

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
DEEP RUN RECREATION CENTER
DEEP RUN PARK
9900 RIDGEFIELD PARKWAY
HENRICO, VA 23233

COMMON INTEREST COMMUNITY BOARD
Tentative AGENDA

THURSDAY, SEPTEMBER 3, 2020, 9:30 A.M.
RIDGEFIELD BALLROOM

I. CALL TO ORDER

II. EMERGENCY EVACUATION PROCEDURES

III. COVID-19 SAFETY REMINDERS

IV. APPROVAL OF AGENDA

- a. Board Agenda, September 3, 2020

V. APPROVAL OF MINUTES

- a. Board Meeting, June 4, 2020

VI. PUBLIC COMMENT PERIOD*

VII. REVIEW FILES AND DISCIPLINARY MATTERS

- a. File Number 2019-02922, Alliance Community Management Inc, t/a Stephens & Company Inc Consent Order (Mulhare)
- b. File Number 2020-01868, Debra Kaye Beagley Licensing—IFF by Mulhare

VIII. BOARD BUSINESS

- a. Update on Regulatory Actions
- b. Consider Exempt Action to Amend Time-Share Regulations – SB 584
- c. Staff Request for Authorization to Update CIC Board Guidance Documents to Reflect Title 55 Recodification
- d. 2021 CICB Legislative Items

IX. OTHER BUSINESS

- a. DPOR Updates as it Relates to COVID-19 Response
- b. Ombudsman Report
- c. Update on Public Hearings
- d. Board Financial Statements
- e. Other Board Business

X. COMPLETE CONFLICT OF INTEREST FORMS AND TRAVEL VOUCHERS

XI. ADJOURN

NEXT MEETING SCHEDULED FOR DECEMBER 3, 2020, at 9:30 A.M.

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

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

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

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

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

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

Board Room 1

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

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

Board Room 2

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

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

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

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

Board Rooms 3 and 4

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

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

Training Room 1

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

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

Training Room 2

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

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

COVID-19 SAFETY REMINDERS

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COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met virtually via Webex on June 4, 2020, at 9:30 a.m. Board staff was present at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, Richmond, Virginia 23233.

The following members were present:

Drew Mulhare, Chair
Maureen A. Baker
Tom Burrell
Jim Foley
Amanda Jonas
David S. Mercer, Vice-Chair
Lori Overholt
Anne M. Sheehan
Scott Sterling
Katherine E. Waddell

Board member Eugenia Lockett Reese was not in attendance at the meeting.

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

Mary Broz-Vaughan, Director
Trisha L. Henshaw, Executive Director
Heather Gillespie, Ombudsman
Joseph C. Haughwout, Jr., Board and Regulatory Administrator
Lisa Robinson, Licensing Administrator
Tanya M. Pettus, Administrative Assistant

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

Finding a quorum of the Board present, Mr. Mulhare, Chair, called the meeting to order at 9:30 a.m. **Call to Order**

Because the meeting was held virtually, Ms. Henshaw took roll of Board members and staff in attendance. **Roll Call**

Ms. Jonas moved to approve the agenda as presented. Ms. Wadell seconded the motion which was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell. **Approval of Agenda**

Mr. Foley moved to approve the March 12, 2020, Board meeting minutes as presented. Ms. Jonas seconded the motion which was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, and Waddell.

Approval of Minutes

Cynthia Gale was in attendance to address the Board. Ms. Gale asked the Board to consider developing a form that would encompass all of the information required to be included in the POA Disclosure Packet Notice. Ms. Gale feels that a comprehensive form would be helpful to those who are responsible for compiling POA Disclosure Packet Notices. Ms. Gale stated she would provide an example of the suggested form to Board staff for review.

Public Comment Period

Mr. Sterling joined the meeting at 9:40 a.m.

Arrival of Board Member

Ms. Henshaw asked the Board to consider adopting the amended POA Disclosure Packet Notice to include a line item requiring the disclosure packet contain a statement setting forth any restrictions as to the size, place, duration, or manner of placement or display of political signs by a lot owner on his lot. This requirement is pursuant to House Bill 720, which was passed during the 2020 General Assembly session and becomes effective July 1, 2020. Ms. Jonas moved to adopt the amendments to the POA Disclosure Packet Notice as presented. Mr. Mercer seconded the motion. After discussion, the motion was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

Consider and Adopt Amended POA Disclosure Packet Notice

Ms. Gillespie provided the Board with a summary of current complaint and file statistics as of June 1, 2020.

Ombudsman Report

Ms. Henshaw and Ms. Broz-Vaughan advised the Board of temporary waivers of certain regulations pursuant to Executive Order 51 in response to COVID-19. During the current state of emergency, the validity of licenses, certifications, registrations, and other authorizations issued by the Board that would otherwise (i) expire during the state of emergency and (ii) be eligible for renewal or reinstatement during the state of emergency under applicable regulations, will be extended until the 30th day after the date by which the state of emergency is lifted. In addition, regulations that prohibit or limit online, electronic, or distance learning have also been waived until the 30th day after the date by which the state of emergency is lifted. Ms. Henshaw noted that the waivers do not apply to statutory requirements.

DPOR COVID-19 Updates

Ms. Henshaw also advised that pursuant to language in the budget bill signed by the Governor in April 2020, meetings that would otherwise be required to be held in person at a physical location, including association meetings, may now meet virtually.

Ms. Henshaw advised the Board that in order to comply with public health emergency recommendations, the agency is currently closed to the public and staff scheduling adjustments have been made, including telework for those employees who are eligible. Ms. Henshaw thanked the Board for their flexibility and patience during this time.

Mr. Mulhare commended Ms. Henshaw and staff for their continued support and hard work.

Ms. Henshaw and Ms. Broz-Vaughan also advised that staff is looking to acquire offsite meeting space for future Board meetings in order to have space large enough to continue compliance with social distancing guidelines. Ms. Henshaw asked the Board to consider rescheduling Training Program Review Committee meetings for the remainder of the year to 9:00 a.m. on the day of currently scheduled Board meetings in order to accommodate the need for offsite scheduling. Mr. Burrell moved to reschedule Training Program Review Committee meetings to 9:00 a.m. on the day of currently scheduled Board meetings. Ms. Jonas seconded the motion which was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

Ms. Henshaw asked the Board to consider tentative Board meeting dates for 2021. Mr. Foley moved to approve the following meeting dates:

- March 4, 2021
- June 3, 2021
- September 23, 2021
- December 2, 2021

Mr. Mercer seconded the motion which was unanimously approved by: Baker, Burrell, Foley, Jonas, Mercer, Mulhare, Overholt, Sheehan, Sterling, and Waddell.

There being no further business, the meeting was adjourned at 10:06 a.m.

Consider Future Meeting Dates

Adjourn

Drew Mulhare, Chair

Mary Broz-Vaughan, Secretary

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PUBLIC COMMENT PERIOD

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Common Interest Community Board

Update on Regulatory Actions

(as of August 24, 2020)

Action: Amend Declarant Trade or Fictitious Name Requirements – Condominium Regulations

Current Stage: Adopted (Exempt)

- Final amendments adopted by Board on 3/12/20.
- Submitted to Registrar on 3/19/20.
- Published in Virginia Register on 4/13/20.
- Amended regulation became effective on 6/1/20.

Next Step: N/A

Action: Amend Developer/Reseller Trade or Fictitious Name Requirements – Time-Share Regulations

Current Stage: Adopted (Exempt)

- Final amendments adopted by Board on 3/12/20.
- Submitted to Registrar on 3/19/20.
- Published in Virginia Register on 4/13/20.
- Amended regulation became effective on 6/1/20.

Next Step: N/A

Action: Amend Trade or Fictitious Name Requirements – Common Interest Community Manager Regulations

Current Stage: Adopted (Exempt)

- Final amendments adopted by Board on 3/12/20.
- Submitted to Registrar on 3/19/20.
- Published in Virginia Register on 4/13/20.
- Amended regulation became effective on 6/1/20.

Next Step: N/A

Common Interest Community Board

Action: CIC Management Information Fund – General Review

Current Stage: Final

- Board adopted final amendments on 3/12/20.
- Submitted for Executive Branch review on 5/14/20.
- Executive Branch review pending.

Next Step: Publication/Public Comment

- Completion of Executive Branch review.
- Submission to Registrar for publication in Virginia Register.
- Final 30-day public comment period.
- Regulation becomes effective following public comment period.

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VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 1011

An Act to amend and reenact §§ 55.1-2200, 55.1-2201, 55.1-2217, 55.1-2219, 55.1-2238, 55.1-2239, 55.1-2241, 55.1-2242, 55.1-2243, and 55.1-2247 of the Code of Virginia, relating to common interest communities; Virginia Real Estate Time-Share Act.

[S 584]

Approved April 9, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 55.1-2200, 55.1-2201, 55.1-2217, 55.1-2219, 55.1-2238, 55.1-2239, 55.1-2241, 55.1-2242, 55.1-2243, and 55.1-2247 of the Code of Virginia are amended and reenacted as follows:

§ 55.1-2200. Definitions.

As used in this chapter, or in a time-share instrument, unless the context requires a different meaning:

"Additional land" means all land that a time-share developer has identified as land that may be added to a time-share project.

"Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the person specified.

"Alternative purchase" means anything valued in excess of \$100 that is offered to a potential purchaser by the developer during the developer's sales presentation and that is purchased by such potential purchaser for more than \$100, even though the purchaser did not purchase a time-share. An alternative purchase is not a time-share. A membership camping contract as defined in § 59.1-313 is not an alternative purchase. An alternative purchase shall be registered with the Board unless it is otherwise registered as a travel service under the Virginia Travel Club Act (§ 59.1-445 et seq.) and shall include vacation packages, however denominated, and exit programs, however denominated.

"Association" means the association organized under the provisions of § 55.1-2209.

"Board" means the Common Interest Community Board.

"Board of directors" means an executive and administrative entity, by whatever name denominated, designated in a time-share instrument as the governing body of the time-share estate owners' association.

"Common elements" means the real estate, improvements on such real estate, and the personalty situated within the time-share project that are subject to the time-share program. "Common elements" does not include the units and the time-shares.

"Consumer documents" means the aggregate of the following documents: the reverter deed, the note, the deed of trust, and any document that is to be provided to consumers in connection with an offering.

"Contact information" means any information that can be used to contact an owner, including the owner's name, address, telephone number, email address, or user identity on any electronic networking service.

"Contract," "sales contract," "purchase contract," "contract of purchase," or "contract to purchase," which shall be interchangeable throughout this chapter, means any legally binding instrument executed by the developer and a purchaser by which the developer is obligated to sell and the purchaser is obligated to purchase either a time-share and its incidental benefits or an alternative purchase registered under this chapter.

"Conversion time-share project" means a real estate improvement that, prior to the disposition of any time-share, was wholly or partially occupied by persons as their permanent residence or on a transient pay-as-you-go basis other than those who have contracted for the purchase of a time-share and those who occupy with the consent of such purchasers.

"Cost of ownership" means all of the owner's expenses related to a resale time-share due between the date of a resale transfer contract and the transfer of the resale time-share.

"Deed" means the instrument by which title to a time-share estate is transferred from one person to another person.

"Deed of trust" means the instrument conveying the time-share estate that is given as security for the payment of the note.

"Default" means either a failure to have made any payment in full and on time or a violation of a performance obligation required by a consumer document for a period of no less than 60 days.

"Developer" means any person or group of persons acting in concert that (i) offers to dispose of a time-share or its interest in a time-share unit for which there has not been a previous disposition or (ii) applies for registration of the time-share program.

"Developer control period" means a period of time during which the developer or a managing agent selected by the developer manages and controls the time-share project and the common elements and units it comprises.

"Development right" means any right reserved by the developer to create additional units that may be dedicated to the time-share program.

"Dispose" or "disposition" means a transfer of a legal or equitable interest in a time-share, other than a transfer or release of security for a debt.

"Exchange agent" or "exchange company" means a person that exchanges or offers to exchange time-shares in an exchange program with other time-shares.

"Exchange program" means any opportunity or procedure for the assignment or exchange of time-shares among owners in other time-share programs as evidenced by a past or present written agreement executed between an exchange company and the developer or the time-share estate association; however, an "exchange program" shall not be either an incidental benefit or an opportunity or procedure by which a time-share owner can exchange his time-share for another time-share within either the same time-share *project* or another time-share project owned in part by the developer.

"Guest" means (i) a person who is on the project, additional land, or development at the request of an owner, developer, association, or managing agent or (ii) a person otherwise legally entitled to be on such project, additional land, or development. "Guest" includes family members of owners; time-share exchange participants; merchants, purveyors, or vendors; and employees of such merchants, purveyors, and vendors; the developer; or the association.

"Incidental benefit" means anything valued in excess of \$100 provided by the developer that is acquired by a purchaser upon acquisition of a time-share and includes exchange rights, travel insurance, bonus weeks, upgrade entitlements, travel coupons, referral awards, and golf and tennis packages. An incidental benefit is not a time-share or an exchange program. An incidental benefit shall not be registered with the Board.

"Inherent risks of project activity" means those dangers or conditions that are an integral part of a project activity, including certain hazards, such as surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in association or time-share *project* operations. "Inherent risks of project activity" also includes the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the project professional or failing to exercise reasonable caution while engaging in the project activity.

"Lead dealer" means a person that sells or otherwise provides to any other person contact information concerning five or more owners to be used for a resale service. "Lead dealer" does not mean developers, managing entities, or exchange companies to the extent that such entities are providing other persons with personal contact information about time-share owners in their own time-share ~~plans~~ *programs* or members of their own exchange program.

"Lien holder" means either a person that holds an interest in an encumbrance that is not released of record as to a purchaser or such person's successor in interest that acquires title to the time-share project at foreclosure, by deed in lieu of foreclosure, or by any other instrument however denominated.

"Managing agent" means a person that undertakes the duties, responsibilities, and obligations of the management of a time-share project.

"Managing entity" means the managing agent or, if there is no managing agent, the time-share owners' association in a time-share estate project and the developer in a time-share use project.

"Material change" means a change in any information or document disclosed in or attached to the public offering statement that renders inaccurate, incomplete, or misleading any information or document in such a way as to affect substantially a purchaser's rights or obligations, but does not include a change (i) in the real estate tax assessment or rate, utility charges or deposits, maintenance fees, association dues, assessments, special assessments, or any recurring time-share expense item, provided that such change is made known (a) immediately to the prospective purchaser by a written addendum in the public offering statement and (b) to the Board by filing with the developer's annual report copies of the updated changes occurring over the immediately preceding 12 months; (ii) that is an aspect or result of the orderly development of the time-share project in accordance with the time-share instrument; (iii) resulting from new, updated, or amended information contained in the annual report prepared and distributed pursuant to § 55.1-2213; (iv) correcting spelling, grammar, omissions, or other similar errors not affecting the substance of the public offering statement; or (v) occurring in the issuance of an exchange company's updated annual report or disclosure document, provided that, upon its receipt by the developer, it shall be distributed in lieu of all others in order to satisfy § 55.1-2217.

