

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

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

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

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

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

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

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

Commented [JH49]: Different unit types?

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

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

Commented [JH52]: Consider eliminating as unnecessary.

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

Commented [JH54]: Consider eliminating as unnecessary.

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

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

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

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

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

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

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

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

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

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

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

If keep, then maybe clarify with example or two.

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

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

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

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

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

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

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

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

Commented [JH60]: Consider eliminating as unnecessary.

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

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

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

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

Commented [JH65]: Consider simplifying this requirements.

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

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

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

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

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

Commented [JH66]: What does this mean?

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

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

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

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

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

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

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

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

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

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

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

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

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

Commented [JH71]: Consider eliminating as unnecessary.

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

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

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

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

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

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

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

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

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

Commented [JH73]: What information is really necessary?

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

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

Commented [JH75]: Consider clarifying.

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

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

Re-word with active phrasing.

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

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

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

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

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

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

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

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

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

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

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

Commented [JH79]: What does this mean?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commented [JH83]: Clarify what should be disclosed.

Consider rewording to be clearer.

Commented [JH84]: Any others?

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

Commented [JH85]: Not necessary here.

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

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

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

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

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

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

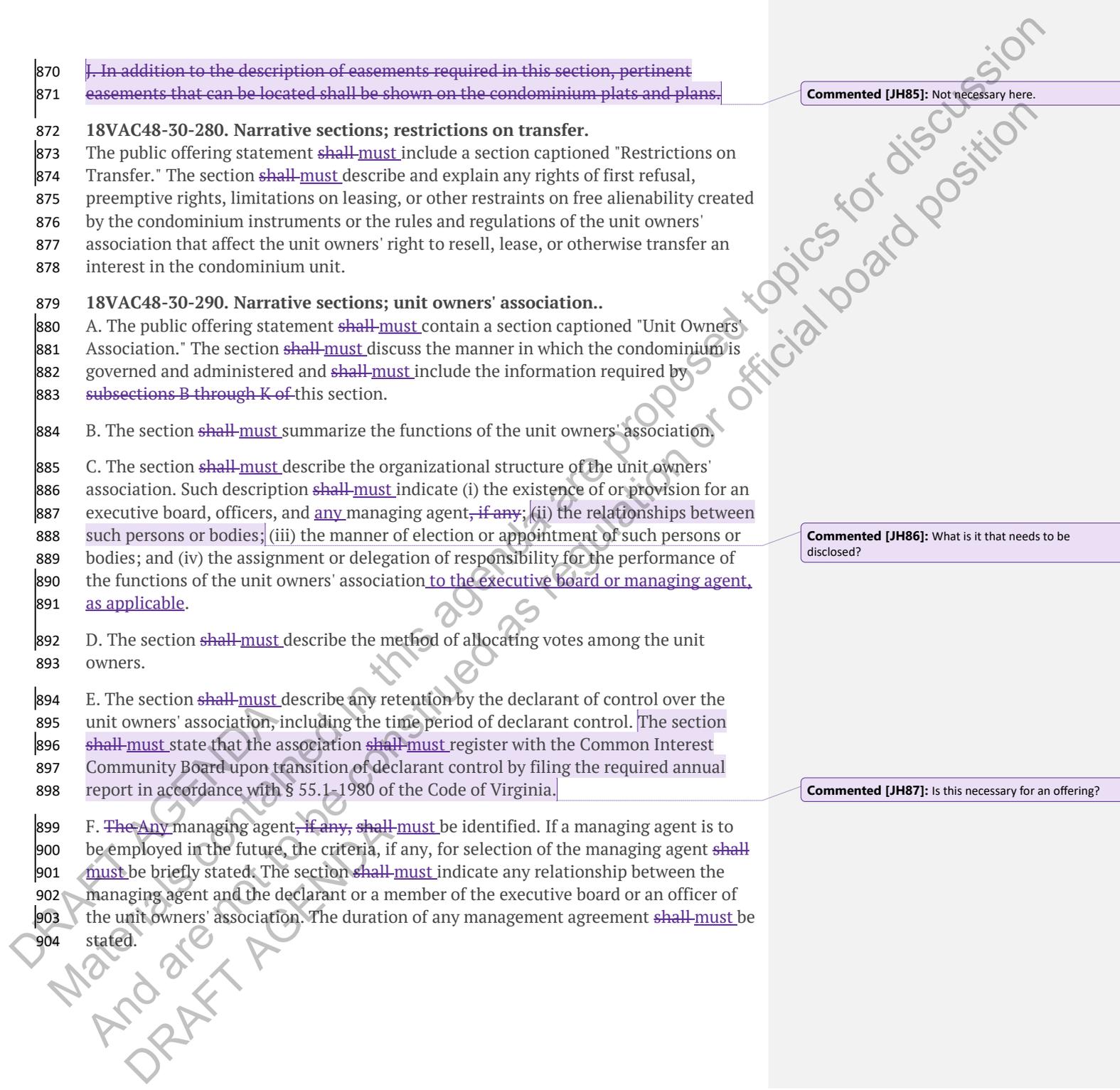
Commented [JH86]: What is it that needs to be disclosed?

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

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

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

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



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

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

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

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

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

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

936 **18VAC48-30-300. Narrative sections; display of flag.**

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

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

Commented [JH89]: Is this necessary here?

Consider merging with section -270.

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

941 **18VAC48-30-310. Narrative sections; surrounding area.**

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

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

945 **18VAC48-30-320. Narrative sections; financial matters.**

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

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

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

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

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

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

962 C. A budget ~~shall must~~ show projected common expenses for the first year of the
963 condominium's operation or, if different, the latest year for which a budget is available.

964 The ~~projected budget shall be attached to the public offering statement as an exhibit~~
965 ~~and the~~ section ~~shall must~~ direct the purchaser's attention to ~~such the budget exhibit to~~
966 ~~the public offering statement.~~ The section ~~shall must~~ describe the manner in which the
967 projected budget is established. If the condominium is phased, the budget ~~shall must~~

Commented [JH92]: Eliminated as redundant.

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

968 project future years until all phases are projected to be developed and all common
969 elements that must be built have been completed. The budget ~~shall must~~ include an
970 initial working capital budget showing sources and uses of initial working capital and a
971 reserve table showing amounts to be collected to fund those reserves. The budget ~~shall~~
972 ~~must~~ show regular individual assessments by unit type. The ~~budget-section shall must~~
973 note that the figures ~~in the budget~~ are not guaranteed and may vary.

Commented [JH94]: Can this requirement be simplified?

DRAFT AGENDA
Materials are not to be used as regulatory or official board position
DRAFT AGENDA

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

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

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

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

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

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

997 I. The section ~~shall~~must discuss ~~disclose~~ the effect of failure of a unit owner to pay the
998 assessments levied against the condominium unit. Such ~~discussion shall~~disclosure
999 must indicate provisions for charges or other remedies that may be imposed to be
1000 applied in the case of overdue assessments and for acceleration of unpaid assessments.
1001 The section ~~shall~~must indicate the existence of a lien for unpaid assessments and
1002 where applicable the bond or letter of credit conditioned on the payment of
1003 assessments filed with the board in accordance with § 55.1-1968 of the Code of
1004 Virginia. The section ~~shall~~must include, to the extent applicable, the substance of the
1005 following statement:

1006 "The unit owners' association may obtain payment of overdue assessments by
1007 bringing legal action against the unit owner or by foreclosure of the lien resulting in
1008 a forced sale of the condominium unit."

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

1009 **18VAC48-30-330. Narrative sections; insurance.**

1010 A. The public offering statement shall must contain a section captioned "Insurance."
1011 The section shall must describe generally the insurance on the condominium to be
1012 maintained by the unit owners' association. The section shall state, with respect to
1013 such insurance, each of the following circumstances, to the extent applicable: (i)
1014 property damage coverage will not insure personal property belonging to unit owners;
1015 (ii) property damage coverage will not insure improvements to a unit that increase its
1016 value beyond the limits of coverage provided in the unit owners' association's policy;
1017 and (iii) liability coverage will not insure against liability arising from an accident or
1018 injury occurring within a unit or as a result of the act or negligence of a unit owner. The
1019 section shall must include a statement whether the unit owner is obligated to obtain
1020 coverage for any or all of the coverages described. The section shall must also include a
1021 statement that the unit owner should consult with an insurance professional to
1022 determine the appropriate coverage.

1023 B. The section shall must indicate any conditions imposed by the condominium
1024 instruments or the rules and regulations to which insurance obtained directly by unit
1025 owners will be subject. Such indication may be made by reference to pertinent
1026 provisions of the condominium instruments or the rules and regulations.

1027 C. The section shall must explain that the association is the only party that can make a
1028 claim under the master policy and is the sole decision-maker as to whether to make a
1029 claim, including a statement as to the circumstances under which a unit owner could be
1030 responsible for payment of the deductible.

1031 D. The section shall must state that the unit owners' association is required to obtain
1032 and maintain a blanket fidelity bond or employee dishonesty insurance policy in
1033 accordance with subsection B of § 55.1-1963 of the Code of Virginia.

1034 **18VAC48-30-340. Narrative sections; taxes.**

1035 A. The public offering statement shall must contain a section captioned "Taxes." The
1036 section shall must describe all existing or pending taxes to be levied against
1037 condominium units individually including, ~~without limitation~~, real property taxes,
1038 sewer connection charges, and other special assessments.

1039 B. With respect to real property taxes, the section shall must state the current tax rate
1040 or provide information for obtaining the current tax rate. The section shall must also
1041 state a procedure or formula by means of which the taxes may be estimated.

1042 C. With respect to other taxes, the section shall must describe each tax in sufficient
1043 detail as to indicate the time at which the tax will be levied and the actual or estimated
1044 amount to be levied, or a procedure or formula by means of which the taxes may be
1045 estimated.

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

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

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

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

1046 **18VAC48-30-350. Narrative sections; governmental review.**

1047 The public offering statement shall must contain a section captioned "Governmental
1048 Reviews." The section shall must discuss governmental reviews applicable to the
1049 condominium property and the status of any governmental approvals required for the
1050 development of the condominium. In addition, the section shall must discuss approval
1051 of the zoning application and site plan and issuance of building permits by appropriate
1052 governmental authorities. The section shall state the current zoning classification for
1053 the condominium property. The section shall must also include a statement regarding
1054 any zoning, subdivision, or land use obligations or proffers that would be imposed on
1055 the unit owner or the association, but need not disclose any zoning, subdivision, or
1056 land use obligations or proffers that do not impose any obligation on the association.