"Note" means the instrument that evidences the debt occasioned by the deferred purchase of a time-share.

"Offering" or "offer" means any act that originates in the Commonwealth to sell, solicit, induce, or advertise, whether by radio, television, telephone, newspaper, magazine, or mail, during which a person is given an opportunity to acquire a time-share.

"Participant" means any person, other than a project professional, that engages in a project activity.

"Person" means one or more natural persons, corporations, partnerships, associations, trustees of a trust, limited liability companies, or other entities, or any combination thereof, capable of holding title to real property.

"Possibility of reverter" means a provision contained in a reverter deed by which the time-share estate automatically reverts or transfers back to the developer upon satisfaction of the requirements imposed by § 55.1-2222.

"Product" means each time-share and its incidental benefits program and all alternative purchases that are registered with the Board pursuant to this chapter.

"Project activity" means any activity carried out or conducted on a common element, within a time-share unit or elsewhere in the project, additional land, or development, that allows owners, their guests, and members of the general public to view, observe, participate, or enjoy activities. "Project activity" includes swimming pools, spas, sporting venues, and cultural, historical, or harvest-your-own activities; other amenities and events; or natural activities and attractions for recreational, entertainment, educational, or social purposes. Such activity is a project activity whether or not the participant paid to participate in the activity.

"Project professional" means any person that is engaged in the business of providing one or more project activities, whether or not for compensation. For the purposes of this definition, the developer, association, and managing entity shall each be deemed a project professional.

"Public offering statement" means the statement required by § 55.1-2217.

"Purchaser" means any person other than a developer or lender that owns or acquires a product or that otherwise enters into a contract for the purchase of a product.

"Resale cost of ownership" means all of the owner's expenses related to a resale time-share due between the date of a resale transfer contract and the transfer of such resale time-share.

"Resale purchase contract" means an agreement negotiated by a reseller by which an owner or a reseller agrees to sell, and a subsequent purchaser agrees to buy, a resale time-share.

"Resale service" means engaging, directly or indirectly, for compensation, in any of the following either in person or by any medium of communication: (i) selling or offering to sell or list for sale for the owner a resale time-share, (ii) buying or offering to buy a resale time-share for transfer to a subsequent purchaser, (iii) transferring a resale time-share acquired from an owner to a subsequent purchaser or offering to assist in such transfer, (iv) invalidating or offering to invalidate for an owner the title of a resale time-share, or (v) advertising or soliciting to advertise or promote the transfer or invalidation of a resale time-share. Resale service does not include an individual's selling or offering to sell his own time-share unit.

"Resale time-share" means a time-share, wherever located, that has previously been sold to an owner who is a natural person for personal, family, or household use and that is transferred, or is intended to be transferred, through a resale service.

"Resale transfer contract" means an agreement between a reseller and the owner by which the reseller agrees to transfer or assist in the transfer of the owner's resale time-share.

"Reseller" means any person who, directly or indirectly, engages in a resale service.

"Reverter deed" means the deed from a developer to a grantee that contains a possibility of reverter.

"Sales person" means a person who sells or offers to sell time-share interests in a time-share program.

"Situs" means the place outside the Commonwealth where a developer's time-share project is located.

"Subsequent purchaser" means the purchaser or transferee of a resale time-share.

"Time-share" means either a time-share estate or a time-share use plus its incidental benefits.

"Time-share estate" means a right to occupy a *time-share* unit or any of several *time-share* units during five or more separated time periods over a period of at least five years, including renewal options, coupled with a freehold estate or an estate for years in a *one or more* time-share project units or a specified portion of such time-share project units.

"Time-share estate occupancy expense" means all costs and expenses incurred in (i) the formation, organization, operation, and administration, including capital contributions thereto, of the association and both its board of directors and its members and (ii) all owners' use and occupancy of the time-share estate project, including without limitation its completed and occupied time-share estate units and common elements available for use. Such costs and expenses include maintenance and housekeeping charges; repairs; refurbishing costs; insurance premiums, including the premium for comprehensive general liability insurance required by subdivision 8 of § 55.1-2209; taxes; properly allocated labor, operational, and overhead costs; general and administrative expenses; the managing agent's fee; utility charges and deposits; the cost of periodic repair and replacement of walls and window treatments and furnishings, including furniture and appliances; filing fees and annual registration charges of the State Corporation Commission and the Board; attorney fees and accountant charges; and reserves for any of the foregoing.

"Time-share estate subject to reverter" means a time-share estate (i) entitling the holder thereof to occupy units not more than four weeks in any one-year period and (ii) for which the down payment is not more than 20 percent of the total purchase price of the time-share estate.

"Time-share expense" means (i) expenditures, fees, charges, or liabilities incurred with respect to the operation, maintenance, administration, or insuring of the time-shares, units, and common elements comprising the entire time-share project, whether or not incurred for the repair, renovation, upgrade,

refurbishing, or capital improvements, and (ii) any allocations of reserves.

"Time-share instrument" or "project instrument" means any document, however denominated, that creates the time-share project and program and that may contain restrictions or covenants regulating the use, occupancy, or disposition of time-shares in a project.

"Time-share owner" or "owner" means a person that is an owner or co-owner of a time-share other than as security for an obligation.

"Time-share program" or "program" means any arrangement of time-shares in one or more time-share projects by which the use, occupancy, or possession of real property has been made subject to either a time-share estate or time-share use in which such use, occupancy, or possession circulates among owners of the time-shares according to a fixed or floating time schedule on a periodic basis occurring over any period of time in excess of five years.

"Time-share project" or "project" means all of the real property subject to a time-share program created by the execution of a time-share instrument.

"Time-share unit" or "unit" means the real property or real property improvement in a project that is divided into time-shares and designated for separate occupancy and use.

"Time-share use" means a right to occupy a time-share unit or any of several time-share units during five or more separated time periods over a period of at least five years, including renewal options, not coupled with a freehold estate or an estate for years in a time-share project or a specified portion of such time-share project. ~~"Time-share use" does not mean a right to use that is subject to a first-come, first-served, space-available basis as might exist in a country club, motel, hotel, health spa, campground, or membership or resort facility.~~

"Transfer" means a voluntary conveyance of a resale time-share to a person other than the developer, association, or managing entity of the time-share program of which the resale time-share is a part or to a person taking ownership by gift, foreclosure, or deed in lieu of foreclosure.

§ 55.1-2201. Applicability.

A. This chapter shall have exclusive jurisdiction and shall apply to any product offering or disposition made within the Commonwealth after July 1, 1985, in a time-share project located within the Commonwealth. Sections 55.1-2200, 55.1-2201, 55.1-2202, 55.1-2203, 55.1-2204, 55.1-2206, 55.1-2210, 55.1-2211, 55.1-2213, 55.1-2215, 55.1-2216, 55.1-2220, 55.1-2227, 55.1-2229, 55.1-2230, 55.1-2232, 55.1-2233, 55.1-2237, and 55.1-2252 shall apply to a time-share project within the Commonwealth that was created prior to July 1, 1985.

B. This chapter shall not affect rights or obligations created by preexisting provisions of any time-share instrument that transfers an estate or interest in real property.

C. This chapter shall apply to any product offering or disposition in a time-share project located outside the Commonwealth and offered for sale in the Commonwealth with the exception that Articles 2 (§ 55.1-2207 et seq.), 3 (§ 55.1-2217 et seq.), and 4 (§ 55.1-2235 et seq.) shall apply only to the extent permitted by the laws of the situs.

D. This chapter shall apply to any product offering or disposition in a time-share program, and offered for sale in the Commonwealth, created under a situs time-sharing law in which the time-share interests in the time-share program are either direct or indirect beneficial interests in a trust created pursuant to the situs time-sharing law or other applicable law of the situs.

§ 55.1-2217. Public offering statement.

A. Prior to the execution of a contract for the purchase of a time-share, the developer shall prepare and distribute to each prospective purchaser a copy of the current public offering statement regarding the time-share *program*. The public offering statement shall (i) fully and accurately disclose the material characteristics of the time-share ~~project program~~ registered under this chapter and such time-share offered and (ii) make known to each prospective purchaser all material circumstances affecting such time-share ~~project program~~. A developer need not make joint disclosures concerning two or more time-share projects owned by the developer or any related entity unless such projects are included in the same time-share program and marketed jointly at any of the time-share projects. The proposed public offering statement shall be filed with the Board and shall be in a form prescribed by its regulations. The public offering statement may limit the information provided for the specific time-share project to which the developer's registration relates. The public offering statement shall include the following only to the extent that a given disclosure is applicable:

1. The name and principal address of the developer ~~and the time-share project registered with the Board about which the public offering statement relates~~, including:

a. The name, principal occupation, and address of every director, partner, limited liability company manager, or trustee of the developer;

b. The name and address of each person owning or controlling an interest of 20 percent or more in each time-share project ~~registered with the Board~~ *included in the registration*;

c. The particulars of any indictment, conviction, judgment, or order of any court or administrative agency against the developer or managing entity for violation of a federal, state, local, or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements, or any similar or related

activity;

d. The nature of each unsatisfied judgment, if any, against the developer or the managing entity, the status of each pending action involving the sale or management of real estate to which the developer, the managing entity, or any general partner, executive officer, director, limited liability company manager, or majority stockholder thereof is a defending party, and the status of each pending action, if any, of significance to any time-share project ~~registered with the Board~~ *included in the registration*; and

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

2. A general description of the time-share ~~project~~ *projects included in the time-share program registered with the Board* ~~and~~ *The description shall include the address of each time-share project, the units, and common elements for each project* promised available to purchasers, including the developer's estimated schedule of commencement and completion of all promised and incomplete *time-share* units and common elements.

3. As to all time-shares offered by the developer:

a. The form of time-share ownership offered in the ~~project registered with the Board~~ *time-share program*;

b. The types, duration, and number of units and time-shares in the ~~project registered with the Board~~ *time-share program*;

c. Identification of *time-share* units that are subject to the time-share program;

d. The estimated number of *time-share* units that may become subject to the time-share program;

e. Provisions, if any, that have been made for public utilities in the time-share project including water, electricity, telephone, and sewerage facilities;

f. A statement to the effect of whether or not the developer has reserved the right to add to or delete from the time-share program a time-share project or any incidental benefit ~~or alternative purchase~~; and

g. If the developer utilizes the possibility of reverter, a statement to that effect referring the purchaser to the reverter deed for an explanation of such possibility of reverter.

4. In a time-share estate program, a copy of the annual report or budget required by § 55.1-2213, which copy may take the form of an exhibit to the public offering statement. In the case where multiple time-share projects are ~~registered with the Board~~ *included in the time-share program*, the copy or exhibit may be in summary form.

5. In a time-share use program where the developer's net worth is no more than \$250,000, a current audited balance sheet and, where the developer's net worth exceeds such amount, a statement by such developer that its equity in the time-share program exceeds that amount.

6. Any initial or special fee due from the purchaser at settlement together with a description of the purpose and method of calculating the fee.

7. A description of any liens, defects, or encumbrances affecting the time-share project and in particular the time-share offered to the purchaser.

8. A general description of any financing offered by or available through the developer.

9. A statement that the purchaser has a nonwaivable right of cancellation, referring such purchaser to that portion of the contract in which such right may be found.

10. If the time-share interest in a condominium unit may be conveyed before that *condominium* unit is certified as substantially complete in accordance with § 55.1-1920, a statement of the developer's obligation to complete the *condominium* unit. Such statement shall include the approximate date by which the condominium unit shall be completed, together with the form and amount of the bond filed in accordance with subsection B of § 55.1-1921.

11. Any restraints on alienation of any number or portion of any time-shares.

12. A description of the insurance coverage provided for the benefit of time-share owners.

13. The extent to which financial arrangements, if any, have been provided for completion of any incomplete but promised time-share unit or common element being then offered for sale, including a statement of the developer's obligation to complete the promised units and common elements that the time-share project comprises that have not begun or that have begun but have not yet been completed.

14. The extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit.

15. The name and address of the managing entity for ~~the~~ *each project in the time-share program*.

16. Copies of the ~~project~~ *time-share* instrument and the association's articles of incorporation and bylaws, each of which may be a supplement to the public offering statement.

17. Any services that the developer provides or expense it pays and that it expects may become at any subsequent time a time-share expense of the owners, and the projected time-share expense liability attributable to each of those services or expenses for each time-share.

18. A description of the terms of the deposit escrow requirements, including a statement that deposits may be removed from escrow at the termination of the cancellation period.

19. A description of the facilities, if any, provided by the developer to the association in a time-share estate project for the management of the project.

20. Any other information required by the Board to assure full and fair meaningful disclosure to prospective purchasers.

B. If any prospective purchaser is offered the opportunity to subscribe to or participate in any exchange program, the public offering statement shall include, as an exhibit or supplement, the disclosure document prepared by the exchange company in accordance with § 55.1-2219 and a brief narrative description of the exchange program, which shall include the following:

1. A statement of whether membership or participation in the program is voluntary or mandatory;
2. The name and address of the exchange company together with the names of its top three officers and directors;
3. A statement of whether the exchange company or any of its top three officers, directors, or holders of a 10 percent or greater interest in the exchange company has any interest in the developer, the managing entity, or the time-share ~~project~~ program;
4. A statement that the purchaser's contract with the exchange company is a contract separate and distinct from the purchaser's contract with the developer; and
5. A brief narrative description of the procedure by which exchanges are conducted.

C. The public offering statement of a conversion time-share project shall also include the following, which may take the form of an exhibit to the public offering statement:

1. A specific statement of the amount of any initial or special fee, if any, due from the purchaser of a time-share on or before settlement of the purchase contract and the basis of such fee occasioned by the fact that the project is a conversion time-share project;
2. Information on the actual expenditures, if available, made on all repairs, maintenance, operation, or upkeep of any building in the *time-share* project within the last three years. This information shall be set forth in a tabular manner within the proposed budget of the project. If any such building has not been occupied for a period of three years, the information shall be set forth for the period during which such building was occupied;
3. A description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves occasioned by the fact that the project is a conversion time-share project, or, if no provision is made for such reserves, a statement to that effect; and
4. A statement of the present condition of all structural components and major utility installations in the building, which statement shall include the approximate dates of construction, installations, and major repairs as well as the expected useful life of each such item, together with the estimated cost, in current dollars, of replacing each such component.