1057 **18VAC48-30-360. Narrative sections; warranties.**

1058 The public offering statement shall must contain a section captioned "Warranties." The
1059 section shall must describe any warranties provided by or through the declarant on the
1060 units or the common elements ~~and a summary of the process for commencement of an~~
1061 ~~action for breach of warranty in accordance with subsection C of § 55.1-1955 of the~~
1062 Code of Virginia. The section shall must describe the structural defect warranty
1063 required by and described in subsection B of § 55.1-1955 of the Code of Virginia and
1064 describe a summary of the process for commencement of an action for breach of
1065 warranty in accordance with subsection C of § 55.1-1955 of the Code of Virginia . The
1066 section shall must also include the substance of the following statement:

1067 "Nothing contained in the warranty provided by the declarant shall limit the
1068 protection afforded by the statutory warranty."

1069 **18VAC48-30-370. Documents from other jurisdictions.**

1070 A. A substituted public offering statement shall only be permitted for a condominium
1071 located outside of Virginia.

1072 B. The substituted public offering statement shall be prepared by deleting from the
1073 original disclosure document (i) references to any governmental agency of another
1074 jurisdiction to which application has been made or will be made for registration or
1075 related action; (ii) references to the action of such governmental agency relative to the
1076 condominium; (iii) statements of the legal effect in another jurisdiction of delivery,
1077 failure to deliver, acknowledgment of receipt, or related events involving the disclosure
1078 document; (iv) the effective dates in another jurisdiction of the disclosure document;
1079 and (v) all other information that is untrue, inaccurate, or misleading with respect to
1080 marketing, offers, or disposition of condominium units in Virginia.

1081 C. The substituted public offering statement shall incorporate all information not
1082 otherwise included that is necessary to effect fully and accurately the disclosures

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

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

1083 required by subsection A of § 55.1-1976 of the Code of Virginia and, if applicable,
1084 subsection B of § 55.1-1982 of the Code of Virginia. The substituted disclosure
1085 document shall clearly explain any nomenclature that is different from the definitions
1086 provided in § 55.1-1900 of the Code of Virginia.

1087 D. The substituted public offering statement shall include as the first item of the
1088 summary of important considerations a statement that includes the following
1089 information: (i) the designation by which the original disclosure document is identified
1090 in the original jurisdiction, (ii) the governmental agency of such other jurisdiction
1091 where the original disclosure document is or will be filed, and (iii) the jurisdiction of
1092 such filing.

1093 E. The provisions of subdivision 2 of § 55.1-1974, § 55.1-1976, and subsection B of §
1094 55.1-1982 of the Code of Virginia and 18VAC48-30-160, 18VAC48-30-170, and
1095 18VAC48-30-180 shall apply to substituted public offering statements in the same
1096 manner and to the same extent that they apply to public offering statements.

1097 **18VAC48-30-380. Condominium securities.**

1098 A prospectus filed in compliance with the securities laws of a state or federal agency
1099 used in lieu of a public offering statement shall contain or have attached thereto copies
1100 of documents, other than the projected budget required to be attached to a public
1101 offering statement by subsection E of 18VAC48-30-180. Such prospectus shall be
1102 deemed to satisfy all of the disclosure requirements of subsections C and D of
1103 18VAC48-30-180 and 18VAC48-30-190 through 18VAC48-30-360. In the case of a
1104 conversion condominium, the prospectus shall have attached thereto, in suitable form,
1105 the information required by 18VAC48-30-420, subsections C and D of 18VAC48-30-
1106 430, and 18VAC48-30-440 to be disclosed in public offering statements for conversion
1107 condominiums. The provisions of subdivision 2 of § 55.1-1974 of the Code of Virginia
1108 shall apply to the delivery of the prospectus in the same manner and to the same extent
1109 that they apply to the delivery of a public offering statement.

1110 **18VAC48-30-390. Board oversight of public offering statement.**

1111 The board at any time may require a declarant to alter or amend the public offering
1112 statement to assure full and fair disclosure to prospective purchasers and to ensure
1113 compliance with the Virginia Condominium Act and this chapter.

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

Commented [JH101]: Moved to section -170.

1119 fully or adequately disclosed, or (iii) indicate that the board has made judgment on the
1120 value or merits of the condominium.

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

1121 Part V. Conversion Condominiums

1122 18VAC48-30-400. Public offering statement for conversion condominium; 1123 general instructions.

1124 The public offering statement for a conversion condominium shall conform in all
1125 respects to the requirements of 18VAC48-30-160 through 18VAC48-30-380. In addition
1126 to the requirements of Part IV (18VAC48-30-160 et seq.) of this chapter, the public
1127 offering statement for a conversion condominium shall ~~must~~ (i) contain special the
1128 disclosures in the narrative sections captioned "Description of the Condominium,"
1129 "Terms of the Offering," and "Financial Matters"; and (ii) incorporate narrative sections
1130 captioned "Present Condition of the Condominium" and "Replacement Requirements."
1131 Provisions for such additional disclosure are set forth in 18VAC48-30-410 through
1132 18VAC48-30-440 required by this part.

1133 18VAC48-30-410. Description of conversion condominium.

1134 In addition to the information required by 18VAC48-30-210, the section captioned
1135 "Description of the Condominium" shall ~~must~~ indicate that the condominium is a
1136 conversion condominium. The ~~term section must provide the meaning of the term~~
1137 conversion condominium shall be as defined in § 55.1-1900 of the Code of Virginia and
1138 disclose the particular circumstances that bring the condominium within the definition
1139 shall be stated meaning of the term. The nature and inception date of prior occupancy
1140 of the property being converted shall be stated.

Commented [HJ(103)]: Why is this information necessary to disclose?

1141 18VAC48-30-420. Financial matters, conversion condominium.

1142 A. The provisions for capital reserves described in the section captioned "Financial
1143 Matters" shall conform with within addition to the information required by 18VAC48-
1144 30-320, the section captioned "Financial Matters" and shall ~~must~~ be supplemented by
1145 the information set forth in subsections B and C of this section.

1146 B. The section shall ~~must~~ state the aggregate replacement cost of all physical assets
1147 whose replacement costs will constitute regular common expenses and whose expected
1148 useful lives are 10 years or less. For the purposes of this subsection, an expected useful
1149 life that is stated as being within a range of years pursuant to subsection E of 18VAC48-
1150 30-440 shall be deemed to be 10 years or less, if the lower limit of such range is 10 years
1151 or less. The section ~~must~~ state the total common expense assessments per unit that
1152 would be necessary in order to accumulate an amount of capital reserves equal to such
1153 aggregate replacement cost shall be stated.

Commented [HJ(104)]: Is 10 years the minimally sufficient standard for disclosure?

1154 C. The section shall ~~must~~ state the amount of capital reserves that will be accumulated
1155 by the condominium unit owners' association during the period of declarant control

Commented [HJ(105)]: Not clear this is necessary here.

Does "useful life" need to be defined? If so, use definition from "Reserve Study Guidelines?"

1156 together with any provisions of the condominium instruments specifying the rate at
1157 which reserves are to be accumulated thereafter. ~~If The section must disclose whether~~
1158 any ~~part portion~~ of the capital reserves will or may be obtained other than through
1159 regular common expense and limited common expense assessments, ~~such fact shall be~~
1160 ~~stated, including capital contribution payments or special assessments.~~

Commented [HJ(106)]: What is the purpose of these requirements?

1161 D. ~~The actual expenditures made over a three-year period on operation, maintenance,~~
1162 ~~repair, or other upkeep of the property prior to its conversion to condominium shall be~~
1163 ~~set forth in tabular form as an exhibit immediately preceding or following the budget~~
1164 ~~attached to the public offering statement pursuant to subsection C of 18VAC48-30-320,~~
1165 ~~and shall be presented in a manner that is not misleading. The public offering statement~~
1166 ~~must include information on the actual expenditures made on all repairs, maintenance,~~
1167 ~~operation, or upkeep of the property for the three-year period prior to its conversion to~~
1168 ~~a condominium. Such information must be set forth in a tabular format with the~~
1169 ~~proposed budget of the condominium and cumulatively broken down on a per unit~~
1170 ~~basis in proportion to the relative voting strengths allocated to the units by the bylaws.~~
1171 Distinction shall be made between expenditures that would have constituted regular
1172 common expenses and limited common expenses, and expenditures that would have
1173 been borne by unit owners individually if the property had been converted to a
1174 condominium prior to the commencement of the three-year period. To the extent that
1175 it is impossible or impracticable to so distinguish the expenditures it shall be assumed
1176 that they would have constituted regular common expenses or limited common
1177 expenses.

Commented [HJ(107)]: Is it necessary to require these details?

1178 ~~Both types of expenditures shall be cumulatively broken down on a per unit basis in the~~
1179 ~~same proportion that common expenses are or will actually be assessed against the~~
1180 ~~condominium units. The three-year period to which this subsection refers shall be~~
1181 ~~the most recent three-year period prior to application for registration during which the~~
1182 ~~property was occupied and for which expenditure information is available. The~~
1183 ~~expenditure information shall must indicate the years for which expenditures are~~
1184 ~~stated. If any portion of the property being converted to a condominium was not~~
1185 ~~occupied for the full three-year period, expenditure information shall must be set~~
1186 ~~forth provided only for the entire time period that portion of the property was occupied.~~
1187 ~~The "Financial Matters" section shall must direct the purchaser's attention to the~~
1188 ~~expenditure information. The expenditure information required by this subsection may~~
1189 ~~be an exhibit immediately preceding or immediately following the budget exhibit~~
1190 ~~required by subsection E of 18VAC48-30-180.~~

1191 18VAC48-30-430. Present condition of the conversion condominium.
1192 A. The public offering statement must include a section captioned "Present Condition
1193 of the Conversion Condominium." The section shall must contain a statement of the

Commented [HJ(108)]: Is the statutory requirement in § 55.1-1982(B)(4) sufficient?