D. In the case of a conversion *time-share* project, the developer shall give at least 90 days' notice to each of the tenants of any building that the developer intends to submit to the provisions of this chapter. During the first 60 days of such 90-day period, each of these tenants shall have the exclusive right to contract for the purchase of a time-share from the unit he occupies, but only if such unit is to be retained in the conversion *time-share* project without substantial alteration in its physical layout. Such notice shall be hand delivered or sent by first-class mail, return receipt requested, and shall inform the tenants of the developer's intent to create a conversion *time-share* project. Such notice may also constitute the notice to terminate the tenancy as provided for in § 55.1-1410, except that, despite the provisions of § 55.1-1410, a tenancy from month to month may only be terminated upon 120 days' notice as set forth in this subsection when such termination is in regard to the creation of a conversion *time-share* project. If, however, a tenant so notified remains in possession of the unit he occupies after the expiration of the 120-day period with the permission of the developer, in order to then terminate the tenancy, such developer shall give the tenant a further notice as provided in § 55.1-1410.

The developer of a conversion *time-share* project shall, in addition to the requirements of § 55.1-2239, include with the application for registration a copy of the notice required by this subsection and a certified statement that such notice that fully complies with the provisions of this subsection shall be, at the time of the registration of the conversion project, mailed or delivered to each of the tenants in any building for which registration is sought.

E. The developer shall amend the public offering statement to reflect any material change in the time-share program or ~~time-share project~~. If the developer has reserved in the time-share instrument the right to add to or delete incidental benefits or alternative purchases, the addition or deletion of such benefits or purchases shall not constitute a material change. Prior to distribution, the developer shall file with the Board the public offering statement amended to reflect any material change.

F. The Board may at any time require a developer to alter or supplement the form or substance of the public offering statement to assure full and fair disclosure to prospective purchasers. A developer may prepare and distribute a public offering statement for each ~~product~~ *time-share program* offered or one public offering statement for all ~~products~~ *time-share programs* offered.

G. *The developer shall amend the public offering statement to reflect any addition of a time-share project to, or removal of a time-share project from, the existing time-share program.*

H. In the case of a time-share project located outside the Commonwealth, (i) ~~the developer may amend the public offering statement to reflect any additions or deletions of a time-share project to the existing time-share program registered in the Commonwealth and~~ (ii) similar disclosure statements required by other situs laws governing time-sharing may be ~~acceptable alternative disclosure statements accepted by the Board as alternative disclosure statements to satisfy the requirements of this section.~~

H. I. The public offering statement may be in any format, including any electronic format, provided that the prospective buyer has available for review, along with ample time for any questions and answers, a copy of the public offering statement prior to his execution of a contract.

§ 55.1-2219. Exchange programs.

A. Any exchange company that offers an exchange program in the Commonwealth shall prepare and register with the Board a disclosure document including the following:

1. The name and address of the exchange company;
2. The names and addresses of the top three officers and all directors of the exchange company and, if the exchange company is privately held, all shareholders owning five percent or more interest in the exchange company;
3. Whether the exchange company or any of its officers or directors has any legal or beneficial interest in any developer or managing agent for any time-share program participating in the exchange program and, if so, the name and location of the time-share project and the nature of the interest;
4. Unless the exchange company is also the developer or an affiliate, a statement that the purchaser's contract with the exchange company is a contract separate and distinct from the sales contract;
5. Whether the purchaser's participation in the exchange program is dependent upon the continued affiliation of the time-share project program with the exchange program;
6. Whether the purchaser's membership or participation, or both, in the exchange program is voluntary or mandatory;
7. A complete and accurate description of the terms and conditions of the purchaser's contractual relationship with the exchange company and the procedure by which changes in the terms and conditions of the exchange contract may be made;
8. A complete and accurate description of the procedure to qualify for and effectuate exchanges;
9. A complete and accurate description of all limitations, restrictions, or priorities employed in the operation of the exchange program, including limitations on exchanges based on seasonality, *time-share* unit size, or levels of occupancy, expressed in boldface type, and, in the event that such limitations, restrictions, or priorities are not uniformly applied by the exchange program, a clear description of the manner in which they are applied;
10. Whether exchanges are arranged on a space available basis and whether any guarantees of fulfillment of specific requests for exchanges are made by the exchange program;
11. Whether and under what circumstances an owner, in dealing with the exchange company, may lose the use of occupancy of his time-share in any properly-applied-for exchange, without being provided with substitute accommodations by the exchange company;
12. The fees or range of fees for participation by *time-share* owners in the exchange program, a statement of whether any such fees may be altered by the exchange company, and the circumstances under which alterations may be made;
13. The name and address of the site of each time-share property project, accommodation, or facility participating in the exchange program;
14. The number of *time-share* units in each property participating in the exchange program that are available for occupancy and that qualify for participation in the exchange program, expressed within the following numerical groupings: 1-5, 6-10, 11-20, 21-50, and 51 and over;
15. The number of owners with respect to each time-share program or other property who are eligible to participate in the exchange program, expressed within the numerical groupings 1-100, 101-249, 250-499, 500-999, and 1,000 and over, and a statement of the criteria used to determine those owners currently eligible to participate in the exchange program;
16. The disposition made by the exchange company of time-shares deposited with the exchange program by owners eligible to participate in the exchange program and not used by the exchange company in effecting exchanges;
17. The following information, which, except as provided in subsection B, shall be independently audited by a certified public accountant or accounting firm in accordance with the standards of the Auditing Standards Board of the American Institute of Certified Public Accountants and reported for each year no later than July 1 of the succeeding year:
 - a. The number of owners enrolled in the exchange program. Such numbers shall disclose the relationship between the exchange company and owners as being either fee paying or gratuitous in nature;
 - b. The number of time-share properties projects, accommodations, or facilities eligible to participate in the exchange program;
 - c. The percentage of confirmed exchanges, which shall be the number of exchanges confirmed by the exchange company divided by the number of exchanges properly applied for, together with a complete and accurate statement of the criteria used to determine whether an exchange request was properly applied for;
 - d. The number of time-shares for which the exchange company has an outstanding obligation to provide an exchange to an owner who relinquished a time-share during the year in exchange for a time-share in any future year; and

e. The number of exchanges confirmed by the exchange company during the year.

18. A statement in boldface type to the effect that the percentage described in subdivision 17 c is a summary of the exchange requests entered with the exchange company in the period reported and that the percentage does not indicate a purchaser's or owner's probabilities of being confirmed to any specific choice or range of choices, since availability at individual locations may vary.

B. The information required by subsection A shall be accurate as of a date that is no more than 30 days prior to the date on which the information is delivered to the purchaser, except that the information required by subdivisions A 2, 12, 13, 14, 15, and 16 shall be accurate as of December 31 of the preceding year if the information is delivered between July 1 and December 31 of any year; information delivered between January 1 and June 30 of any year shall be accurate as of December 31 of the year prior to the preceding year. At no time shall such information be accurate as of a date that is more than 18 months prior to the date of delivery. As used in this section, "year" means calendar year.

C. In the event that an exchange company offers an exchange program directly to the purchaser, the exchange company shall deliver to such purchaser, simultaneously with such offering and prior to the execution of any contract between the purchaser and the exchange company, the information set forth in subsection A. The requirements of this subsection shall not apply to any renewal of a contract between a purchaser and an exchange company.

D. Each exchange company shall include the statement set forth in subdivision A 18 on all promotional brochures, pamphlets, advertisements, or other materials disseminated by the exchange company that also contain the percentage of confirmed exchanges described in subdivision A 17 c.

E. An exchange company shall, on or before July 1 of each year, file with the Board and the association for the time-share program in which the time-shares are offered or disposed the information required by this section with respect to the preceding year. If the Board determines that any of the information supplied fails to meet the requirements of this section, the Board may undertake enforcement action against the exchange company in accordance with the provisions of Article 6 (§ 55.1-2247 et seq.). No developer shall have any liability arising out of the use, delivery, or publication by the developer of written information provided to it by the exchange company pursuant to this section. Except for written information provided to the developer by the exchange company, no exchange company shall have any liability with respect to (i) any representation made by the developer relating to the exchange program or exchange company or (ii) the use, delivery, or publication by the developer of any information relating to the exchange program or exchange company. The failure of the exchange company to observe the requirements of this section, or the use by it of any unfair or deceptive act or practice in connection with the operation of the exchange program, shall be a violation of this section.

F. The Board may establish by regulation reasonable fees for registration of the exchange company disclosure document program. All fees shall be remitted by the Board to the State Treasurer and shall be placed to the credit of the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2.

§ 55.1-2238. Registration of time-share program required.

A. A developer may not offer or dispose of any interest in a time-share program unless the time-share project and its program have been properly registered with the Board. A developer may accept a nonbinding reservation together with a deposit if the deposit is placed in an escrow account with an institution having trust powers within the Commonwealth and is refundable at any time at the purchaser's option. In all cases, the reservation shall require a subsequent affirmative act by the purchaser via a separate instrument to create a binding obligation. A developer may not dispose of or transfer a time-share while an order revoking or suspending the registration of the time-share program is in effect. ~~In the case of a time-share project located outside the Commonwealth and properly registered in the situs, the Board may accept a substitute application for registration.~~

B. The developer shall maintain records of names and addresses of current independent contractors employed by it for time-share sales purposes.

§ 55.1-2239. Application for registration.

A. The application for registration shall be filed in a form prescribed by the Board's regulations and shall include the following:

1. An irrevocable appointment to the Board to receive service of process in any proceeding arising under this chapter against the developer or the developer's agent if nonresidents of the Commonwealth;

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

3. The applicant's name, address, and the organizational form, including the date and jurisdiction under which the applicant was organized, and the address of its principal office and each of its sales offices in the Commonwealth;

4. The name, address, and principal occupation for the past five years of every officer of the applicant or person occupying a similar status or performing similar functions and the extent and nature of his interest in the applicant or the time-share project program as of a specified date within 30 days of

the filing of the application;

5. A statement, in a form acceptable to the Board, of the condition of the title to ~~the~~ *each* time-share project *included in the time-share program*, including encumbrances as of a specified date within 30 days of the date of application, by a title opinion of a licensed attorney not a salaried employee, officer, or director of the applicant or owner, or by other evidence of a title acceptable to the Board;

6. A copy of the instruments that will be delivered to a purchaser ~~to evidence his interest in the time-share~~ and copies of the contracts and other agreements that a purchaser will be required to agree or to sign;

7. A copy of any management agreements, employment contracts, or other contracts or agreements affecting the use, maintenance, or access of all or any part of the time-share ~~project program~~;

8. A statement of the zoning and other governmental regulations affecting the use of ~~the~~ *a* time-share project *in a time-share program*, including the site plans and building permits and their status and any existing tax and existing or proposed special taxes or assessments that affect the time-share;

9. A narrative description of the promotional plan for the disposition of the time-shares;

10. The proposed public offering statement and its exhibits;

11. Any bonds required to be posted pursuant to the provisions of this chapter;

12. The time-share *estate owners' association* annual report or budget required by § 55.1-2213 to the extent available;

13. A description of each ~~product the developer seeks to register with the Board~~ *the time-share program being submitted for registration*; and

14. Any other information that the Board believes necessary to assure full and fair disclosure.

B. The developer shall immediately report to the Board any material changes in the information contained in an application for registration.

C. Nothing shall prevent a developer from ~~registering with the Board~~ *including in the registration* a time-share project where construction is yet to begin or, if construction has begun, where construction is not yet complete.

§ 55.1-2241. Receipt of application; effectiveness of registration.

A. Upon receipt of the application for registration in proper form, the Board, within five business days, shall issue a notice of filing to the applicant. Within 20 days after receipt of the application, the Board shall review the application to determine whether the application and supporting documents satisfy the requirements of this chapter and the Board's regulations. Within 60 days from the date of the notice of filing, the Board shall enter an order registering or rejecting the application. If no order of rejection is entered within 60 days from the date of the notice of filing, the time-share ~~project program~~ shall be deemed registered unless the applicant has consented in writing to a delay.

B. If the Board determines after review of the application and documents provided by the applicant that the requirements of § 55.1-2239 have been met, it shall issue an order registering the time-share ~~project program~~ and shall designate the form of the public offering statement.

C. If the Board determines that any of the requirements of § 55.1-2239 have not been met, the Board shall notify the applicant that the application for registration shall be corrected in the particulars specified within 20 days. If the requirements are not met within the time allowed, the Board shall enter an order rejecting the registration, which shall include the findings of fact upon which the order is based. The order rejecting the registration shall become effective 20 days after issuance. During this 20-day period, the applicant may petition for reconsideration and shall be entitled to a hearing or to correct the particulars specified in the Board's notice. Such order of rejection shall not take effect, in any event, until such time as the hearing, if requested, is given to the applicant.

§ 55.1-2242. Annual report; amendments.

A. The developer shall file a report in the form prescribed by the Board's regulations by June 30 of each year the registration is effective. The developer of any time-share ~~project program~~ initially registered with the Board between January and June shall not be required to file an annual report for the year in which it was initially registered. The report shall reflect any material changes in information contained in the original application for registration or in the immediately preceding annual report, whichever is later, and shall be accompanied by the appropriate fee established by the Board's regulations or pursuant to § 55.1-2240.

B. During the developer control period in a time-share estate program, the developer shall file a copy of the unit owners' association annual report required by § 55.1-2213 along with the annual report required by this section.

C. The developer shall amend or supplement its registration with the Board to report any material change in the information required by §§ 55.1-2217 and 55.1-2239. Such amendments or supplemental information shall be filed with the Board within 20 business days after the occurrence of the material change.

§ 55.1-2243. Termination of registration.

A. In a time-share estate program, if the annual report indicates that the developer has transferred title to the time-share owners' association and that no further development rights exist, the Board shall issue an order terminating the registration of the time-share ~~project program~~.

B. The Board shall issue an order terminating the registration of a time-share ~~project~~ *program* upon application by the developer in which the developer states that no further development right ~~of the project~~ is anticipated and that the developer has ceased sales of time-shares ~~at the project in the time-share program~~.

C. Notwithstanding any other provisions of this chapter, the Board may administratively terminate the registration of a time-share ~~project~~ *program* if:

1. The developer has not filed an annual report in accordance with § 55.1-2242 for three or more consecutive years; or

2. The developer's registration with the State Corporation Commission, if applicable, has not been active for five or more consecutive years.

§ 55.1-2247. General powers and duties of Board.

A. The Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in furtherance of the objectives of this chapter. The Board may prescribe forms and procedures for submitting information to the Board.

B. The Board may accept grants in aid from any governmental source and may contract with agencies charged with similar functions in this or other jurisdictions, in furtherance of the objectives of this chapter.

C. The Board may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices and may develop information that may be useful in the discharge of the Board's duties.

D. 1. The Board may issue an order requiring the developer or reseller to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the Board will carry out the purposes of this chapter if it determines after legal notice and opportunity for hearing that a developer or reseller or an agent of a developer or reseller has:

a. Made any representation in any document or information filed with the Board that is false or misleading;

b. Engaged or is engaging in any unlawful act or practice;

c. Disseminated or caused to be disseminated orally, or in writing, any false or misleading promotional materials in connection with a time-share program;

d. Concealed, diverted, or disposed of any funds or assets of any person in a manner impairing rights of purchasers of time-shares in the time-share program;

e. Failed to perform any stipulation or agreement made to induce the Board to issue an order relating to that time-share program;

f. Otherwise violated any provision of this chapter or any of the Board's rules and regulations or orders; or

g. Disposed of any time-share in a ~~project~~ *time-share program* without first complying with the requirements of this chapter.

2. If the Board makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, as prescribed in subdivision 1, it may issue a temporary order to cease and desist or to take such affirmative action as may be deemed appropriate by the agency. Prior to issuing the temporary order, the Board shall give notice of the proposal to issue a temporary order to the developer or the reseller. Every temporary order shall include in its terms:

a. A provision clearly stating the reasons for issuing such order and the nature and extent of the facts and findings on which the order is based;

b. A provision that a failure to comply with such temporary order will be a violation of this chapter; and

c. A provision that upon request a hearing will be held promptly to determine whether or not the order shall become permanent.

The Board shall not issue more than one temporary order with reference to such finding of fact as prescribed in this subsection.

E. The Board may also issue a cease and desist order if the developer has not registered the time-share program as required by this chapter or if a reseller has not registered as required by this chapter.

F. The Board, after notice and hearing, may issue an order revoking the registration of the developer's time-share program or the registration of a reseller upon determination that such developer, reseller, or agent of such developer or reseller has failed to comply with a cease and desist order issued by the Board affecting the developer's time-share program or the reseller.

G. If it appears that any person has engaged, is engaging, or is about to engage in any act or practice in violation of this chapter or any of the Board's rules, regulations, or orders applicable to this chapter, the Board, without prior administrative proceedings, may bring an action in the circuit court of the county or city in which any portion of the time-share project is located to enjoin that act or practice or for other appropriate relief. The Board is not required to post a bond or prove that no adequate remedy at law exists.

H. Upon request of a time-share owner, the Board shall, in accordance with subsection B of § 55.1-2230, issue its determination whether compliance with § 55.1-2220 or 55.1-2234 has occurred.

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

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COMMON INTEREST COMMUNITY BOARD

Time-Share Regulations - SB 584 Conformance

Part 4 I

General

18VAC48-45-10. (Reserved.)

18VAC48-45-20. Definitions.

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

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

"Managing entity"

"Time-share use"

"Material change"

"Transfer"

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49 **18VAC48-45-40. ~~Time-share projects~~ Time-shares located outside of Virginia.**

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

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

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

63 D. This chapter shall apply to a contract for the disposition of a time-share located outside of
64 Virginia only to the extent permissible under the provisions of ~~subsection~~ subsections C and D of
65 § 55.1-2201 of the Code of Virginia.

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

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

72 Part II

73 General Application Requirements

74 **18VAC48-45-50. Application procedures.**

75 A developer seeking registration of a time-share ~~project~~ program or an alternative purchase,
76 an exchange company seeking registration of an exchange program, or a reseller seeking
77 registration in order to offer or provide resale services, all in accordance with the Virginia Real

78 Estate Time-Share Act, shall submit an application on the appropriate form provided by the board,
79 along with the appropriate fee specified in 18VAC48-45-70.

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

82 The receipt of an application and the deposit of fees by the board do not indicate approval or
83 acceptance of the application by the board.

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

88 Applications that are not complete within 12 months after receipt of the application in the
89 board's office will be purged, and a new application and fee must be submitted in order to be
90 reconsidered for registration.

91 **18VAC48-45-60. Review of application for registration, generally.**

92 A. Upon the review of the application for registration, if the requirements of this chapter have
93 not been met, the board shall notify the applicant.

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

96 C. At such time as the board affirmatively determines that the requirements of this chapter
97 have been met, the board shall issue the applicable registration.

98 D. Notwithstanding the provisions of 18VAC48-45-130 for a time-share ~~project~~ program
99 registration, ~~applicants who~~ applications that do not meet the requirements of this chapter may

100 be ~~approved~~ accepted following consideration by the board in accordance with the Administrative
101 Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

102 **18VAC48-45-70. Fees.**

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

106 B. Fees are as follows:

Time-share project <u>program</u> registration application	\$1,500
Time-share project <u>program</u> phase amendment filing	\$250
Time-share project <u>program</u> registration annual report	\$500
Alternative purchase registration application	\$100
Alternative purchase registration annual report	\$100
Exchange program registration application	\$1,000
Exchange program registration annual report	\$250
Time-share reseller registration application	\$250
Time-share reseller registration renewal	\$250
Time-share reseller registration reinstatement (includes a \$100 reinstatement fee in addition to the \$250 renewal fee)	\$350

107 Part IV

108 Application for Time-Share ~~Project~~ Program Registration

109 **18VAC48-45-100. Registration of time-share project and program. (Repealed.)**

110 ~~In accordance with § 55.1-2238 of the Code of Virginia, a developer offering or disposing of~~
111 ~~an interest in a time-share program must register the time-share project and its program with the~~
112 ~~board. For the purposes of this chapter as it relates to registration, the registration of a time-share~~
113 ~~project shall include the simultaneous registration of the time-share program.~~

114 **18VAC48-45-110. Prerequisites for registration of a time-share ~~project~~ program.**

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

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

120 2. The time-share instrument of any time-share project included in the time-share program
121 must be adequate to bring a time-share project and time-share program into existence
122 upon recordation. This subdivision does not apply to a time-share instrument that may be
123 recorded after the time-share project ~~has~~ and time-share program have been created.

124 3. The time-share instrument must include a statement detailing that the developer
125 reserves or does not reserve the right to add or delete any alternative purchase.

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

128 5. If the developer is a firm, it shall be organized as a business entity under the laws of
129 the Commonwealth of Virginia or otherwise authorized to transact business in Virginia.

130 Firms shall register any trade or fictitious names with the State Corporation Commission
131 in accordance with Chapter 5 of Title 59.1 (§ 59.1-69 et seq.) of the Code of Virginia before
132 submitting an application to the board.

133 **18VAC48-45-120. Review of application for registration of a time-share ~~project~~ program.**

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

136 B. Upon the review of the application for registration, if the requirements of § 55.1-2239 of the
137 Code of Virginia and this chapter have not been met, the board shall notify the applicant as
138 required by subsection C of § 55.1-2241 of the Code of Virginia.

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

143 D. An applicant may submit a written request for an informal conference in accordance with
144 § 2.2-4019 of the Code of Virginia at any time between receipt of a notification pursuant to
145 subsection B of this section and the effective date of the order of rejection entered pursuant to
146 subsection C of this section. A request for such proceeding shall be deemed a consent to delay
147 within the meaning of subsection A of § 55.1-2241 of the Code of Virginia.

148 E. The board shall receive and act upon corrections to the application for registration at any
149 time prior to the effective date of an order rejecting the registration. If the board determines after
150 review of the corrections that the requirements for registration have not been met, the board may
151 proceed with an informal conference in accordance with § 2.2-4019 of the Code of Virginia in
152 order to allow reconsideration of whether the requirements for registration are met. If the board
153 does not opt to proceed with an informal conference, the applicant may submit a written request
154 for an informal conference in accordance with § 2.2-4019 of the Code of Virginia in order to
155 reconsider whether the requirements for registration are met. If the board does not proceed with
156 an informal conference and no request for an informal conference is received from the applicant,
157 an amended order of rejection stating the factual basis for the rejection shall be issued. A new
158 20-day period for the order of rejection to become effective shall commence.

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

162 **18VAC48-45-130. Minimum application requirements for registration of a time-share**
163 **project program.**

164 A. The documents and information contained in §§ 55.1-2208, 55.1-2209, 55.1-2210, 55.1-
165 2214, 55.1-2217, and 55.1-2239 of the Code of Virginia, as applicable, shall be included in the
166 application for registration of a time-share project program.

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

169 C. The following documents shall be included in the application for registration of a time-share
170 project program as exhibits. All exhibits shall be labeled as indicated and submitted in a format
171 acceptable to the board.

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

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

177 3. Exhibit C: A copy of the title opinion, the title policy, or a statement of the condition of
178 the title to ~~the~~ each time-share project included in the time-share program including
179 encumbrances as of a specified date within 30 days of the date of application by a title
180 company or licensed attorney who is not a salaried employee, officer, or director of the
181 developer or owner, in accordance with subdivision A 5 of § 55.1-2239 of the Code of
182 Virginia. If the developer is not the record owner of the land, a copy of any contract the

183 developer has executed to purchase the land, any option the developer holds for the
184 purchase of the land, or any lease under which the developer holds the land.

185 4. Exhibit D: Proof that the applicant or developer owns or has the right to acquire an
186 estate in the land constituting or to constitute ~~the~~ each time-share project included in the
187 time-share program, which is of at least as great a degree and duration as the estate to
188 be conveyed in the time-share.

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

194 6. Exhibit F: A copy of the time-share instrument, including all applicable amendments and
195 exhibits, that will be delivered to a purchaser ~~to evidence the purchaser's interest in the~~
196 ~~time-share~~ and copies of the contracts and other agreements that a purchaser will be
197 required to agree to or sign.

198 7. Exhibit G: A narrative description of the promotional plan for the disposition of the time-
199 shares.

200 8. Exhibit H: A copy of the proposed public offering statement that complies with § 55.1-
201 2217 of the Code of Virginia and this chapter. Pursuant to subsection ~~G~~ H of § 55.1-2217,
202 a similar disclosure statement required by other situs laws governing time-sharing may be
203 submitted for a time-share located outside of the Commonwealth.

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

207 10. Exhibit J: The signed original of (i) any bond or letter of credit obtained pursuant to
208 § 55.1-2220 of the Code of Virginia in lieu of escrowing deposits and (ii) any bond or letter
209 of credit required by subsection B of § 55.1-2234 of the Code of Virginia, as applicable.

210 11. Exhibit K: A copy of any management agreements and other contracts or agreements
211 affecting the overall use, maintenance, management, or access of all or any part of the
212 time-share ~~project~~ program.

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

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

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

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

231 16. Exhibit P: ~~Conversion time-share projects must attach~~ For any time-share program
232 containing a conversion time-share project, a copy of the notice required by subsection D
233 of § 55.1-2217 of the Code of Virginia and a certified statement that such notice shall be
234 mailed or delivered to each of the tenants in the building or buildings ~~for which the~~
235 ~~registration is sought at the time of the registration of the conversion project~~ of each
236 conversion time-share project included in the time-share program.

237 Part V

238 Public Offering Statement

239 **18VAC48-45-140. Public offering statement requirements, generally.**

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

242 1. The public offering statement shall provide full and accurate disclosure in accordance
243 with 18VAC48-45-150.

244 2. The public offering statement shall pertain to the time-share ~~project~~ program in which
245 the time-shares being offered ~~are located~~.

246 3. The public offering statement shall be clear, organized, and legible.

247 4. Except for brief excerpts, the public offering statement may refer to, but should not
248 incorporate verbatim, portions of the time-share instruments, the Virginia Real Estate
249 Time-Share Act, or this chapter. This does not preclude compliance with 18VAC48-45-
250 170.

251 **18VAC48-45-160. Contents of public offering statement.**

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

253 B. The developer may include as part of the public offering statement a receipt page printed
254 in such a way that the developer may obtain verification that a prospective purchaser has received
255 the public offering statement. The receipt page shall include the effective date of the public offering
256 statement as well as a place for the date of delivery and signature lines for the prospective
257 purchaser. The authorized receipt page in proper form, duly executed, shall be evidence that the
258 public offering statement was delivered.

259 C. The first page of the public offering statement shall be substantially as follows:

260 **PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S**

261 **PROTECTION**

PUBLIC OFFERING STATEMENT

NAME OF
TIME-SHARE
PROJECT
PROGRAM:

LOCATION
OF TIME-
SHARE
PROJECT:

NAME OF
DEVELOPER

:

ADDRESS
OF
DEVELOPER

:

EFFECTIVE
DATE OF
PUBLIC
OFFERING
STATEMENT

:

REVISED:

262 **THE PURCHASER OF A TIME-SHARE MAY CANCEL THE CONTRACT UNTIL MIDNIGHT**
263 **OF THE SEVENTH CALENDAR DAY FOLLOWING THE EXECUTION OF SUCH CONTRACT.**

264 THE PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S OWN
265 PROTECTION.

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

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

278 The Public Offering Statement summarizes information and documents furnished by the
279 developer to the Virginia Common Interest Community Board. The Board has carefully reviewed
280 the Public Offering Statement but does not guarantee the accuracy or completeness of the Public
281 Offering Statement. In the event of any inconsistency between the Public Offering Statement and
282 the material it is intended to summarize, the material shall control.

283 If the Purchaser elects to cancel the contract within the seven-day cancellation period, all
284 payments made in connection with the purchase contract shall be refunded to the Purchaser
285 within 45 days. If the Purchaser elects to cancel the contract, the Purchaser shall do so either by
286 (i) hand-delivering the notice to the developer at its principal office or at the project or (ii) mailing
287 the notice by certified United States mail, return receipt requested, to the developer or its agent
288 designated in the contract.

289 Allegations of violation of any law or regulation contained in the Virginia Real Estate Time-
290 Share Act or the Time-Share Regulations (18VAC48-45) should be reported to the Common
291 Interest Community Board, Perimeter Center, Suite 400, 9960 Mayland Drive, Richmond, Virginia
292 23233.

293 D. A summary of important considerations shall immediately follow the first page for the
294 purpose of reinforcing the disclosure of significant information. The summary shall be titled as
295 such and shall be introduced by the following statement: "The following are important matters to
296 be considered in acquiring a time-share. They are highlights only. The Public Offering Statement
297 should be examined in its entirety to obtain detailed information." Appropriate modifications shall
298 be made to reflect facts and circumstances that may vary. The summary shall consist of, but not
299 be limited to, the following, as applicable:

300 1. A brief description of the ~~time-share project and the~~ time-share program and any time-
301 share project included in the time-share program.

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

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

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

310 5. A statement describing (i) the purchaser's responsibility to make principal and interest
311 payment in connection with the purchase of the time-share as well as to pay maintenance
312 fees or assessments, special assessments, user fees, insurance premiums, and real

313 estate taxes and (ii) that a time-share owner cannot reduce the amount of any owner
314 obligation for any reason.