1194 approximate dates of original construction or installation of all physical assets in the
1195 condominium. A single construction or installation date may be stated for all of the
1196 physical assets (i) in the condominium, (ii) within a distinctly identifiable portion of
1197 the condominium, or (iii) within a distinctly identifiable category of physical assets. A
1198 statement made pursuant to the preceding sentence shall must include a separate
1199 reference to the construction or installation date of any physical asset within a stated
1200 group of physical assets that was constructed or installed significantly earlier than the
1201 construction or installation date indicated for the group generally. No statement shall
1202 will be made that a physical asset or portion thereof has been repaired, altered,
1203 improved, or replaced subsequent to its construction or installation unless the
1204 approximate date, nature, and extent of such repair, alteration, improvement, or
1205 replacement is also stated.

1206 B. Subject to the exceptions provided in subsections D, E, and F of this section, the
1207 section captioned "Present Condition of the Conversion Condominium" shall must
1208 contain a description of the present condition of all physical assets within the
1209 condominium. The description of present condition shall must disclose all structural
1210 defects and incapacities of major utility installations to perform their intended
1211 functions as would be observable, detectable, or deducible by means of standard
1212 inspection and investigative techniques employed by architects or professional
1213 engineers, as the case may be.

1214 C. The section shall must indicate the dates of inspection by means of which the
1215 described present condition was determined; provided, however, that such inspections
1216 shall must have been conducted not more than one year prior to the date of filing the
1217 application for registration. The section shall must identify the party by whom present
1218 condition was ascertained and shall indicate the relationship of such party to the
1219 declarant.

1220 D. A single statement of the present condition of a class of physical assets shall will
1221 suffice to disclose the present condition of each physical asset within the class;
1222 provided, however, that, unless subsection F of this section applies, such statement
1223 shall must include a separate reference to the present condition of any physical asset
1224 within the class that is significantly different from the present condition indicated for
1225 the class generally.

1226 E. The description of present condition may include a statement that all structural
1227 components in the condominium or in a distinctly identifiable portion thereof are in
1228 sound condition except those for which structural defects are noted.

1229 F. In a case in which there are numerous physical assets within a class of physical assets
1230 and inspection of each such physical asset is impracticable, the description of present

Commented [HJ(109): Is this term necessary?

Statute specifies structural components and major utility installations.

1231 condition of all the physical assets within the class may be based upon an inspection of
1232 a number of them selected at random, provided that the number selected is large
1233 enough to yield a reasonably reliable sample and that the total number of physical
1234 assets within the class and the number selected are disclosed.

1235 G. The section ~~shall~~ must include statements disclosing any environmental issues
1236 pertaining to the building and the surrounding area, to include:

1237 1. The presence of any asbestos-containing material following an inspection of each
1238 building completed prior to July 1, 1978, as well as whether any response actions
1239 have been or will need to be taken as required by § 55.1-1982 B 5 of the Code of
1240 Virginia;

1241 2. Any known information on lead-based paint and lead-based paint hazards in each
1242 building constructed prior to 1978 pursuant to the Residential Lead-Based Paint
1243 Hazard Reduction Act of 1992 - Title X (42 USC § 4851 et seq.); and

1244 3. Any obligations related to the declarant's participation in voluntary or
1245 nonvoluntary remediation activities.

Commented [HJ(110)]: Do other laws or regulations provide this protection?

Commented [HJ(111)]: What is intended to be disclosed here?

1246
1247 ALTERNATIVE FOR SUBSECTION G

1248 G. The section must disclose the following information regarding any building
1249 included or that may be included in the condominium:

1250 1. For any building substantially completed prior to July 1, 1978, (i) a statement that
1251 such building has been inspected for asbestos in accordance with the standards in
1252 effect at the time of inspection, or that an asbestos inspection will be conducted, and
1253 (ii) whether asbestos requirement response actions has been found and, if found, that
1254 response actions have been or will be completed in accordance with applicable
1255 standards prior to the conveyance of any unit in such building.

1256 2. For any building substantially completed prior to 1978, any known information on
1257 lead-based paint and lead-based paint hazards in such building.

1258
1259 **18VAC48-30-440. Replacement requirements ~~in~~ of the conversion condominium.**

1260 A. Subject to the exceptions provided in subsections B and H of this section, ~~the~~
1261 public offering statement must include a section captioned "Replacement
1262 Requirements of the Conversion Condominium." ~~shall~~ Such section must state the
1263 expected useful lives of all physical assets in the condominium. The section ~~shall~~ must

Commented [HJ(112)]: Is the statutory requirement in § 55.1-1982(B)(4) sufficient?

1264 state that expected useful lives run from the date of the inspection by means of which
1265 the expected useful lives were determined. Such inspection date ~~shall~~must be stated.

1266 B. A single statement of the expected useful life of a class of physical assets ~~shall~~will
1267 suffice to disclose the expected useful life of each physical asset within the class;
1268 provided, however, that such statement ~~shall~~must include a separate reference to the
1269 expected useful life of any physical asset within such class that is significantly shorter
1270 than the expected useful life indicated for the class generally.

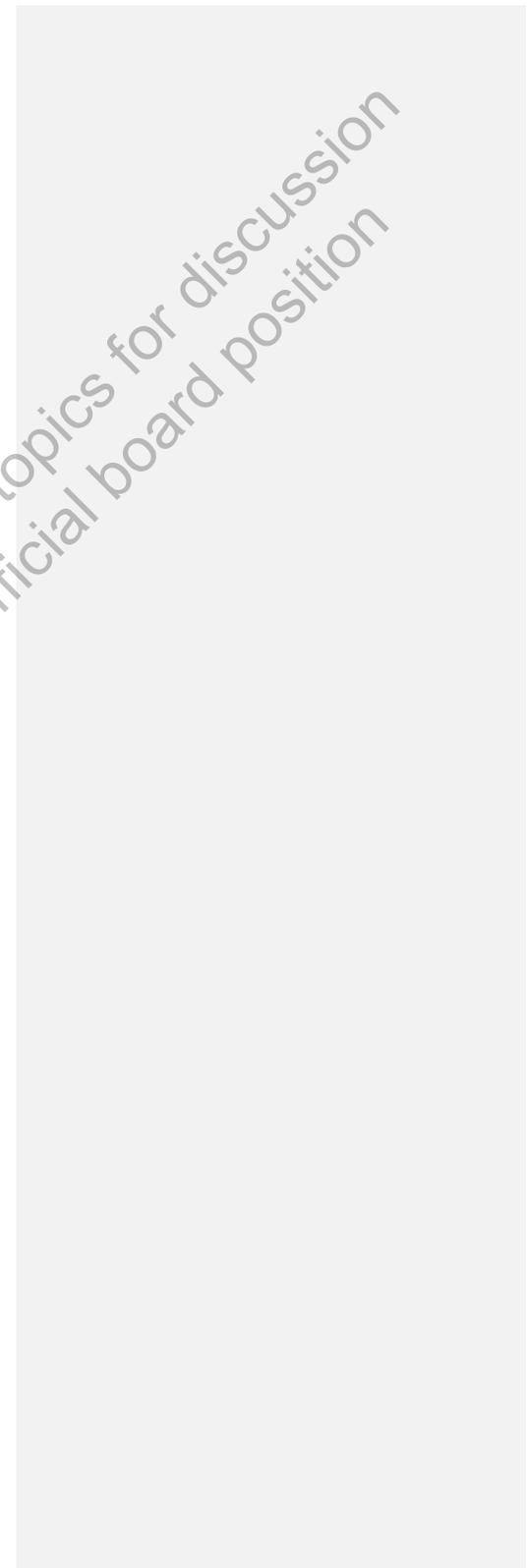
1271 C. An expected useful life may be qualified. A qualified expected useful life is an
1272 expected useful life expressly conditioned upon a given use or level of maintenance or
1273 other factor affecting longevity. No use, level of maintenance, or other factor affecting
1274 longevity shall be stated as a qualification unless such use, level of maintenance, or
1275 factor affecting longevity is normal or reasonably anticipated for the physical asset
1276 involved. If appropriate, an expected useful life may be stated as being indefinite,
1277 subject to the stated qualification that the physical asset involved must be properly
1278 used and maintained. An expected useful life may be stated as being within a range of
1279 years, provided that the range is not so broad as to render the statement meaningless.
1280 In no event ~~shall~~will the number of years constituting the lower limit of such range be
1281 less than two-thirds of the number of years constituting the upper limit.

1282 D. Subject to the exceptions provided in subsections E and H of this section, the section
1283 captioned "Replacement Requirements" ~~shall~~must state the replacement costs of all
1284 physical assets in the condominium including those whose expected useful lives are
1285 stated as being indefinite.

1286 E. A statement of the replacement cost of a representative member of a class of
1287 physical assets ~~shall~~will suffice to disclose the replacement cost of each physical asset
1288 within the class; provided, however, that such statement ~~shall~~must include a separate
1289 reference to the replacement cost of any physical asset within the class that is
1290 significantly greater than the replacement cost indicated for the representative
1291 member of the class.

1292 F. Distinction ~~shall~~must be made between replacement costs that will be common
1293 expenses and replacement costs that will be borne by unit owners individually. The
1294 latter type of replacement costs ~~shall~~must be broken down on a per unit basis. The
1295 purchaser's attention ~~shall~~must be directed to the "Financial Matters" section for an
1296 indication of the amount of the former type of replacement costs.

1297 G. In any case in which the replacement cost of a physical asset may vary depending
1298 upon the circumstances surrounding its replacement, the stated replacement cost ~~shall~~
1299 must reflect the circumstances under which replacement will most probably be
1300 undertaken.



1301 H. A single expected useful life and an aggregate replacement cost may be stated for all
1302 of the structural components of a building or structure that have both (i) the same
1303 expected useful lives and (ii) replacement costs that will constitute regular common
1304 expenses. A statement made pursuant to the preceding sentence ~~shall~~must be
1305 accompanied by statements of the expected useful lives and replacement costs, stated
1306 on a per unit basis, of all of the structural components of the building or structure
1307 whose expected useful lives differ from the general expected useful life or whose
1308 replacement costs will be borne by unit owners individually.

1309 **18VAC48-30-450. Notice to tenants.**

1310 No notice to terminate tenancy of a unit provided for by subsection C of § 55.1-1982 of
1311 the Code of Virginia ~~shall~~will be given prior to the registration of the condominium
1312 including such unit as to which the tenancy is to be terminated.

1313 **Part VI. Post-Registration Provisions**

1314 **18VAC48-30-460. Minimum post-registration reporting requirements.**

1315 A. Subsequent to the issuance of a registration for a condominium by the board, the
1316 declarant of a condominium ~~shall~~must:

1317 1. File an annual report in accordance with § 55.1-1979 of the Code of Virginia and
1318 this chapter.

1319 2. File a copy of the formal notice to the tenants of a conversion condominium upon
1320 delivery or no later than 15 days after delivery to such tenants in accordance with
1321 subsection C of § 55.1-1982.

1322 3. Upon the occurrence of a material or nonmaterial change, file ~~an amended public~~
1323 ~~offering statement or substituted~~such change to the public offering statement in
1324 accordance with the provisions of 18VAC48-30-480 or 18VAC48-30-490, as
1325 applicable.

1326 4. Notify the board of a change in ~~the any~~ bond or letter of credit, ~~as applicable,~~
1327 required by §§ 55.1-1921, 55.1-1968, and 55.1-1983 of the Code of Virginia.

1328 5. File a complete application for registration of unregistered additional units upon
1329 the expansion of the condominium or the formation of units out of additional land.
1330 Notwithstanding the preceding, nonresidential units created out of convertible space
1331 need not be registered. Documents on file with the board and not changed with the
1332 creation of additional units need not be refiled provided that the application
1333 indicates that such documents are unchanged.

1334 6. Notify the board of transition of control of the unit owners' association.

Commented [HJ(113)]: Is this necessary?

Statute provides that localities may require declarant file the formal notice with them.

Commented [HJ(114)]: Discuss what is supposed to be covered here:

- 1.Units on additional land?
- 2.Units on convertible land?
- 3.Residential units from convertible space?

1335 7. Notify the board upon the transfer of special declarant rights to a successor
1336 declarant.

1337 8. Submit appropriate documentation to the board once the registration is eligible for
1338 termination.

1339 9. Submit to the board any other document or information to make the registration
1340 file accurate and complete, that may include including information or documents that
1341 have been amended or may not have existed previously that affects-affect the
1342 accuracy, completeness, or representation of any information or document filed with
1343 the application for registration.

1344 ~~10. Submit to the board any document or information to make the registration file~~
1345 ~~accurate and complete.~~

1346 B. Notwithstanding the requirements of subsection A of this section, the board at any
1347 time may require a declarant to provide information or documents, or amendments
1348 thereof, to assure full and fair disclosure to prospective purchasers and to ensure
1349 compliance with the Virginia Condominium Act and this chapter.

1350 **18VAC48-30-470. Amendment of public offering statement.**

1351 Any amendment of the public offering statement or substituted public offering
1352 statement shall comply with this chapter.

1353 **18VAC48-30-480. Nonmaterial changes to the public offering statement.**

1354 A. Changes to the public offering statement that are not material shall be filed with the
1355 board but shall not be deemed an amendment of the public offering statement for the
1356 purposes of this chapter and shall not give rise to a renewed right of rescission in any
1357 purchase. Nonmaterial changes to the public offering statement include the following:

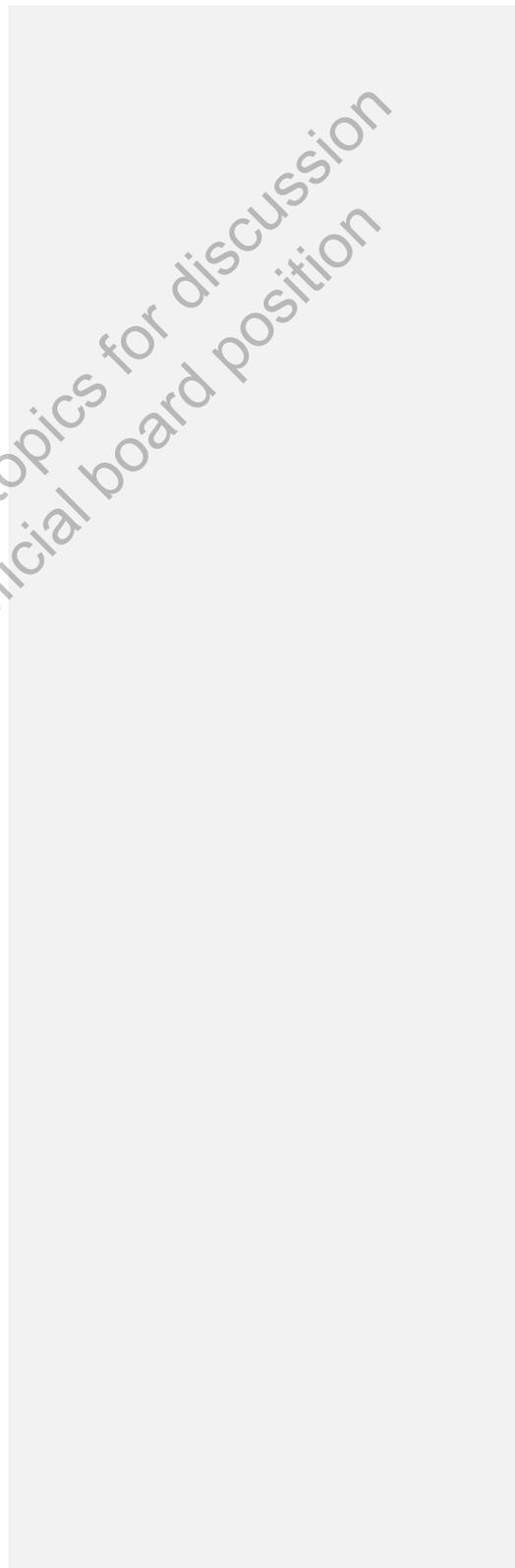
1358 1. Correction of spelling, grammar, omission, or other similar errors not affecting the
1359 substance of the public offering statement;

1360 2. Changes in presentation or format;

1361 3. Substitution of an executed, filed, or recorded copy of a document for the
1362 otherwise substantially identical unexecuted, unfiled, or unrecorded copy of the
1363 document that was previously submitted;

1364 4. Inclusion of updated information such as identification or description of the
1365 current officers and directors of the declarant;

1366 5. Disclosure of completion of improvements for improvements that were previously
1367 proposed or not complete;



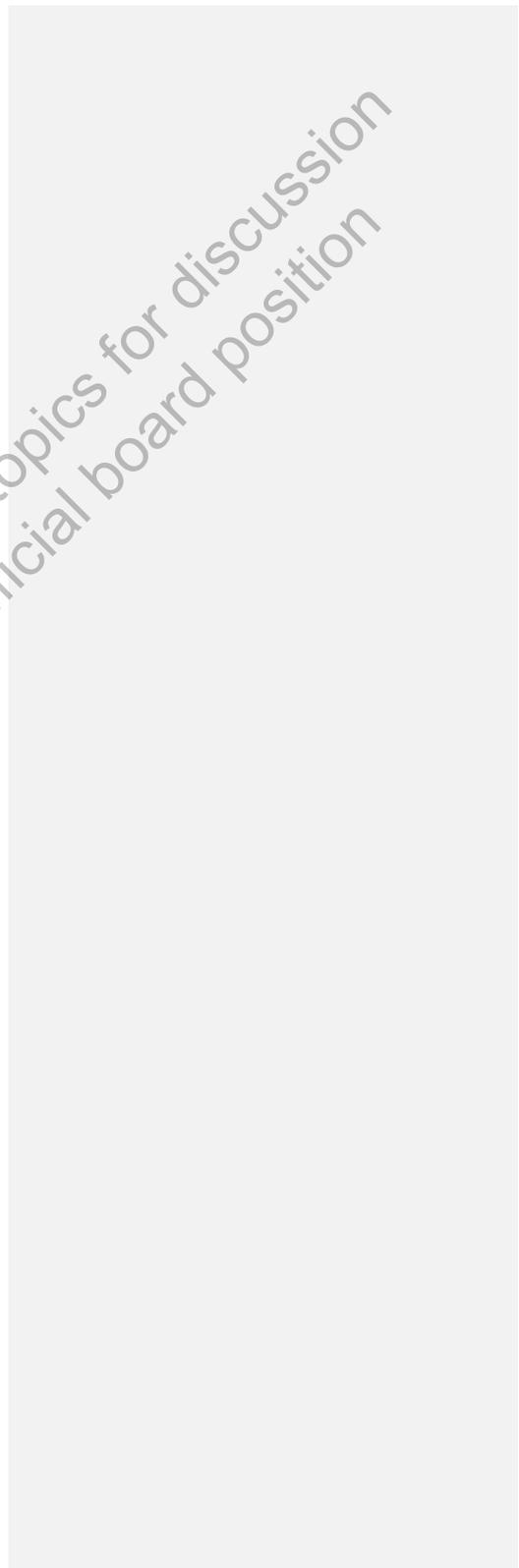
- 1368 6. Changes in real estate tax assessment or rate or modifications related to those
1369 changes;
- 1370 7. Changes in utility charges or rates or modifications related to those changes;
- 1371 8. Adoption of a new budget that does not result in a significant change in the
1372 common expense assessment or significantly impact the rights or obligations of the
1373 prospective purchasers;
- 1374 9. Modifications related to changes in insurance company or financial institution,
1375 policy, or amount for bonds or letters of credit required pursuant to §§ 55.1-1921,
1376 55.1-1968, and 55.1-1983 of the Code of Virginia;
- 1377 10. Changes in management agent or common interest community manager; and
- 1378 11. Any change that is the result of orderly development of the condominium in
1379 accordance with the condominium instruments as described in the public offering
1380 statement.

1381 B. Nonmaterial changes to the public offering statement shall be submitted with the
1382 effective date of the changes detailed. All changes shall be clearly represented in the
1383 documentation presented. The additions and deletions of text in the public offering
1384 statement and exhibits shall be identified by underlining and striking through text to
1385 be added and deleted, and any documents being added to or deleted from the contents
1386 of the public offering statement shall be clearly and accurately reflected in the table of
1387 contents utilizing underlines and strike-throughs for additions and deletions. In
1388 addition to the copies showing edits to the text, a clean copy of all new and amended
1389 documents shall be provided. In addition, the declarant shall include a statement with
1390 the submission of the declarant's plans, if any, to deliver the public offering statement
1391 to purchasers pursuant to subdivision 2 of § 55.1-1974 of the Code of Virginia.