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

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

326 8. A statement indicating the period of time the developer will retain control of the
327 association ~~for time-share estate projects~~.

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

330 10. A statement indicating whether the developer may expand the time-share ~~project~~
331 program.

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

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

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

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

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

341 16. A statement regarding whether or not the developer reserves the right to add or delete
342 any alternative purchase.

343 E. The content after the summary of important considerations shall include the narrative
344 sections in 18VAC48-45-170 through 18VAC48-45-310. Supplementary sections may be
345 included as necessary.

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

348 1. ~~Project time share~~ Time-share instrument;

349 2. Association articles of incorporation;

350 3. Bylaws;

351 4. Association annual report or projected budget for time-share estate programs;

352 5. Rules and regulations of the ~~time-share owners'~~ association, if available;

353 6. Any management contract, if applicable;

354 7. Exchange ~~company~~ program disclosure document and narrative statement required
355 pursuant to subsection B of § 55.1-2217 of the Code of Virginia, if applicable; and

356 8. Other documents obligating the association or time-share owner to perform duties or
357 obligations or pay charges or fees, if applicable.

358 G. Other information and documentation may be included as necessary to ensure full and
359 accurate disclosure. The board may also require additional information as necessary to ensure
360 full and accurate disclosure.

361 **18VAC48-45-180. Narrative sections; creation of time-share project program.**

362 The public offering statement shall contain a section captioned "Creation of the Time-Share
363 Project Program." The section shall briefly explain the manner in which the time-share ~~project~~
364 program was or will be created, the locality wherein the time-share instrument will be or has been
365 recorded, and the procedure for its amendment.

366 **18VAC48-45-190. Narrative sections; description of time-share project.**

367 A. The public offering statement shall contain a section captioned "Description of the Time-
368 Share Project." The section shall provide a general description of the any time-share project
369 ~~registered with the board~~ included in the time-share program and the units and common elements
370 promised available to purchasers. This section shall also provide the developer's estimated
371 schedule of commencement and completion of all promised and incomplete units and common
372 elements.

373 B. The section shall state whether the developer has reserved the right to add and delete from
374 the time-share program a time-share project or any incidental benefit or alternative purchase.

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

377 D. The section shall indicate all provisions that have been made for public utilities in the time-
378 share project, including but not limited to water, electricity, telephone, and sewerage facilities.

379 18VAC48-45-200. Narrative sections; individual time-shares.

380 A. The public offering statement shall contain a section captioned "Individual Time-Shares."
381 The section shall indicate (i) the form of time-share ownership being offered; (ii) the types,
382 duration, and number of units and time-shares in the ~~project registered with the board~~ time-share
383 program; (iii) identification of units that are subject to the time-share program; and (iv) the
384 estimated number of units that may become subject to the time-share program.

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

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

392 18VAC48-45-210. Narrative sections; developer.

393 The public offering statement shall contain a section captioned "The Developer." The section
394 shall disclose the following information concerning the developer:

- 395** 1. The name and principal address of the developer.
- 396** 2. The name, principal occupation, and address of every director, partner, limited liability
397 company manager, or trustee of the developer.
- 398** 3. The name and address of each person owning or controlling an interest of at least 20%
399 in ~~the~~ each time-share project included in the registration.
- 400** 4. The particulars of any indictment, conviction, judgment, decree, or order of any court or
401 administrative agency against the developer or managing entity for violation of a federal,

402 state, local, or foreign country law or regulation in connection with activities relating to
403 time-share sales, land sales, land investments, security sales, construction or sale of
404 homes or improvements, or any similar or related activity.

405 5. The nature of each unsatisfied judgment, if any, against the developer or the managing
406 entity; the status of each pending suit involving the sale or management of real estate to
407 which the developer, the managing entity, or any general partner, executive officer,
408 director, limited liability company manager, or majority stockholder thereof, is a defending
409 party; and the status of each pending suit, if any, of significance to any time-share project
410 ~~registered with the board~~ included in the registration.

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

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

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

420 **18VAC48-45-220. Narrative sections; terms of offering.**

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

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

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

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

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

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

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

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

448 is located. Nothing in this statement shall be deemed to authorize such limits where those limits
449 are otherwise prohibited by law.

450 **18VAC48-45-240. Narrative sections; exchange program.**

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

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

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

459 **18VAC48-45-250. Narrative sections; financial matters.**

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

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

464 (i) time-share expenses; (ii) time-share estate occupancy expenses as defined in § 55.1-2200 of
465 the Code of Virginia; and (iii) all other costs that may be borne directly by individual time-share
466 owners.

467 C. A budget shall show projected common expenses in each of the categories in subsection
468 B of this section for the first year of the ~~time-share's~~ time-share program's operation or, if different,
469 the latest year for which a budget is available. The projected budget shall be attached to the public
470 offering statement as an exhibit and the section shall direct the purchaser's attention to such
471 exhibit. The section shall describe the manner in which the projected budget is established. If the

472 time-share is phased, the budget shall project future years until all phases are projected to be
473 developed and all common elements that must be built have been completed. The budget shall
474 include an initial working capital budget showing sources and uses of initial working capital and a
475 reserve table showing amounts to be collected to fund those reserves. The budget shall show
476 regular individual assessments by unit type. The budget shall note that the figures are not
477 guaranteed and may vary.

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

486 E. The section shall describe budget provisions for reserves for capital expenditures, if any. If
487 there are no reserves, the section shall so state.

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

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

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

499 **18VAC48-45-255. Narrative sections; governmental reviews.**

500 The public offering statement shall contain a section captioned "Governmental Reviews." The
501 section shall discuss governmental approvals required for the development of ~~the~~ each time-share
502 project included in the time-share program. In addition, the section shall discuss approval of the
503 zoning application and site plan and issuance of building permits by appropriate governmental
504 authorities. The section shall state the current zoning classification for ~~the~~ each time-share project
505 property included in the time-share program. The section shall also include a statement regarding
506 zoning, subdivision, or land use obligations or proffers that would be imposed on the time-share
507 owner or the association, but need not disclose zoning, subdivision, or land use obligations or
508 proffers that do not impose any obligation on the association.

509 **18VAC48-45-260. Narrative sections; restrictions on transfer.**

510 The public offering statement shall include a section captioned "Restrictions on Transfer." The
511 section shall describe and explain limitations on leasing or other restraints on free alienability
512 created by the time-share ~~instruments~~ instrument or the rules and regulations of the ~~time-share~~
513 ~~owners'~~ association that affect the time-share owners' right to resell, lease or otherwise transfer
514 an interest in the time-share.

515 **18VAC48-45-270. Narrative sections; time-share owners' association.**

516 A. For time-share estate ~~projects~~ programs the public offering statement shall contain a
517 section captioned "Time-Share Owners' Association." The section shall discuss the arrangements
518 for the management and operation of the time-share estate program and for the maintenance,

519 repair, and furnishing of units and shall include the information required by subdivisions 1 through
520 15 of this subsection. The section shall describe or discuss the following:

- 521 1. The creation of the association.
- 522 2. The payment of costs and expenses of operating the time-share estate program and
523 owning and maintaining the time-share units.
- 524 3. Employment and termination of employment of the managing agent for ~~the~~ each time-
525 share estate project included in the time-share program.
- 526 4. Termination of leases and contracts for goods and services for ~~the~~ each time-share
527 estate project included in the time-share program that were entered into during the
528 developer control period.
- 529 5. Preparation and dissemination of the annual report required by § 55.1-2213 of the Code
530 of Virginia to the time-share estate owners.
- 531 6. Adoption of standards and rules of conduct for the use, enjoyment, and occupancy of
532 units by the time-share estate owners.
- 533 7. Collection of regular assessments, fees or dues, and special assessments from time-
534 share estate owners to defray all time-share expenses.
- 535 8. Comprehensive general liability insurance for death, bodily injury, and property damage
536 arising out of or in connection with the use and enjoyment of ~~the~~ any time-share project
537 included in the time-share program by time-share estate owners, their guests, and other
538 users. The cost for such insurance shall be a time-share expense.
- 539 9. Methods for providing compensation or alternate use periods or monetary
540 compensation to a time-share estate owner if his contracted-for unit cannot be made

541 available for the period to which the owner is entitled by schedule or by confirmed
542 reservation.

543 10. Procedures for imposing a monetary penalty or suspension of a time-share estate
544 owner's rights and privileges in the time-share estate program or any time-share project
545 included in the time-share program for failure to comply with provisions of the time-share
546 instrument or the rules and regulations of the association with respect to the use and
547 enjoyment of the units and the time-share project. Under these procedures a time-share
548 estate owner must be given reasonable notice and reasonable opportunity to be heard
549 and explain the charges against him in person or in writing to the board of directors of the
550 association before a decision to impose discipline is rendered.

551 11. Employment of attorneys, accountants, and other professional persons as necessary
552 to assist in the management of the time-share estate program and ~~the~~ any time-share
553 project included in the time-share program.

554 12. Developer control period, during which time period the developer, or a managing agent
555 selected by the developer, shall manage and control ~~the~~ any time-share estate project
556 included in the time-share program and the common elements and units, including
557 decisions about the financial operation of the association.

558 13. The managing agent, if any, shall be identified, and the section shall indicate any
559 relationship between the managing agent and the developer. The duration of any
560 management agreement shall be stated.

561 14. Except to the extent otherwise disclosed in connection with discussion of a
562 management agreement, the significant terms of any lease of recreational areas or similar
563 contract or agreement affecting the use, maintenance or access of all or any part of ~~the~~
564 any time-share project included in the time-share program shall be stated. The section

565 shall include a brief narrative statement of the effect of each such agreement upon a
566 purchaser.

567 15. Rules and regulations of the ~~time share estate~~ association shall be discussed. The
568 purchaser's attention shall be directed to the copy of rules and regulations, if any, attached
569 to the public offering statement.

570 B. For time-share use ~~projects~~ programs, if an association is formed for management and
571 operation of the time-share use program and for the maintenance, repair, and furnishing of time-
572 share use units comprising the time-share, the public offering statement shall contain a section
573 captioned "Time-Share Owners' Association." This section shall contain the information required
574 by subdivisions A 1 through 15 of this section as applicable to the association for the time-share
575 use ~~project~~ program.

576 **18VAC48-45-280. Narrative sections; managing entity.**

577 The public offering statement shall include a section captioned "Managing Entity." This section
578 shall provide the name and address of the managing entity for ~~the project~~ each time-share project
579 included in the time-share program. The section shall also provide a description of the facilities, if
580 any, provided by the developer to the association in a time-share estate ~~project~~ program for the
581 management of the ~~project~~ program.

582 **18VAC48-45-290. Narrative sections; conversion time-share projects.**

583 A. The public offering statement of a conversion time-share project shall contain a section
584 captioned "Conversion Time-Share Projects." The section shall include the following:

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

588 2. Information on the actual expenditures, if available, made on all repairs, maintenance,
589 operation, or upkeep of the building or buildings within the last three years. This
590 information shall be set forth in a tabular manner within the proposed budget of the project.
591 If such building or buildings have not been occupied for a period of three years then the
592 information shall be set forth for the period during which such building or buildings were
593 occupied.

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

598 4. A statement of the present condition of all structural components and major utility
599 installations in the building, which statement shall include the approximate dates of
600 construction, installations, and major repairs as well as the expected useful life of each
601 such item, together with the estimated cost, in current dollars, of replacing each such
602 component.

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

605 **18VAC48-45-320. Documents from other jurisdictions.**

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

609 B. The substituted public offering statement shall be prepared by deleting from the original
610 disclosure document the following: (i) references to any governmental agency of another
611 jurisdiction to which application has been made or will be made for registration or related action;

612 (ii) references to the action of such governmental agency relative to the time-share project and its
613 time-share program; (iii) statements of the legal effect in another jurisdiction of delivery, failure to
614 deliver, acknowledgment of receipt or related events involving the disclosure document; (iv) the
615 effective date in another jurisdiction of the disclosure document; and (v) all other information that
616 is untrue, inaccurate, or misleading with respect to marketing, offers, or disposition of time-shares
617 in Virginia.

618 C. The substituted public offering statement shall incorporate all information not otherwise
619 included that is necessary to effect fully and accurately the disclosures required by § 55.1-2217
620 of the Code of Virginia. The substituted disclosure document shall clearly explain any
621 nomenclature that is different from the definitions provided in § 55.1-2200 of the Code of Virginia.

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

627 E. The provisions of §§ 55.1-2217 and 55.1-2221 of the Code of Virginia and 18VAC48-45-
628 140, 18VAC48-45-150, and 18VAC48-45-160 shall apply to substituted public offering statements
629 in the same manner and to the same extent that they apply to public offering statements.

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

Part VI

Time-Share ~~Project~~ Program Post-Registration Provisions

635
636
637 **18VAC48-45-330. Minimum post-registration reporting requirements for a time-share**
638 **project program.**

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

641 1. File an annual report in accordance with § 55.1-2242 of the Code of Virginia and this
642 chapter.

643 2. Upon the occurrence of a material change, file an amended public offering statement in
644 accordance with the provisions of subsection E of § 55.1-2217 and subsection C of § 55.1-
645 2242 of the Code of Virginia and this chapter. These amendments shall be filed with the
646 board within 20 business days after the occurrence of the material change.

647 3. In accordance with subsection G of § 55.1-2217, amend the public offering statement
648 to reflect any addition of a time-share project to, or removal of a time-share project from,
649 the existing time-share program.

650 ~~3.~~ 4. Upon the occurrence of any material change in the information contained in the
651 registration file, the developer shall immediately report such material changes to the board
652 in accordance with the provisions of subsection B of § 55.1-2239 of the Code of Virginia.

653 ~~4.~~ 5. Notify the board of a change in any bond or letter of credit, as applicable, filed with
654 the board in accordance with § 55.1-2220 of the Code of Virginia or required by subsection
655 B of § 55.1-2234 of the Code of Virginia.

656 ~~5.~~ 6. File a completed application for registration of an unregistered phase upon the
657 expansion of the time-share program, along with the appropriate fee specified in
658 18VAC48-45-70.

659 ~~6.~~ 7. Notify the board of transition of control from the developer to the time-share estate
660 owners' association (time-share estate projects only).

661 ~~7.~~ 8. Submit appropriate documentation to the board once the registration is eligible for
662 termination.

663 ~~8.~~ 9. Submit to the board any other document or information, which may include
664 information or documents that have been amended or may not have existed previously,
665 that affects the accuracy, completeness, or representation of any information or document
666 filed with the application for registration.

667 ~~9.~~ 10. Submit to the board any document or information to make the registration file
668 accurate and complete.