1392 C. The board has the sole discretion for determining whether a change is nonmaterial.
1393 The declarant will be notified in writing within 15 days of receipt by the board if the
1394 submitted changes are determined to be material. Should a change be submitted as
1395 nonmaterial but determined to be a material change during review, the requirements
1396 contained in 18VAC48-30-470 and 18VAC48-30-490 shall be applicable.

1397 **18VAC48-30-490. Filing of amended public offering statement.**

1398 A. The declarant shall promptly file with the board for review a copy of the amended
1399 public offering statement or substituted public offering statement together with a copy
1400 of a summary of proposed amendments that shall be distributed to purchasers during
1401 the board review period. The summary of proposed amendments shall enumerate the
1402 amendments to the public offering statement submitted for board review and include a



1403 statement that the amendments to the public offering statement have been filed with
1404 the board but have not yet been accepted. The form of the submission is at the
1405 discretion of the declarant provided, however, that (i) all amendments are clearly
1406 represented in the documentation presented, (ii) the additions and deletions of text in
1407 the public offering statement and exhibits shall be identified by underlining and
1408 striking through text to be added and deleted, and (iii) any documents being added to
1409 or deleted from the contents of the public offering statement shall be clearly and
1410 accurately reflected in the table of contents utilizing underlines and strike-throughs for
1411 additions and deletions. In addition to the copies showing edits to the text, a clean
1412 copy of all new and amended documents shall be provided.

1413 B. The amended public offering statement submitted to the board for review shall
1414 include the effective date of the amendments.

1415 C. The board shall issue a notice of filing within five business days following receipt of
1416 the amended public offering statement.

1417 D. Within 30 days of the issuance of the notice of filing required by subsection C of this
1418 section, the board shall review the amended public offering statement and supporting
1419 materials to determine whether the amendment complies with this chapter. If the
1420 board's review determines that the amended public offering statement complies with
1421 this chapter, it shall notify the declarant in writing and confirm the new effective date
1422 of the public offering statement.

1423 E. If the board's review determines that the amended public offering statement does
1424 not comply with this chapter, it shall immediately notify the declarant in writing that
1425 the review has determined the amended public offering statement is not in compliance
1426 and shall specify the particulars of such noncompliance. The declarant shall then have
1427 20 days in which to correct the particulars of noncompliance identified by the board.
1428 The declarant may, prior to the completion of the 20-day correction period, request an
1429 extension in writing of the 20-day correction period. Upon expiration of the 20-day
1430 correction period, if requested corrections have not been made or a request for
1431 extension properly received, the board may issue a temporary cease and desist order in
1432 accordance with § 55.1-1986 B of the Code of Virginia to require the cessation of sales
1433 until such time as affirmative action as directed by the board is taken. Use of the
1434 noncompliant public offering statement may result in further action by the board
1435 pursuant to §§ 55.1-1986, 55.1-1987, and 55.1-1989 of the Code of Virginia.

1436 F. Notwithstanding an extension of the 30-day period for review agreed to in writing by
1437 the board and declarant, if the board does not perform the required review of the public
1438 offering statement in accordance with subsection D of this section, the amendment
1439 shall be deemed to comply with 18VAC48-30-160 through 18VAC48-30-380, and the

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And are not to be considered for official board position
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1440 new effective date shall be the effective date of the amendment provided pursuant to
1441 subsection B of this section.

1442 G. In each case in which an amended document is filed pursuant to this section and the
1443 manner of its amendment is not apparent on the face of the document, the declarant
1444 shall provide an indication of the manner and extent of amendment.

1445 **18VAC48-30-500. Current public offering statement.**

1446 A. Upon issuance of an effective date by the board, any purchasers who received a
1447 public offering statement and summary of proposed amendments during the board
1448 review period pursuant to subsection A of 18VAC48-30-490 shall be provided with the
1449 public offering statement as accepted by the board. A public offering statement
1450 remains current until such time as the occurrence of a material change requires
1451 amendment of the public offering statement pursuant to this chapter and a new
1452 effective date is issued by the board.

1453 B. Upon issuance of an effective date by the board, a public offering statement remains
1454 current until such time as a new effective date is established pursuant to this chapter.

1455 C. Notwithstanding the board's authority to issue a cease and desist order pursuant to
1456 § 55.1-1986 of the Code of Virginia, the filing of an amended public offering statement
1457 shall not require the declarant to cease sales provided that the declarant provides to
1458 purchasers the summary of proposed amendments pursuant to subsection A of
1459 18VAC48-30-490 pending the issuance of a new effective date by the board.

1460 **18VAC48-30-510. Public offering statement not current; notification of**
1461 **purchasers.**

1462 A. A purchaser who has been delivered a public offering statement that is not current
1463 due to a material change and was not provided with the summary of proposed
1464 amendments containing the proposed changes to the amended public offering
1465 statement pursuant to subsection A of 18VAC48-30-490 pending the issuance of a new
1466 effective date by the board shall be notified of such fact by the declarant.

1467 B. A purchaser who has been delivered a public offering statement and summary of
1468 proposed amendments pursuant to subsection A of 18VAC48-30-490, but the amended
1469 public offering statement is determined to be noncompliant in accordance with
1470 subsection E of 18VAC48-30-490 shall be notified of such fact by the declarant.

1471 1. The notification shall indicate that any contract for disposition of a condominium
1472 unit may be canceled by the purchaser pursuant to subdivision 2 of § 55.1-1974 of the
1473 Code of Virginia.

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1474 2. The declarant shall file a copy of the notification with the board and provide proof
1475 that such notification has been delivered to all purchasers under contract.

1476 **18VAC48-30-520. Provisions applicable to substituted public offering statement**
1477 **and prospectus.**

1478 A. The provisions of 18VAC48-30-470 through 18VAC48-30-510 shall apply to a
1479 substituted public offering statement in the same manner and to the same extent that
1480 they apply to public offering statements.

1481 B. The provisions of 18VAC48-30-470 through 18VAC48-30-510 shall apply to a
1482 prospectus only to the extent that amendment of the information or documents
1483 attached to the prospectus pursuant to 18VAC48-30-380 is required or permitted. The
1484 body of the prospectus shall be amended only as provided in applicable securities law.
1485 The declarant shall immediately file with the board any amendments to the body of the
1486 prospectus and, upon receipt thereof, the board shall notify the declarant in writing
1487 and confirm the new effective date for use of the prospectus. A prospectus is current so
1488 long as it is effective under applicable securities law and the information and attached
1489 documents are current under the provisions of 18VAC48-30-490. The declarant shall
1490 immediately notify the board if the prospectus ceases being effective. If no prospectus
1491 is effective and the declarant proposes to continue offering condominium units, the
1492 declarant shall file a public offering statement with the board pursuant to 18VAC48-30-
1493 490.

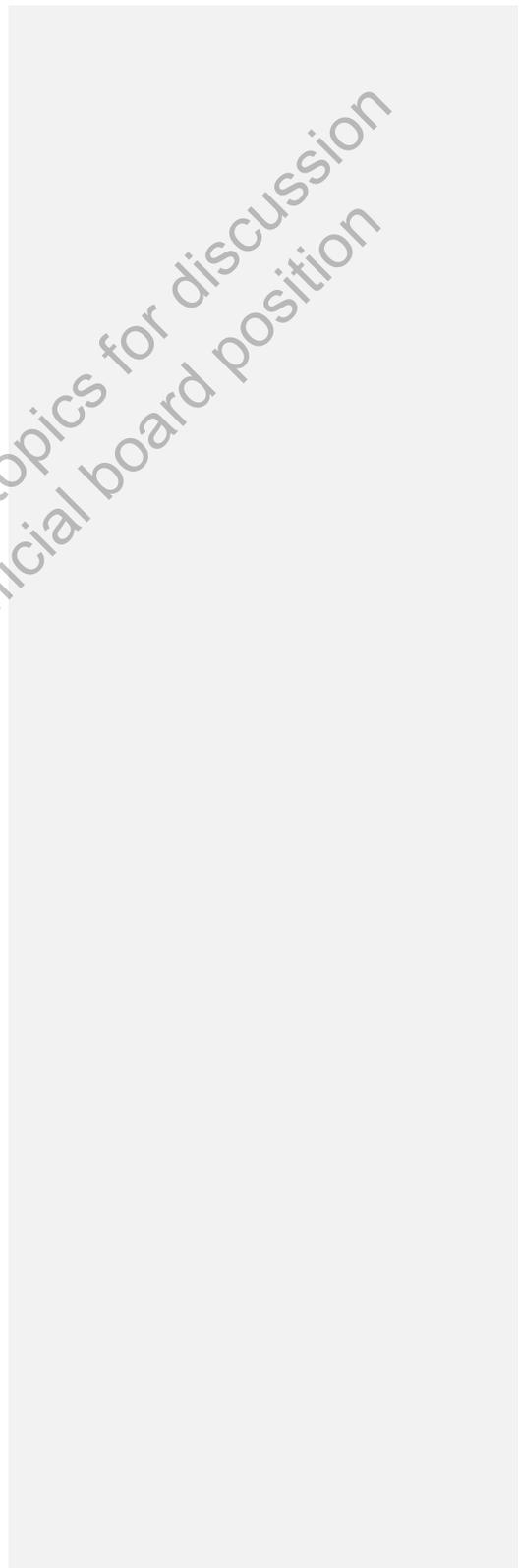
1494 C. The provisions of 18VAC48-30-510 shall apply to a prospectus in the same manner
1495 and to the same extent that they apply to a public offering statement.

1496 D. In an annual report involving a prospectus, the declarant shall comply with all of the
1497 provisions of 18VAC48-30-540 applicable to public offering statements and, in
1498 addition, shall certify that an effective prospectus is available for delivery to purchasers
1499 and shall indicate the declarant's plans or expectations regarding the continuing
1500 effectiveness of the prospectus.

1501 **18VAC48-30-530. Filing of phase amendment application.**

1502 A. A phase amendment application shall be filed when adding land to or converting
1503 land in the condominium, provided that no such application need be filed for units
1504 previously registered. Such phase amendment application shall be accompanied by the
1505 fee provided for in 18VAC48-30-100 and shall be subject to all of the provisions of
1506 18VAC48-30-90 through 18VAC48-30-150. Documents on file with the board that have
1507 not changed in connection with the additional units need not be refiled, provided that
1508 the phase amendment application indicates that such documents are unchanged.

1509 B. The application shall include a new or amended bond or letter of credit required
1510 pursuant to § 55.1-1968 of the Code of Virginia for the additional units.



1511 C. The board shall review the phase amendment application and supporting materials
1512 to determine whether the amendment complies with this chapter. If the board's review
1513 determines the phase amendment application complies with this chapter, it shall issue
1514 an amended order of registration for the condominium and shall provide that any
1515 previous orders and designations of the form, content, and effective date of the public
1516 offering statement, substituted public offering statement, or prospectus to be used are
1517 superseded. If the board's review determines that the phase amendment application is
1518 not complete, the board shall correspond with the declarant to specify the particulars
1519 that must be completed to obtain compliance with this chapter.

1520 **18VAC48-30-540. Annual report by declarant.**

1521 A. A declarant shall file an annual report on a form provided by the board to update the
1522 material contained in the registration file at least 30 days prior to the anniversary date
1523 of the order registering the condominium. Prior to filing the annual report required by
1524 § 55.1-1979 of the Code of Virginia, the declarant shall review the public offering
1525 statement then being delivered to purchasers. If such public offering statement is
1526 current, the declarant shall so certify in the annual report. If such public offering
1527 statement is not current, the declarant shall amend the public offering statement, and
1528 the annual report shall, in that event, include a filing in accordance with 18VAC48-30-
1529 490.

1530 B. The annual report shall contain, but may not be limited to, the following:

- 1531 1. Current contact information for the declarant;
- 1532 2. Current contact information for the declarant's attorney, if applicable;
- 1533 3. Date of the public offering statement currently being delivered to purchasers;
- 1534 4. Date the condominium instruments were recorded and locality wherein recorded;
- 1535 5. Number of phases registered with the board, if applicable;
- 1536 6. Number of phases recorded, if applicable;
- 1537 7. Number of units recorded;
- 1538 8. Number of units conveyed;
- 1539 9. Status of completion of all common elements within the condominium;
- 1540 10. Status of declarant control;
- 1541 11. Whether the declarant is current in the payment of assessments; and



1542 12. Current evidence from the surety or financial institution of any bond or letters of
1543 credit, or submittal of replacement bonds or letters of credit, required pursuant to §§
1544 55.1-1921, 55.1-1968, and 55.1-1983 of the Code of Virginia. Such verification shall
1545 provide the following:

- 1546 a. Principal of bond or letter of credit;
- 1547 b. Beneficiary of bond or letter of credit;
- 1548 c. Name of the surety or financial institution that issued the bond or letter of credit;
- 1549 d. Bond or letter of credit number as assigned by the issuer;
- 1550 e. The dollar amount; and
- 1551 f. The expiration date or, if self-renewing, the date by which the bond or letter of credit
1552 shall be renewed.

1553 **18VAC48-30-550. Board review of annual report.**

1554 A. During review of the annual report, the board may make inquiries or request
1555 additional documentation to amplify or clarify the information provided.

1556 B. If the board does not accept the annual report and the annual report filing is not
1557 completed within 60 days of a request by the board for additional information, the
1558 board may take further action pursuant to §§ 55.1-1986, 55.1-1987, and 55.1-1989 of
1559 the Code of Virginia for failing to file an annual report as required by § 55.1-1979 of the
1560 Code of Virginia.

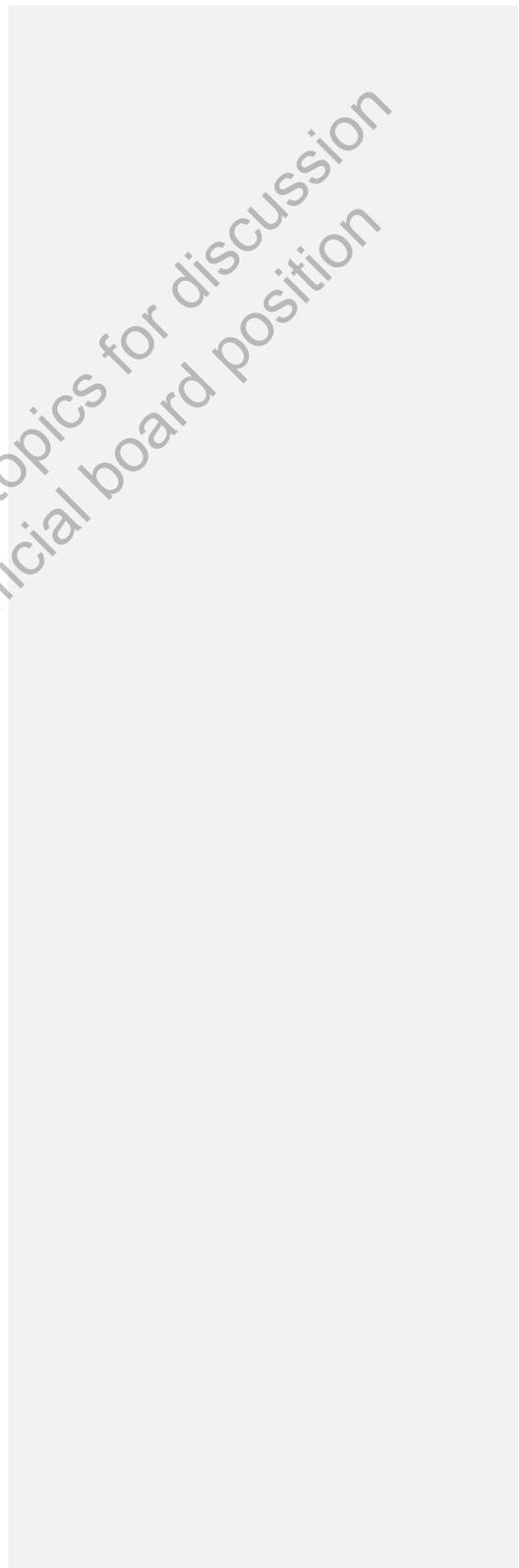
1561 C. If the board does not perform the required review of the annual report within 30 days
1562 of receipt by the board, the annual report shall be deemed to comply with § 55.1-1979
1563 of the Code of Virginia.

1564 **18VAC48-30-560. Transition of control of unit owners' association.**

1565 Upon transition of control of the association to the unit owners following the period of
1566 declarant control, the declarant shall, in addition to the requirements contained in
1567 subsection H of § 55.1-1943 of the Code of Virginia, notify the board in writing of the
1568 date of such transition and provide the name and contact information for members of
1569 the board of directors of the unit owners' association or the association's common
1570 interest community manager.

1571 **18VAC48-30-570. Return of assessment bond or letter of credit to declarant.**

1572 A. The declarant of a condominium required to post a bond or letter of credit pursuant
1573 to § 55.1-1968 of the Code of Virginia shall maintain such bond or letter of credit for all
1574 units registered with the board until the declarant owns less than 10% of the units in
1575 the condominium and is current in the payment of assessments. For condominiums



1576 containing less than 10 units, the bond or letter of credit shall be maintained until the
1577 declarant owns only one unit.

1578 B. The declarant shall submit a written request to the board for the return of the bond
1579 or letter of credit. The written request shall attest that the declarant (i) owns less than
1580 10% of the units or for condominiums containing less than 10 units, that the declarant
1581 owns only one unit and (ii) is current in the payment of assessments. The written
1582 request shall provide contact information for the unit owners' association.

1583 C. Upon receipt of the written request from the declarant, the board shall send a
1584 request to the unit owners' association to confirm the information supplied by the
1585 declarant. The person certifying the information on behalf of the unit owners'
1586 association must not be affiliated with the declarant. The managing agent may confirm
1587 the information supplied by the declarant.

1588 D. The board shall return the bond or letter of credit to the declarant if (i) the unit
1589 owners' association confirms that the declarant is current in the payment of
1590 assessments and owns less than 10% of the units in the condominium or (ii) no
1591 response is received from the unit owners' association within 90 days. The 90-day time
1592 frame in clause (ii) of this subsection may be extended at the discretion of the board.

1593 E. If the unit owners' association attests the declarant is not current in the payment of
1594 assessments, the board shall retain the bond or letter of credit until evidence is
1595 received satisfactory to the board that the declarant is current in the payment of
1596 assessments.

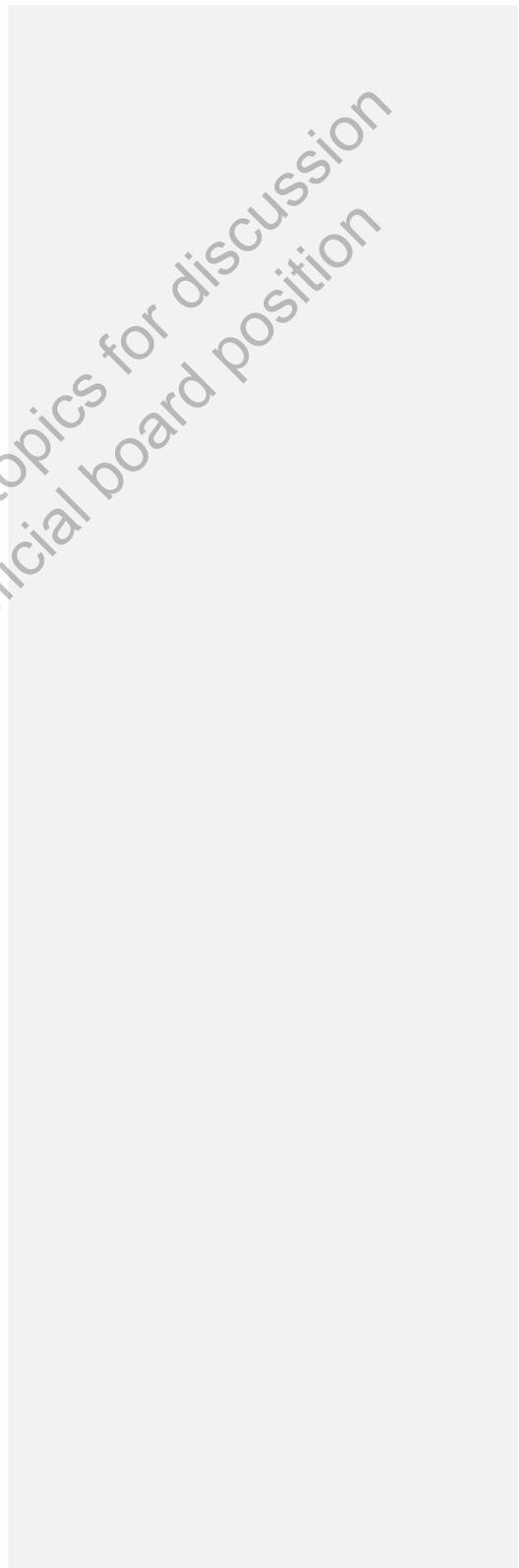
1597 F. The board may ask for additional information from the unit owners' association or
1598 the declarant as needed to confirm compliance with § 55.1-1968 of the Code of
1599 Virginia.