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

673 **18VAC48-45-390. Filing of phase amendment application.**

674 A. A phase amendment application for a time-share ~~project~~ program shall be filed when adding
675 a phase to the time-share ~~project~~ program. Such phase amendment application shall be
676 accompanied by the fee provided for in 18VAC48-45-70 and shall be subject to all of the
677 provisions of 18VAC48-45-50, 18VAC48-45-110, 18VAC48-45-120, and 18VAC48-45-130.
678 Documents on file with the board that have not changed in connection with the additional phase
679 or phases need not be refiled, provided that the phase amendment application indicates that such
680 documents are unchanged.

681 B. The application shall include a bond or letter of credit required pursuant to subsection B of
682 § 55.1-2234 of the Code of Virginia if any of the time-share units and common elements contained
683 in the submitted additional phase or phases have not been completed.

684 C. The board shall review the phase amendment application and supporting materials to
685 determine whether the amendment complies with this chapter. If the board's review determines
686 the phase amendment application complies with this chapter, it shall issue an amended order of
687 registration for the time-share ~~project~~ program and shall provide that previous orders and
688 designations of the form, content, and effective date of the public offering statement are
689 superseded. If the board's review determines that the phase amendment application is not
690 complete, the board shall correspond with the developer to specify the particulars that must be
691 completed to obtain compliance with this chapter.

692 **18VAC48-45-400. Annual report for a time-share ~~project~~ program registration required by**
693 **developer.**

694 A. A developer shall file an annual report for a time-share ~~project~~ program registration on a
695 form provided by the board to update the material contained in the registration file by June 30 of
696 each year the registration is effective and shall be accompanied by the fee specified in 18VAC48-
697 45-70. Prior to filing the annual report required by § 55.1-2242 of the Code of Virginia, the
698 developer shall review the public offering statement then being delivered to purchasers. If such
699 public offering statement is current, the developer shall so certify in the annual report. If such
700 public offering statement is not current, the developer shall amend the public offering statement
701 and the annual report shall, in that event, include a filing in accordance with 18VAC48-45-360.

702 B. The annual report shall contain the following:

703 1. Current contact information for the developer;

704 2. Information concerning the current status of the each time-share project included in the
705 time-share program;

706 3. Information concerning the current status of the time-share program, including (i) the
707 type of time-shares being offered and sold; (ii) the total number of time-share interests
708 available in the program; (iii) the total number of time-share interests sold; and (iv)
709 information regarding any incomplete units and common elements;

710 4. If the project program is a time-share estate project program and the developer control
711 period has not yet expired, a copy of the annual report that was prepared and distributed
712 by the developer to the time-share owners required by § 55.1-2213 of the Code of Virginia
713 must accompany the annual report;

714 5. Date of the public offering statement currently being delivered to purchasers; and

715 6. Current evidence from the surety or financial institution of bonds or letters of credit filed
716 with the board in accordance with § 55.1-2220 of the Code of Virginia or required pursuant
717 to subsection B of § 55.1-2234 of the Code of Virginia, or submittal of replacement bonds
718 or letters of credit. Such verification shall provide the following:

719 a. Principal of bond or letter of credit;

720 b. Beneficiary of bond or letter of credit;

721 c. Name of the surety or financial institution that issued the bond or letter of credit;

722 d. Bond or letter of credit number as assigned by the issuer;

723 e. The dollar amount;

724 f. The expiration date or, if self-renewing, the date by which the bond or letter of credit
725 shall be renewed; and

726 g. For any blanket bond or blanket letter of credit, a statement of the total amount of
727 deposits held by the developer as of May 31 of that calendar year.

728 **18VAC48-45-410. Board review of annual report for a time-share ~~project~~ program**
729 **registration.**

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

732 B. If the board does not accept the annual report and the annual report filing is not completed
733 within 60 days of a request by the board for additional information, the board may take further
734 action pursuant to §§ 55.1-2247 and 55.1-2252 of the Code of Virginia for failing to file an annual
735 report as required by § 55.1-2242 of the Code of Virginia.

736 C. If the board does not perform the required review of the annual report within 30 days of
737 receipt by the board, the annual report shall be deemed to comply with § 55.1-2242 of the Code
738 of Virginia.

739 **18VAC48-45-430. Return of bond or letter of credit filed in lieu of escrowing deposits.**

740 A. An individual bond or individual letter of credit on file with the board in accordance with §
741 55.1-2220 of the Code of Virginia may be returned to the developer upon written request. Such
742 request shall include a statement from the developer that indicates (i) the purchaser's cancellation
743 period has expired, (ii) the purchaser's default under a purchase contract for the time-share estate
744 entitling the developer to retain the deposit, or (iii) the purchaser's deposit was refunded.

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

748 **18VAC48-45-450. Termination of time-share project program registration.**

749 A. The time-share project program registration shall be terminated upon receipt of
750 documentation of one of the following:

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

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

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

763 **18VAC48-45-460. Administrative termination of time-share project program registration.**

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

770 B. The board shall issue an order of termination for the time-share program registration if (i) a
771 response is not received within 30 days after sending the written notice, or (ii) the response

772 received does not indicate termination of the registration is inappropriate in accordance with the
773 Virginia Real Estate Time-Share Act and this chapter

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

778 **18VAC48-45-470. Reporting of other changes to the time-share ~~project~~ program.**

779 Any other change made or known by the developer that may affect the accuracy or
780 completeness of the time-share program registration file shall be reported promptly to the board.

781 Such change may include the name of the developer, name of the time-share ~~project~~ program, or

782 any other changes in information submitted in accordance with § 55.1-2239 of the Code of

783 Virginia. The board may request additional information as necessary to ensure compliance with

784 the Virginia Real Estate Time-Share Act and this chapter.

785 Part VII

786 Alternative Purchase Registration

787 **18VAC48-45-480. Registration of alternative purchase required.**

788 As required by § 55.1-2246 of the Code of Virginia, a ~~time-share~~ developer shall register an
789 alternative purchase as defined by § 55.1-2200 of the Code of Virginia.

790 **18VAC48-45-540. Annual report required for alternative purchase registration.**

791 A. Prior to the expiration of the registration, the developer shall file an annual report in a form
792 approved by the board for the registered alternative purchase affiliated with such time-share

793 ~~project~~ program registration. Such alternative purchase annual report shall be accompanied by

794 the fee specified in 18VAC48-45-70.

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

796 1. Current contact information for the developer.

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

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

802 **18VAC48-45-730. Registration required.**

803 A. No developer or agent of a developer shall offer a time-share prior to the registration of the
804 time-share program and time-share project.

805 B. No developer or agent of a developer shall offer an alternative purchase prior to the
806 registration of the alternative purchase by the developer.

807 C. No exchange company or agent of an exchange company shall offer an exchange program
808 prior to the registration of the exchange program by the exchange company.

809 D. No time-share reseller or agent of a time-share reseller shall offer any resale services prior
810 to the registration of the time-share reseller.

811 **18VAC48-45-740. Time-share advertising standards.**

812 A. No promise, assertion, representation, or statement of fact or opinion in connection with a
813 time-share marketing activity shall be made that is false, inaccurate or misleading by reason of
814 inclusion of an untrue statement of a material fact or omission of a statement of a material fact
815 relative to the actual or intended characteristics, circumstances, or features of a time-share
816 program or a time-share project.

817 B. No promise, assertion, representation, or statement of fact or opinion made in connection
818 with a time-share marketing activity shall indicate that a unit or common element will be built or
819 placed on the time-share unless proposed within the meaning of subsection A of 18VAC48-45-
820 200.

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

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
and are not to be construed as regulating or official Board position
DRAFT AGENDA

Virginia Administrative Code
Title 18. Professional and Occupational Licensing
Agency 48. Common Interest Community Board
Chapter 45. Time-Share Regulations

18VAC48-45-10. (Reserved.)

Part 1. General

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Reserved, [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-20. Definitions.

A. Section [55.1-2200](#) of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

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

"Lead dealer"	"Time-share project" or "project"
"Managing agent"	"Time-share unit" or "unit"
"Managing entity"	"Time-share use"
"Material change"	"Transfer"

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

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

"Annual report" means a completed, board-prescribed form and required documentation submitted in compliance with § [55.1-2242](#) of the Code of Virginia.

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

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

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

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

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

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

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

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

"Individual letter of credit" means an individual irrevocable letter of credit issued in accordance with the requirements of § [55.1-2220](#) of the Code of Virginia obtained and

maintained by a developer in lieu of escrowing a deposit accepted by a developer in connection with the purchase or reservation of a product.

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018; [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-30. Explanation of Terms.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-40. Time-Share Projects Located Outside of Virginia.

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

B. The words "time-share instrument" and "public offering statement," when used in this chapter with reference to a time-share located outside of Virginia, mean documents, portions

of documents, or combinations thereof, by whatever name denominated, that have a content and function identical or substantially equivalent to the content and function of their Virginia counterparts.

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

D. This chapter shall apply to a contract for the disposition of a time-share located outside of Virginia only to the extent permissible under the provisions of subsection C of § [55.1-2201](#) of the Code of Virginia.

E. The time-share shall be properly registered in the state or other jurisdiction where the project is located.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-50. Application Procedures.

Part II. General Application Requirements

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

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

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

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-60. Review of Application for Registration, Generally.

- A. Upon the review of the application for registration, if the requirements of this chapter have not been met, the board shall notify the applicant.
- B. The board may refuse initial registration due to an applicant's failure to comply with entry requirements or for any of the reasons for which the board may discipline a regulant.
- C. At such time as the board affirmatively determines that the requirements of this chapter have been met, the board shall issue the applicable registration.
- D. Notwithstanding the provisions of [18VAC48-45-130](#) for a time-share project registration, applicants who do not meet the requirements of this chapter may be approved following consideration by the board in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq. of the Code of Virginia).

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-70. Fees.

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

B. Fees are as follows:

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-80. Time-Share Marketing Activities.

Part III. Marketing and Advertising

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-90. Offering of Gifts or Prizes.

A. Any offering that includes a gift or prize shall include the disclosures contained in § [55.1-2218](#) of the Code of Virginia. Such disclosures shall be made with the same prominence as the offer.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#) , eff.

December 30, 2019.

18VAC48-45-100. Registration of Time-Share Project and Program.

Part IV. Application for Time-Share Project Registration.

In accordance with § [55.1-2238](#) of the Code of Virginia, a developer offering or disposing of an interest in a time-share program must register the time-share project and its program with the board. For the purposes of this chapter as it relates to registration, the registration of a time-share project shall include the simultaneous registration of the time-share program.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-110. Prerequisites for Registration of a Time-Share Project.

The following provisions are prerequisites for registration and are supplementary to the provisions of § [55.1-2239](#) of the Code of Virginia.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019; [Volume 36, Issue 17](#), eff. June 1, 2020.

18VAC48-45-120. Review of Application for Registration of a Time-Share Project.

A. Upon receipt of an application for registration of a time-share project, the board shall issue the notice of filing required by subsection A of § [55.1-2241](#) of the Code of Virginia.

B. Upon the review of the application for registration, if the requirements of § [55.1-2239](#) of the Code of Virginia and this chapter have not been met, the board shall notify the applicant as required by subsection C of § [55.1-2241](#) of the Code of Virginia.

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

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

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

F. At such time as the board affirmatively determines that the requirements of § [55.1-2239](#) of the Code of Virginia have been met, the board shall enter an order registering the time-share and shall designate the form, content, and effective date of the public offering statement.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-130. Minimum Application Requirements for Registration of a Time-Share Project.

A. The documents and information contained in §§ [55.1-2208](#) , [55.1-2209](#) , [55.1-2210](#) , [55.1-2214](#) , [55.1-2217](#) , and [55.1-2239](#) of the Code of Virginia, as applicable, shall be included in the application for registration of a time-share project.

B. The application for registration of a time-share project shall include the fee specified in [18VAC48-45-70](#) .

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

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

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

3. Exhibit C: A copy of the title opinion, the title policy, or a statement of the condition of the title to the time-share project including encumbrances as of a specified date within 30 days of the date of application by a title company or licensed attorney who is not a salaried employee, officer, or director of the developer or owner, in accordance with subdivision A 5 of § [55.1-2239](#) of the Code of Virginia. If the developer is not the record owner of the land, a copy of any contract the developer has executed to purchase the land, any option the developer holds for the purchase of the land, or any lease under which the developer holds the land.

4. Exhibit D: Proof that the applicant or developer owns or has the right to acquire an estate in the land constituting or to constitute the time-share project, which is of at least as great a degree and duration as the estate to be conveyed in the time-share.

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

6. Exhibit F: A copy of the time-share instrument, including all applicable amendments and exhibits, that will be delivered to a purchaser to evidence the purchaser's interest in the time-share and of the contracts and other agreements that a purchaser will be required to agree to or sign.

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

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

9. Exhibit I: A copy of the buyer's acknowledgment. Pursuant to § [55.1-2226](#) of the Code of Virginia, the purchaser shall be given this document prior to signing a purchase contract, and the document shall contain the information required by subsection B of § [55.1-2226](#).
10. Exhibit J: The signed original of (i) any bond or letter of credit obtained pursuant to § [55.1-2220](#) of the Code of Virginia in lieu of escrowing deposits and (ii) any bond or letter of credit required by subsection B of § [55.1-2234](#) of the Code of Virginia, as applicable.
11. Exhibit K: A copy of any management agreements and other contracts or agreements affecting the overall use, maintenance, management, or access of all or any part of the time-share project.
12. Exhibit L: A list with the names of every officer, manager, owner, or principal, as applicable to the type of firm under which the developer is organized to do business, of the developer or persons occupying a similar status within or performing similar functions for the developer. The list must include each individual's residential address or other address valid for receipt of service, principal occupation for the past five years, and title.
13. Exhibit M: A statement whether any of the individuals or entities named in Exhibit L are or have been involved as defendants in any indictment, conviction, judgment, decree, or order of any court or administrative agency against the developer or managing entity for violation of a federal, state, local, or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements, or any similar or related activity.
14. Exhibit N: A statement whether, during the preceding five years, any of the individuals or entities named in Exhibit L have been adjudicated bankrupt or have undergone any proceeding for the relief of debtors.
15. Exhibit O: If the developer has reserved the right to add to or delete from the time-share program any incidental benefit or alternative purchase, a description of the incidental benefit or alternative purchase shall be provided pursuant to subdivision A 13 of § [55.1-2239](#) of the Code of Virginia.
16. Exhibit P: Conversion time-share projects must attach a copy of the notice required by subsection D of § [55.1-2217](#) of the Code of Virginia and a certified statement that such notice shall be mailed or delivered to each of the tenants in the building or buildings for which the registration is sought at the time of the registration of the conversion project.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018; [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-140. Public Offering Statement Requirements, Generally.