1600 **18VAC48-30-580. Return of completion bond or letter of credit to declarant.**

1601 A bond on file with the board pursuant to § 55.1-1921 of the Code of Virginia may be
1602 returned to the declarant upon written request. Such request shall include a copy of the
1603 recorded plat or plan showing completion or documentation acceptable to the board
1604 that the improvements to the common elements for which the bond was submitted is
1605 completed to the extent of the declarant's obligation.

1606 **18VAC48-30-590. Return of bond or letter of credit upon termination of
1607 registration.**

1608 Upon issuance of an order of termination of the condominium registration pursuant to
1609 18VAC48-30-610 and if the bond or letter of credit on file with the board has not been
1610 returned to the declarant or the declarant's agent previously, it will be considered for
1611 return in accordance with 18VAC48-30-570 or 18VAC48-30-580.



1612 **18VAC48-30-600. Maintenance of bond or letter of credit.**

1613 A. The declarant shall report the extension, cancellation, amendment, expiration,
1614 termination, or any other change of any bond or letter of credit submitted in
1615 accordance with §§ 55.1-1921, 55.1-1968, and 55.1-1983 of the Code of Virginia within
1616 five days of the change.

1617 B. The board at any time may request verification from the declarant of the status of a
1618 bond or letter of credit on file with the board. Such verification shall comply with the
1619 provisions of subdivision B 12 of 18VAC48-30-540.

1620 C. Failure to report a change in the bond or letter of credit in accordance with this
1621 section shall result in further action by the board pursuant to Chapter 19 (§ 55.1-1900
1622 et seq.) of Title 55.1 of the Code of Virginia.

1623 **18VAC48-30-610. Termination of condominium registration.**

1624 A. The condominium registration shall be terminated upon receipt of documentation of
1625 one of the following:

1626 1. In accordance with § 55.1-1979 of the Code of Virginia, an annual report filed
1627 pursuant to 18VAC48-30-540 indicates that all units in the condominium have been
1628 disposed of and all periods for conversion or expansion have expired.

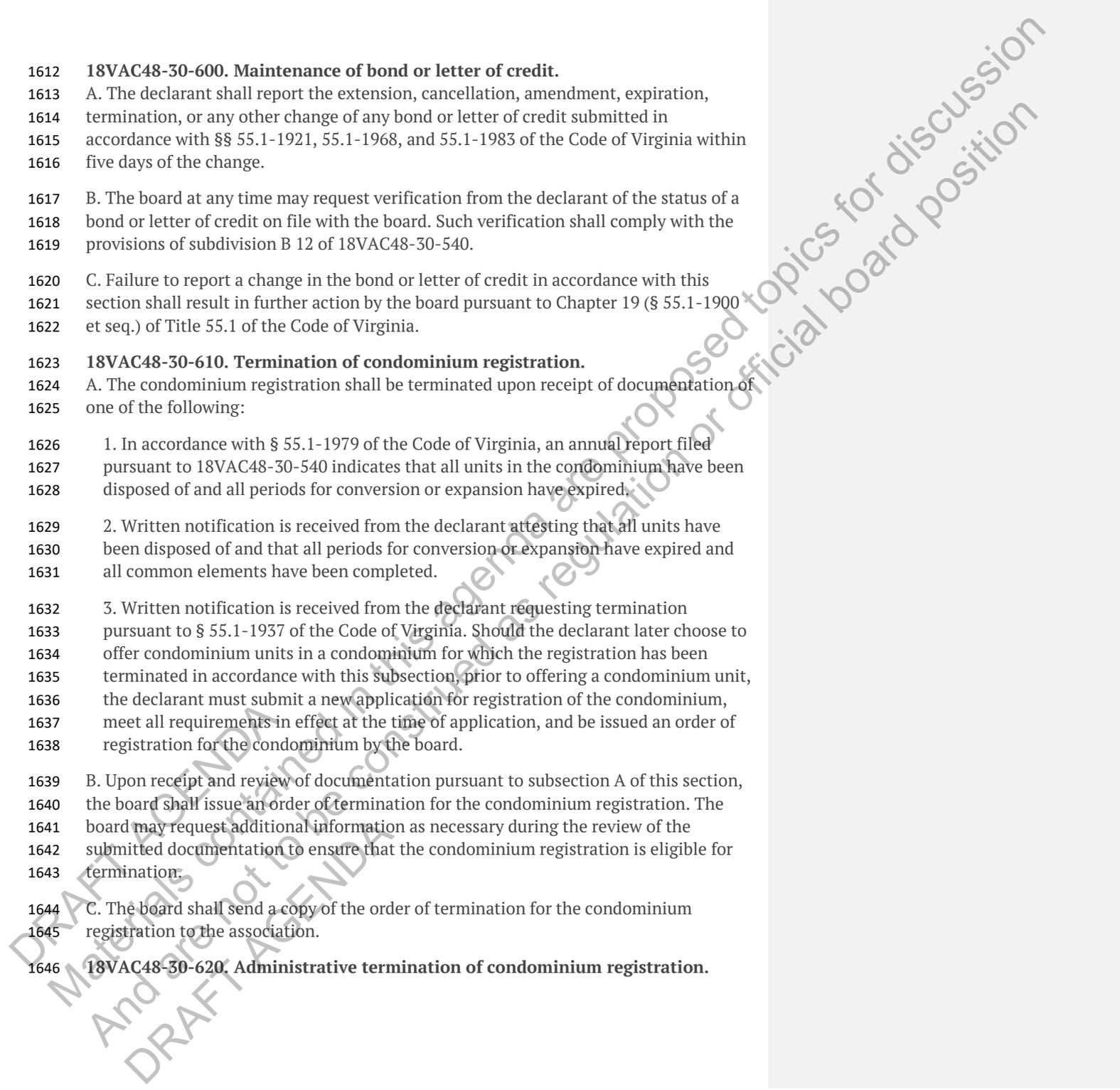
1629 2. Written notification is received from the declarant attesting that all units have
1630 been disposed of and that all periods for conversion or expansion have expired and
1631 all common elements have been completed.

1632 3. Written notification is received from the declarant requesting termination
1633 pursuant to § 55.1-1937 of the Code of Virginia. Should the declarant later choose to
1634 offer condominium units in a condominium for which the registration has been
1635 terminated in accordance with this subsection, prior to offering a condominium unit,
1636 the declarant must submit a new application for registration of the condominium,
1637 meet all requirements in effect at the time of application, and be issued an order of
1638 registration for the condominium by the board.

1639 B. Upon receipt and review of documentation pursuant to subsection A of this section,
1640 the board shall issue an order of termination for the condominium registration. The
1641 board may request additional information as necessary during the review of the
1642 submitted documentation to ensure that the condominium registration is eligible for
1643 termination.

1644 C. The board shall send a copy of the order of termination for the condominium
1645 registration to the association.

1646 **18VAC48-30-620. Administrative termination of condominium registration.**



1647 In accordance with subsection B of § 55.1-1981 of the Code of Virginia, the board may
1648 administratively terminate the registration of a condominium. Prior to the
1649 administrative termination of the registration, the board shall send written notice of its
1650 intent to terminate the registration to all known parties associated with the
1651 condominium, including the registered agent, officer of the unit owners' association,
1652 declarant's and association's attorneys, and principal of the declarant. Such written
1653 notice shall be given to the parties by mail or otherwise if acknowledged by them in
1654 writing.

1655 The board shall issue an order of termination for the condominium registration if (i) a
1656 response is not received within 30 days after sending the written notice or (ii) the
1657 response received does not indicate termination of the registration is inappropriate in
1658 accordance with Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1 of the Code of Virginia
1659 and this chapter.

1660 Nothing contained in this section shall prevent the board from taking further action as
1661 allowed by law including issuance of a temporary cease and desist order, issuance of a
1662 cease and desist order, revocation of registration, and bringing action in the
1663 appropriate circuit court to enjoin the acts or practices and to enforce compliance.

1664 **18VAC48-30-630. Notification of successor declarant and transfer of special**
1665 **declarant rights.**

1666 A. In the event the special declarant rights of a condominium are transferred to a
1667 successor in accordance with § 55.1-1947 of the Code of Virginia, the successor
1668 declarant shall notify the board within 30 days. Before units may be offered for sale, the
1669 successor declarant shall submit the following to the board:

- 1670 1. Completed application for the successor declarant;
- 1671 2. Copy of the recorded document evidencing the transfer;
- 1672 3. Copies of all condominium instruments that were amended to reflect the successor
1673 or transfer of special declarant rights;
- 1674 4. A public offering statement amended in accordance with this chapter;
- 1675 5. All bonds or letters of credit required pursuant to §§ 55.1-1921, 55.1-1968, and
1676 55.1-1983 of the Code of Virginia; and
- 1677 6. Other documents that may be required to ensure compliance with Chapter 19 (§
1678 55.1-1900 et seq.) of Title 55.1 of the Code of Virginia and this chapter.

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1679 B. Documents on file with the board that have not changed in connection with the
1680 transfer need not be refiled, provided that the application for successor declarant
1681 indicates that such documents are unchanged.

1682 **18VAC48-30-640. Reporting of other changes to the condominium project.**

1683 Any other change made or known by the declarant that may affect the accuracy or
1684 completeness of the condominium registration file shall be promptly reported to the
1685 board. Such change may include the name of the declarant, name of the condominium
1686 project, or any other changes in information submitted in accordance with § 55.1-1975
1687 of the Code of Virginia. The board may request additional information as necessary to
1688 ensure compliance with Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1 of the Code of
1689 Virginia and this chapter.

1690 **Part VII. Board Authority and Standards of Conduct**

1691 **18VAC48-30-650. Grounds for disciplinary action.**

1692 The board may revoke a registration upon a finding that the registration is not in
1693 compliance with, or the declarant has violated, any provision of the regulations of the
1694 board or Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1 of the Code of Virginia.

1695 Additional action may include issuance of a temporary cease and desist order, issuance
1696 of a cease and desist order, revocation of registration, and bringing action in the
1697 appropriate circuit court to enjoin the acts or practices and to enforce compliance.

1698 **18VAC48-30-660. Registration of condominium required.**

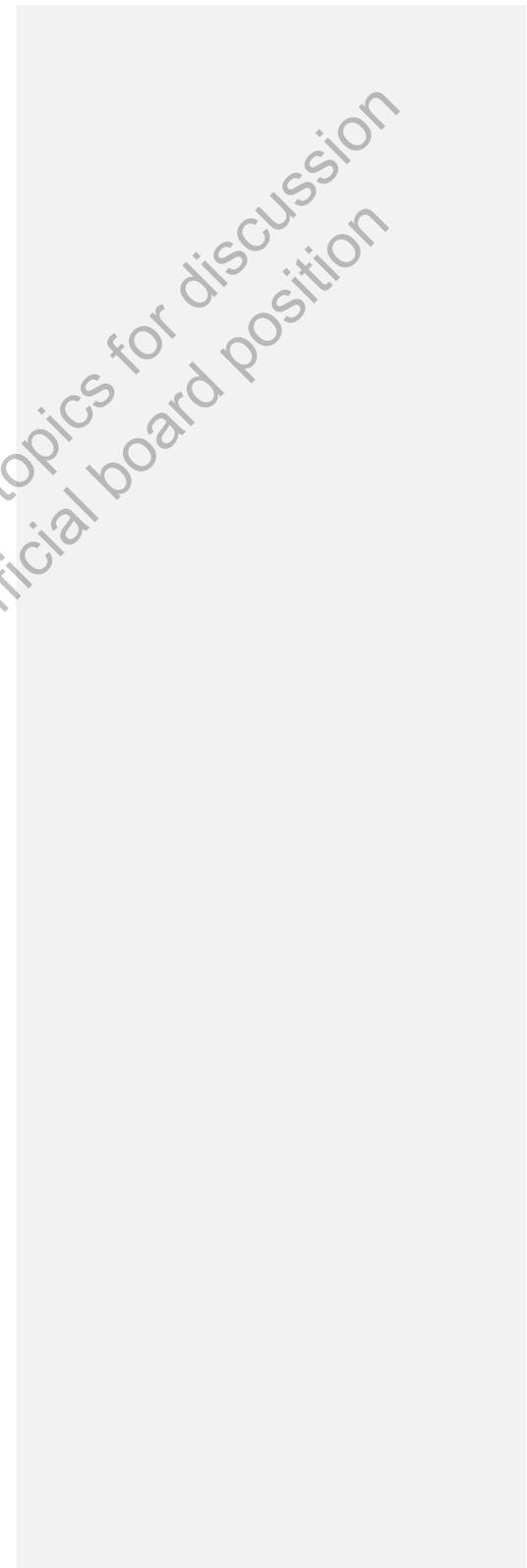
1699 No declarant or individual or entity acting on behalf of the declarant shall offer a
1700 condominium unit prior to the registration of the condominium including such unit.

1701 **18VAC48-30-670. Condominium advertising standards.**

1702 A. No promise, assertion, representation, or statement of fact or opinion in connection
1703 with a condominium marketing activity shall be made that is false, inaccurate, or
1704 misleading by reason of inclusion of an untrue statement of a material fact or omission
1705 of a statement of a material fact relative to the actual or intended characteristics,
1706 circumstances, or features of the condominium or a condominium unit.

1707 B. No promise, assertion, representation, or statement of fact or opinion made in
1708 connection with a condominium marketing activity shall indicate that an improvement
1709 will be built or placed on the condominium unless the improvement is a proposed
1710 improvement within the meaning of subdivision 3 of 18VAC48-30-120.

1711 C. No promise, assertion, representation, or statement of fact or opinion made in
1712 connection with a condominium marketing activity and relating to a condominium unit
1713 not registered shall, by its express terms, induce, solicit, or encourage a prospective
1714 purchaser to leave Virginia for the purpose of executing a contract for sale or lease of



1715 the condominium unit or performing some other act that would create or purport to
1716 create a legal or equitable interest in the condominium unit other than a security
1717 interest in or a nonbinding reservation of the condominium unit.

1718 **18VAC48-30-680. Response to inquiry and provision of records.**

1719 A. The declarant must respond within 15 days to a request by the board or any of its
1720 agents regarding any complaint filed with the department. The board may extend such
1721 time frame upon a showing of extenuating circumstances prohibiting delivery within
1722 such 15-day period.

1723 B. Unless otherwise specified by the board, the declarant shall produce to the board or
1724 any of its agents within 15 days of the request any document, book, or record
1725 concerning any transaction in which the declarant was involved, or for which the
1726 declarant is required to maintain records for inspection and copying by the board or its
1727 agents. The board may extend such time frame upon a showing of extenuating
1728 circumstances prohibiting delivery within such 15-day period.

1729 C. A declarant shall not provide a false, misleading, or incomplete response to the
1730 board or any of its agents seeking information in the investigation of a complaint filed
1731 with the board.

1732 D. With the exception of the requirements of subsections A and B of this section, a
1733 declarant must respond to an inquiry by the board or its agent within 21 days.

1734 **18VAC48-30-690. Prohibited acts.**

1735 The following acts are prohibited and any violation may result in action by the board,
1736 including issuance of a temporary cease and desist order in accordance with § 55.1-
1737 1986 B of the Code of Virginia:

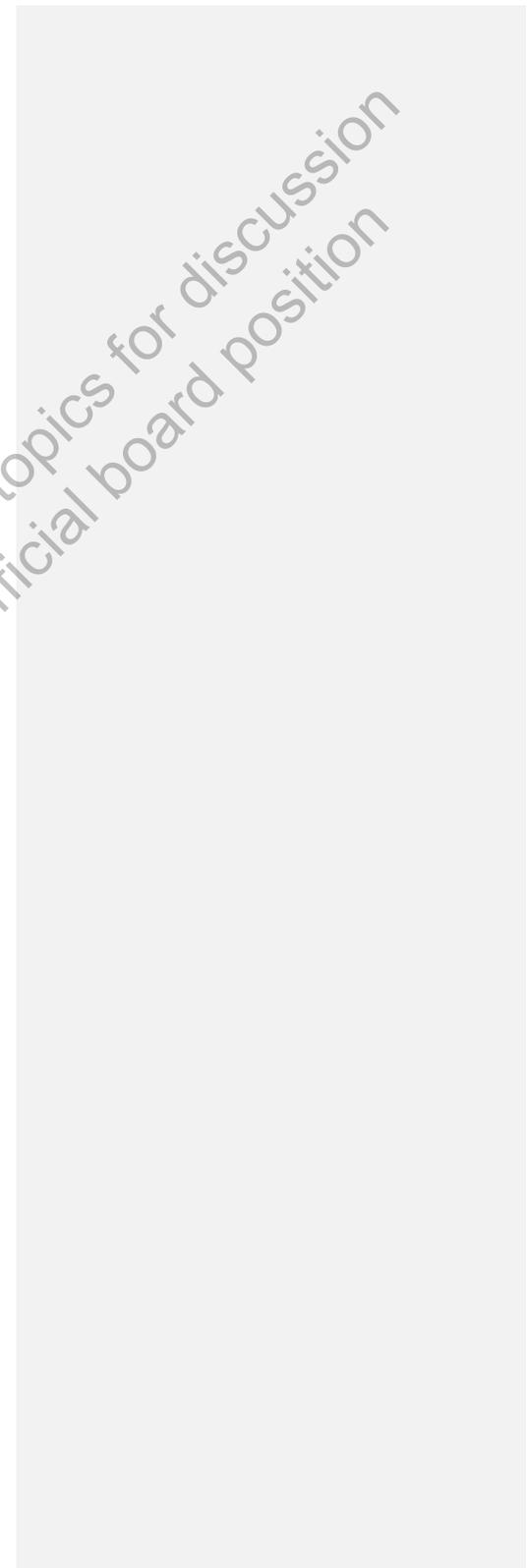
1738 1. Violating, inducing another to violate, or cooperating with others in violating any
1739 of the provisions of any of the regulations of the board, Chapter 23.3 (§ 54.1-2345 et
1740 seq.) of Title 54.1 of the Code of Virginia, or Chapter 19 (§ 55.1-1900 et seq.) or
1741 Chapter 20 (§ 55.1-2000 et seq.) of Title 55.1 of the Code of Virginia.

1742 2. Obtaining or attempting to obtain a registration by false or fraudulent
1743 representation, or maintaining a registration by false or fraudulent representation.

1744 3. Failing to comply with 18VAC48-30-80 in offering literature.

1745 4. Failing to alter or amend the public offering statement as directed in accordance
1746 with 18VAC48-30-390 or 18VAC48-30-490.

1747 5. Providing information to purchasers in a manner that willfully and intentionally
1748 fails to promote full and fair disclosure.



- 1749 6. Failing to provide information or documents, or amendments thereof, in
1750 accordance with subsection B of 18VAC48-30-460.
- 1751 7. Failing to comply with the post-registration requirements of 18VAC48-30-460,
1752 18VAC48-30-470, 18VAC48-30-480, 18VAC48-30-490, 18VAC48-30-500, 18VAC48-
1753 30-510, 18VAC48-30-520, 18VAC48-30-530, and 18VAC48-30-540.
- 1754 8. Failing to give notice to a purchaser in accordance with 18VAC48-30-510.
- 1755 9. Failing to give notice to the board of transition of control of unit owners'
1756 association in accordance with 18VAC48-30-560.
- 1757 10. Failing to transition control of the unit owners' association in accordance with
1758 § 55.1-1943 of the Code of Virginia.
- 1759 11. Failing to turn over books and records in accordance with subsection H of § 55.1-
1760 1943 of the Code of Virginia.
- 1761 12. Providing false information or misrepresenting an affiliation with an association
1762 in seeking return of a bond or letter of credit in accordance with 18VAC48-30-570 or
1763 18VAC48-30-580.
- 1764 13. Filing false or misleading information in the course of terminating a registration
1765 in accordance with 18VAC48-30-610 or 18VAC48-30-620.
- 1766 14. Failing to comply with 18VAC48-30-630 and 18VAC48-30-640.
- 1767 15. Failing to comply with the advertising standards contained in 18VAC48-30-670.
- 1768

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