Part V. Public Offering Statement

In addition to the provisions of § [55.1-2217](#) of the Code of Virginia, the following will be considered, as applicable, during review of the public offering statement:

1. The public offering statement shall provide full and accurate disclosure in accordance with [18VAC48-45-150](#).
2. The public offering statement shall pertain to the time-share project in which the time-shares being offered are located.
3. The public offering statement shall be clear, organized, and legible.
4. Except for brief excerpts, the public offering statement may refer to, but should not incorporate verbatim, portions of the time-share instruments, the Virginia Real Estate Time-Share Act, or this chapter. This does not preclude compliance with [18VAC48-45-170](#).

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-150. Full and Accurate Disclosure.

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

1. The information shall be presented in a manner that is clear and understandable to a reasonably informed consumer, while maintaining consistency with the requirements of this chapter and the Virginia Real Estate Time-Share Act.
2. No information shall be incorporated by reference to an outside source that is not reasonably available to a prospective purchaser.
3. If required information is not known or not reasonably available, such fact shall be stated and explained in the public offering statement.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff.

December 30, 2019.

18VAC48-45-160. Contents of Public Offering Statement.

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

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

C. The first page of the public offering statement shall be substantially as follows:

PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S PROTECTION

PUBLIC OFFERING STATEMENT

NAME OF TIME-SHARE PROJECT:

LOCATION OF TIME-SHARE PROJECT:

NAME OF DEVELOPER:

ADDRESS OF DEVELOPER:

EFFECTIVE DATE OF PUBLIC OFFERING STATEMENT:

REVISED:

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

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

This Public Offering Statement presents information regarding time-share(s) being offered for sale by the developer. The Virginia Real Estate Time-Share Act (§ [55.1-2200](#) et seq. of the Code of Virginia) requires that a Public Offering Statement be given to every Purchaser in order to provide full and accurate disclosure of the characteristics of and material

circumstances affecting the time-share project and the characteristics of the time-share(s) being offered. The Public Offering Statement is not intended, however, to be all-inclusive. The Purchaser should consult other sources for details not covered by the Public Offering Statement.

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

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

Allegations of violation of any law or regulation contained in the Virginia Real Estate Time-Share Act or the Time-Share Regulations ([18VAC48-45](#)) should be reported to the Common Interest Community Board, Perimeter Center, Suite 400, 9960 Mayland Drive, Richmond, Virginia 23233.

D. A summary of important considerations shall immediately follow the first page for the purpose of reinforcing the disclosure of significant information. The summary shall be titled as such and shall be introduced by the following statement: "The following are important matters to be considered in acquiring a time-share. They are highlights only. The Public Offering Statement should be examined in its entirety to obtain detailed information." Appropriate modifications shall be made to reflect facts and circumstances that may vary. The summary shall consist of, but not be limited to, the following, as applicable:

1. A brief description of the time-share project and the time-share program.
2. A statement regarding all incidental benefits or alternative purchases that may be offered by the developer.
3. A brief description of all amenities located within or outside of the time-share project and available to time-share owners by virtue of ownership in the time-share project. If such amenities are not common elements of the time-share project, identify who owns the amenities and whether time-share owners are required to pay to access and use.
4. A statement describing any exchange program that may be offered to the purchaser.
5. A statement describing (i) the purchaser's responsibility to make principal and interest payment in connection with the purchase of the time-share as well as to pay maintenance fees or assessments, special assessments, user fees, insurance premiums, and real estate taxes and (ii) that a time-share owner cannot reduce the amount of any owner obligation for any reason.

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

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

8. A statement indicating the period of time the developer will retain control of the association for time-share estate projects.

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

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

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

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

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

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

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

16. A statement regarding whether or not the developer reserves the right to add or delete any alternative purchase.

E. The content after the summary of important considerations shall include the narrative sections in [18VAC48-45-170](#) through [18VAC48-45-310](#) . Supplementary sections may be included as necessary.

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

1. Project time-share instrument;
2. Association articles of incorporation;
3. Bylaws;
4. Association annual report or projected budget for time-share estate programs;

5. Rules and regulations of the time-share owners' association, if available;
6. Any management contract, if applicable;
7. Exchange company disclosure document and narrative statement required pursuant to subsection B of § [55.1-2217](#) of the Code of Virginia, if applicable; and
8. Other documents obligating the association or time-share owner to perform duties or obligations or pay charges or fees, if applicable.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-170. Narrative Sections; Time-Share Concept.

The public offering statement shall contain a section captioned "The Time-Share Concept." The section shall consist of a brief discussion of the form of time-share ownership being offered.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-180. Narrative Sections; Creation of Time-Share Project.

The public offering statement shall contain a section captioned "Creation of the Time-Share Project." The section shall briefly explain the manner in which the time-share project was or will be created, the locality wherein the time-share instrument will be or has been recorded, and the procedure for its amendment.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-190. Narrative Sections; Description of Time-Share Project.

A. The public offering statement shall contain a section captioned "Description of the Time-Share Project." The section shall provide a general description of the time-share project registered with the board and the units and common elements promised available to purchasers. This section shall also provide the developer's estimated schedule of commencement and completion of all promised and incomplete units and common elements.

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

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

D. The section shall indicate all provisions that have been made for public utilities in the time-share project, including but not limited to water, electricity, telephone, and sewerage facilities.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-200. Narrative Sections; Individual Time-Shares.

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

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-210. Narrative Sections; Developer.

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

1. The name and principal address of the developer.
2. The name, principal occupation, and address of every director, partner, limited liability company manager, or trustee of the developer.
3. The name and address of each person owning or controlling an interest of at least 20% in the time-share project.
4. The particulars of any indictment, conviction, judgment, decree, or order of any court or administrative agency against the developer or managing entity for violation of a federal, state, local, or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements, or any similar or related activity.
5. The nature of each unsatisfied judgment, if any, against the developer or the managing entity; the status of each pending suit involving the sale or management of real estate to which the developer, the managing entity, or any general partner, executive officer, director, limited liability company manager, or majority stockholder thereof, is a defending party; and the status of each pending suit, if any, of significance to any time-share project registered with the board.
6. The name and address of the developer's agent for service of any notice permitted by this chapter.
7. The section shall describe the type of legal entity of the developer and explain if other entities have any obligation to satisfy the financial obligations of the developer.
8. For a time-share use program, a statement as to whether a developer's net worth is more than or less than \$250,000. If the developer's net worth is less than \$250,000, a current audited balance sheet shall be provided with the public offering statement. If the developer's net worth exceeds \$250,000, a statement by the developer that its equity in the time-share program exceeds \$250,000.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-220. Narrative Sections; Terms of Offering.

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

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

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

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

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

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

G. The section shall describe the terms of the deposit escrow requirements, including a statement, if applicable, that the developer has filed a surety bond or letter of credit with the board in lieu of escrowing deposits, in accordance with § [55.1-2220](#) of the Code of Virginia. The section shall also state that deposits may be removed from escrow and no longer protected by a surety bond or letter of credit after the expiration of the cancellation period.

H. The section shall set forth all restrictions in the purchase contract that limit the time-share owner's right to bring legal action against the developer or the association. The section shall set forth the paragraph or section and page number of the purchase contract where such provision is located. Nothing in this statement shall be deemed to authorize such limits where those limits are otherwise prohibited by law.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018; [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-230. Narrative Sections; Encumbrances.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-240. Narrative Sections; Exchange Program.

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

1. A statement of whether membership or participation in the program is voluntary or mandatory; and
2. A statement that the purchaser's contract with the exchange company is a contract separate and distinct from the purchaser's contract with the developer and whether there is a fee associated with membership or participation in the exchange program.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-250. Narrative Sections; Financial Matters.

- A. The public offering statement shall contain a section captioned "Financial Matters." The section shall discuss the expenses incident to the ownership of a time-share.
- B. The section shall distinguish, in general terms, the following categories of costs of operation, maintenance, repair, and replacement of various portions of the time-share as follows: (i) time-share expenses; (ii) time-share estate occupancy expenses as defined in § [55.1-2200](#) of the Code of Virginia; and (iii) all other costs that may be borne directly by individual time-share owners.
- C. A budget shall show projected common expenses in each of the categories in subsection B of this section for the first year of the time-share's operation or, if different, the latest year for which a budget is available. The projected budget shall be attached to the public offering statement as an exhibit and the section shall direct the purchaser's attention to such exhibit. The section shall describe the manner in which the projected budget is established. If the time-share is phased, the budget shall project future years until all phases are projected to be developed and all common elements that must be built have been completed. The budget shall include an initial working capital budget showing sources and uses of initial working capital and a reserve table showing amounts to be collected to fund those reserves. The budget shall show regular individual assessments by unit type. The budget shall note that the figures are not guaranteed and may vary.
- D. The section shall describe the manner in which (i) time-share expenses; (ii) time-share estate occupancy expenses as defined in § [55.1-2200](#) of the Code of Virginia; and (iii) all other costs that may be borne directly by individual time-share owners are apportioned among and assessed to the time-share units. The section shall include the substance of the following

statement, if applicable: "A time-share owner cannot obtain a reduction of the (i) time-share expenses; (ii) time-share estate occupancy expenses as defined in § [55.1-2200](#) of the Code of Virginia; and (iii) any other costs that may be borne directly by individual time-share owners assessed against the unit by refraining from use of any of the common elements."

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

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

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-255. Narrative Sections; Governmental Reviews.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-260. Narrative Sections; Restrictions on Transfer.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-270. Narrative Sections; Time-Share Owners' Association.

A. For time-share estate projects the public offering statement shall contain a section captioned "Time-Share Owners' Association." The section shall discuss the arrangements for the management and operation of the time-share estate program and for the maintenance, repair, and furnishing of units and shall include the information required by subdivisions 1 through 15 of this subsection. The section shall describe or discuss the following:

1. The creation of the association.
2. The payment of costs and expenses of operating the time-share estate program and owning and maintaining the time-share units.
3. Employment and termination of employment of the managing agent for the time-share estate project.
4. Termination of leases and contracts for goods and services for the time-share estate project that were entered into during the developer control period.
5. Preparation and dissemination of the annual report required by § [55.1-2213](#) of the Code of Virginia to the time-share estate owners.
6. Adoption of standards and rules of conduct for the use, enjoyment, and occupancy of units by the time-share estate owners.
7. Collection of regular assessments, fees or dues, and special assessments from time-share estate owners to defray all time-share expenses.
8. Comprehensive general liability insurance for death, bodily injury, and property damage arising out of or in connection with the use and enjoyment of the time-share project by time-share estate owners, their guests, and other users. The cost for such insurance shall be a time-share expense.
9. Methods for providing compensation or alternate use periods or monetary compensation to a time-share estate owner if his contracted-for unit cannot be made available for the

period to which the owner is entitled by schedule or by confirmed reservation.

10. Procedures for imposing a monetary penalty or suspension of a time-share estate owner's rights and privileges in the time-share estate program or time-share project for failure to comply with provisions of the time-share instrument or the rules and regulations of the association with respect to the use and enjoyment of the units and the time-share project. Under these procedures a time-share estate owner must be given reasonable notice and reasonable opportunity to be heard and explain the charges against him in person or in writing to the board of directors of the association before a decision to impose discipline is rendered.

11. Employment of attorneys, accountants, and other professional persons as necessary to assist in the management of the time-share estate program and the time-share project.

12. Developer control period, during which time period the developer, or a managing agent selected by the developer, shall manage and control the time-share estate project and the common elements and units, including decisions about the financial operation of the association.

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

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

15. Rules and regulations of the time-share estate association shall be discussed. The purchaser's attention shall be directed to the copy of rules and regulations, if any, attached to the public offering statement.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-280. Narrative Sections; Managing Entity.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-290. Narrative Sections; Conversion Time-Share Projects.

A. The public offering statement of a conversion time-share project shall contain a section captioned "Conversion Time-Share Projects." The section shall include the following:

1. A specific statement of the amount of any initial or special fee, if any, due from the purchaser of a time-share on or before settlement of the purchase contract and the basis of such fee occasioned by the fact that the project is a conversion time-share project.
2. Information on the actual expenditures, if available, made on all repairs, maintenance, operation, or upkeep of the building or buildings within the last three years. This information shall be set forth in a tabular manner within the proposed budget of the project. If such building or buildings have not been occupied for a period of three years then the information shall be set forth for the period during which such building or buildings were occupied.
3. A description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves occasioned by the fact that the project is a conversion time-share project, or, if no provision is made for such reserves, a statement to that effect.
4. A statement of the present condition of all structural components and major utility installations in the building, which statement shall include the approximate dates of construction, installations, and major repairs as well as the expected useful life of each such item, together with the estimated cost, in current dollars, of replacing each such component.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-300. Narrative Sections; Insurance.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-310. Narrative Sections; Alternative Purchase.

The public offering statement shall contain a section entitled "Alternative Purchases." The section shall state whether or not the developer has reserved the right to add to or delete from the time-share program any incidental benefit or alternative purchase. The section shall state that such alternative purchase has been or will be registered with the board.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-320. Documents from Other Jurisdictions.

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

B. The substituted public offering statement shall be prepared by deleting from the original disclosure document the following: (i) references to any governmental agency of another jurisdiction to which application has been made or will be made for registration or related action; (ii) references to the action of such governmental agency relative to the time-share project and its time-share program; (iii) statements of the legal effect in another jurisdiction of delivery, failure to deliver, acknowledgment of receipt or related events involving the disclosure document; (iv) the effective date in another jurisdiction of the disclosure

document; and (v) all other information that is untrue, inaccurate, or misleading with respect to marketing, offers, or disposition of time-shares in Virginia.

C. The substituted public offering statement shall incorporate all information not otherwise included that is necessary to effect fully and accurately the disclosures required by § [55.1-2217](#) of the Code of Virginia. The substituted disclosure document shall clearly explain any nomenclature that is different from the definitions provided in § [55.1-2200](#) of the Code of Virginia.

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

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

F. In the case of a time-share project located outside of the Commonwealth, pursuant to subsection G of § [55.1-2217](#) of the Code of Virginia, disclosure statements required by other situs laws governing time-sharing that are equivalent to the requirements of this chapter may be accepted as alternative disclosure statements.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-330. Minimum Post-Registration Reporting Requirements for a Time-Share Project.

Part VI. Time-Share Project Post-Registration Provisions

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

1. File an annual report in accordance with § [55.1-2242](#) of the Code of Virginia and this chapter.
2. Upon the occurrence of a material change, file an amended public offering statement in accordance with the provisions of subsection E of § [55.1-2217](#) and subsection C of § [55.1-2242](#) of the Code of Virginia and this chapter. These amendments shall be filed with the board within 20 business days after the occurrence of the material change.
3. Upon the occurrence of any material change in the information contained in the

registration file, the developer shall immediately report such material changes to the board in accordance with the provisions of subsection B of § [55.1-2239](#) of the Code of Virginia.

4. Notify the board of a change in any bond or letter of credit, as applicable, filed with the board in accordance with § [55.1-2220](#) of the Code of Virginia or required by subsection B of § [55.1-2234](#) of the Code of Virginia.

5. File a completed application for registration of an unregistered phase upon the expansion of the time-share, along with the appropriate fee specified in [18VAC48-45-70](#) .

6. Notify the board of transition of control from the developer to the time-share estate owners' association (time-share estate projects only).

7. Submit appropriate documentation to the board once the registration is eligible for termination.

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

9. Submit to the board any document or information to make the registration file accurate and complete.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#) , eff. December 14, 2018; [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-340. Amendment of Public Offering Statement.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-350. Nonmaterial Changes to the Public Offering Statement.

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

1. Correction of spelling, grammar, omission, or other similar errors not affecting the substance of the public offering statement;
2. Changes in presentation or format;
3. Substitution of an executed, filed, or recorded copy of a document for the otherwise substantially identical unexecuted, unfiled, or unrecorded copy of the document that was previously submitted;
4. Inclusion of updated information such as identification or description of the current officers and directors of the developer;
5. Disclosure of completion of improvements for improvements that were previously proposed or not complete;
6. Changes in real estate tax assessment or rate or modifications related to those changes;
7. Changes in utility charges or rates or modifications related to those changes;
8. Addition or deletion of incidental benefits or alternative purchases provided the developer reserved in the time-share instrument the right to add or delete incidental benefits or alternative purchases;
9. Adoption of a new budget that does not result in a significant change in fees or assessments or significantly impact the rights or obligations of the prospective purchasers;
10. Modifications related to changes in insurance company or financial institution, policy, or amount for bonds or letters of credit filed with the board in accordance with § [55.1-2220](#) of the Code of Virginia or required pursuant to § [55.1-2234](#) of the Code of Virginia;
11. Changes in personnel of the managing agent; and
12. Any change that is the result of orderly development of the time-share in accordance with the time-share instruments as described in the public offering statement.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018; [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-360. Filing of Amended Public Offering Statement.

A. The developer shall promptly file with the board for review a copy of the amended public offering statement together with a copy of a summary of proposed amendments that shall be

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

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

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

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

E. Notwithstanding an extension of the 30-day period for review agreed to in writing by the board and developer, if the board does not perform the required review of the public offering statement in accordance with subsection C of this section, the amendment shall be deemed to comply with [18VAC48-45-150](#) through [18VAC48-45-310](#), and the new effective date shall be the effective date of the amendment provided pursuant to subsection B of this section.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019; [Volume 36, Issue 17](#), eff. June 1, 2020.

18VAC48-45-370. Current Public Offering Statement.

- A. Upon issuance of an effective date by the board, all purchasers who received a public offering statement and summary of proposed amendments during the board review period pursuant to subsection A of [18VAC48-45-360](#) shall be provided with the public offering statement as accepted by the board. A public offering statement remains current until such time as the occurrence of a material change requires amendment of the public offering statement pursuant to this chapter and a new effective date is issued by the board.
- B. Upon issuance of an effective date by the board, a public offering statement remains current until such time as a new effective date is established pursuant to this chapter.
- C. Notwithstanding the board's authority to issue a cease and desist order pursuant to § [55.1-2247](#) of the Code of Virginia, the filing of an amended public offering statement shall not require the developer to cease sales provided that the developer provides to purchasers the summary of proposed amendments pursuant to subsection A of [18VAC48-45-360](#) pending the issuance of a new effective date by the board.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-380. Public Offering Statement Not Current; Notification of Purchasers.

- A. A purchaser who has been delivered a public offering statement that is not current due to a material change and was not provided with the summary of proposed amendments containing the proposed changes to the amended public offering statement pursuant to subsection A of [18VAC48-45-360](#) pending the issuance of a new effective date by the board shall be notified of such fact by the developer.
- B. A purchaser who has been delivered a public offering statement and summary of proposed amendments pursuant to subsection A of [18VAC48-45-360](#), but the amended public offering statement is determined to be noncompliant in accordance with subsection D of [18VAC48-45-360](#), shall be notified of such fact by the developer.
1. The notification shall indicate that any contract for disposition of a time-share may be canceled by the purchaser pursuant to subsection C of § [55.1-2221](#) of the Code of Virginia.
 2. The developer shall file a copy of the notification with the board and provide proof that such notification has been delivered to all purchasers under contract.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-390. Filing of Phase Amendment Application.

A. A phase amendment application for a time-share project shall be filed when adding a phase to the time-share project. Such phase amendment application shall be accompanied by the fee provided for in [18VAC48-45-70](#) and shall be subject to all of the provisions of [18VAC48-45-50](#) , [18VAC48-45-110](#) , [18VAC48-45-120](#) , and [18VAC48-45-130](#) . Documents on file with the board that have not changed in connection with the additional phase or phases need not be refiled, provided that the phase amendment application indicates that such documents are unchanged.

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-400. Annual Report for a Time-Share Project Registration Required by Developer.

A. A developer shall file an annual report for a time-share project registration on a form provided by the board to update the material contained in the registration file by June 30 of each year the registration is effective and shall be accompanied by the fee specified in [18VAC48-45-70](#) . Prior to filing the annual report required by § [55.1-2242](#) of the Code of Virginia, the developer shall review the public offering statement then being delivered to purchasers. If such public offering statement is current, the developer shall so certify in the

annual report. If such public offering statement is not current, the developer shall amend the public offering statement and the annual report shall, in that event, include a filing in accordance with [18VAC48-45-360](#) .

B. The annual report shall contain the following:

1. Current contact information for the developer;
2. Information concerning the current status of the time-share project;
3. Information concerning the current status of the time-share program, including (i) the type of time-shares being offered and sold; (ii) the total number of time-share interests available in the program; (iii) the total number of time-share interests sold; and (iv) information regarding any incomplete units and common elements;
4. If the project is a time-share estate project and the developer control period has not yet expired, a copy of the annual report that was prepared and distributed by the developer to the time-share owners required by § [55.1-2213](#) of the Code of Virginia must accompany the annual report;
5. Date of the public offering statement currently being delivered to purchasers; and
6. Current evidence from the surety or financial institution of bonds or letters of credit filed with the board in accordance with § [55.1-2220](#) of the Code of Virginia or required pursuant to subsection B of § [55.1-2234](#) of the Code of Virginia, or submittal of replacement bonds or letters of credit. Such verification shall provide the following:
 - a. Principal of bond or letter of credit;
 - b. Beneficiary of bond or letter of credit;
 - c. Name of the surety or financial institution that issued the bond or letter of credit;
 - d. Bond or letter of credit number as assigned by the issuer;
 - e. The dollar amount;
 - f. The expiration date or, if self-renewing, the date by which the bond or letter of credit shall be renewed; and
 - g. For any blanket bond or blanket letter of credit, a statement of the total amount of deposits held by the developer as of May 31 of that calendar year.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#) , eff. December 14, 2018; [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-410. Board Review of Annual Report for a Time-Share Project

Registration.

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

B. If the board does not accept the annual report and the annual report filing is not completed within 60 days of a request by the board for additional information, the board may take further action pursuant to §§ [55.1-2247](#) and [55.1-2252](#) of the Code of Virginia for failing to file an annual report as required by § [55.1-2242](#) of the Code of Virginia.

C. If the board does not perform the required review of the annual report within 30 days of receipt by the board, the annual report shall be deemed to comply with § [55.1-2242](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019; [Volume 36, Issue 17](#), eff. June 1, 2020.

18VAC48-45-420. Return of Bond or Letter of Credit to Ensure Completion of Promised Units and Common Elements to Developer.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-430. Return of Bond or Letter of Credit Filed in Lieu of Escrowing Deposits.

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#) , eff. December 14, 2018; [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-440. Maintenance of Bond or Letter of Credit.

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

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#) , eff. December 14, 2018; [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-450. Termination of Time-Share Project Registration.

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

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

2. In accordance with subsection B of § [55.1-2243](#) of the Code of Virginia, written notification is received from the developer attesting that no further development of the project is anticipated and that the developer has ceased sales of time-shares at the project.

B. Upon receipt and review of documentation pursuant to subsection A of this section, the

board shall issue an order of termination for the time-share registration. The board may request additional information as necessary during the review of the submitted documentation to ensure that the time-share registration is eligible for termination.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-460. Administrative Termination of Time-Share Project Registration.

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

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-470. Reporting of Other Changes to the Time-Share Project.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-480. Registration of Alternative Purchase Required.

Part VII. Alternative Purchase Registration

As required by § [55.1-2246](#) of the Code of Virginia, a time-share developer shall register an alternative purchase as defined by § [55.1-2200](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-490. Application for Registration of an Alternative Purchase.

Application for registration of alternative purchase shall be filed with the board on an application form furnished by the board and shall contain all of the documents and information required by § [55.1-2246](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-500. (Reserved.)

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-510. Review of Application for Registration of an Alternative Purchase.

At such time as the board affirmatively determines that the requirements of this chapter have been met, the board shall register the alternative purchase. The registration period of the

alternative purchase shall expire the last day of the month one year from the date of issuance.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-520. Minimum Alternative Purchase Post-Registration Reporting Requirements.

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

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-530. (Reserved.)

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-540. Annual Report Required for Alternative Purchase Registration.

A. Prior to the expiration of the registration, the developer shall file an annual report in a form approved by the board for the registered alternative purchase affiliated with such time-share project registration. Such alternative purchase annual report shall be accompanied by the fee specified in [18VAC48-45-70](#) .

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

1. Current contact information for the developer.
2. Information concerning the current status of the alternative purchase.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-550. (Reserved.)

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-560. Termination of Registration for an Alternative Purchase.

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

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-570. Reporting of Other Changes to the Alternative Purchase.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-580. Registration of Exchange Program Required.

Part VIII. Exchange Program Registration

As required by § [55.1-2219](#) of the Code of Virginia, an exchange company that offers an exchange program in the Commonwealth shall register the exchange program with the board.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-590. Minimum Requirements for Registration of an Exchange Program.

An application for registration of an exchange program shall include the following:

1. An application submitted in accordance with [18VAC48-45-50](#) ;
2. Current contact information for the exchange company;
3. A disclosure document that complies with § [55.1-2219](#) of the Code of Virginia; and
4. A report independently audited by a certified public accountant or accounting firm in accordance with the standards of the Accounting Standards Board of the American Institute of Certified Public Accountants. The report shall provide the following for the preceding calendar year:
 - a. The number of owners enrolled in the exchange program. Such numbers shall disclose the relationship between the exchange company and owners as being either fee paying or gratuitous in nature;
 - b. The number of time-share properties, accommodations or facilities eligible to participate in the exchange program;
 - c. The percentage of confirmed exchanges, which shall be the number of exchanges confirmed by the exchange company divided by the number of exchanges properly applied for, together with a complete and accurate statement of the criteria used to determine whether an exchange request was properly applied for;
 - d. The number of time-shares for which the exchange company has an outstanding obligation to provide an exchange to an owner who relinquished a time-share during the year in exchange for a time-share in any future year; and
 - e. The number of exchanges confirmed by the exchange company during the year.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-600. Minimum Exchange Program Post-Registration Reporting Requirements.

A. Subsequent to the issuance of a registration for an exchange program by the board, the exchange company shall:

1. File an annual report in accordance with subsection E of § [55.1-2219](#) of the Code of Virginia and this chapter.
2. Upon the occurrence of a material change to the disclosure document, the exchange company shall file an amended disclosure document in accordance with the provisions of § [55.1-2219](#) of the Code of Virginia and this chapter. These amendments shall be filed with the board within 20 business days after the occurrence of the material change.

3. Upon the occurrence of any material change in the information contained in the registration file, the exchange company shall immediately report such material changes to the board.

4. Submit appropriate documentation to the board once the registration is eligible for termination.

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

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-610. Annual Report Required for an Exchange Program Registration.

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

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

1. Current contact information for the exchange company;
2. Information concerning the current status of the exchange program; and
3. A report that contains the information in subdivision 4 of [18VAC48-45-590](#) and submitted in compliance with subdivision A 17 of § [55.1-2219](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff.

December 30, 2019.

18VAC48-45-620. Board Review of Annual Report for Exchange Program Registration.

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

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019; [Volume 36, Issue 17](#), eff. June 1, 2020.

18VAC48-45-630. Termination of an Exchange Program Registration.

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

B. Upon receipt and review of the notification pursuant to subsection A of this section, the board shall issue an order of termination for the exchange program registration. The board may request additional information as necessary during the review of the submitted notification to ensure that the exchange program registration is eligible for termination.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-640. Reporting of Other Changes to an Exchange Program.

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-650. Registration of Time-Share Reseller Required.

Part IX. Time-Share Reseller Registration

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-660. Exemptions from Time-Share Reseller Registration.

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

1. A person that solely or with affiliates engages in a resale service with respect to an aggregate of no more than 12 resale time-shares per calendar year;
2. A person that owns or acquires more than 12 resale time-shares and subsequently transfers all such resale time-shares to a single purchaser in a single transaction;
3. The owner, owner's agents, and employees of a regularly published newspaper, magazine, or other periodical publication of general circulation; broadcast station; website; or billboard, to the extent their activities are limited to solicitation and publication of advertisements and the transmission of responses to the persons who place the advertisements. Any person that would otherwise be exempt from this chapter pursuant to this section shall not be exempt if the person (i) solicits the placement of the advertisement by representing that the advertisement will generate cash, a certain price, or a similar type of representation for the time-share owner's resale time-share, (ii) makes a recommendation as to the sales price for which to advertise the resale time-share, (iii) makes representations to the person placing the advertisement regarding the success rate for selling resale time-shares advertised with such person, or (iv) makes misrepresentations as described in this chapter;

4. Sale by a developer or a party acting on its behalf of a resale time-share under a current registration of the time-share program in which the resale time-share is included;
5. Sale by an association, managing entity, or a party acting on its behalf of a resale time-share owned by the association provided the sale is in compliance with subsection C of § [55.1-2228](#); or
6. Attorneys, title agents, title companies, or escrow companies providing closing services in connection with the transfer of a resale time-share.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-670. Requirements for Registration As a Time-Share Reseller.

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

1. The information contained in § [55.1-2244](#) of the Code of Virginia.
2. The application fee specified in [18VAC48-45-70](#).
3. All contact information applicable to the time-share reseller and the lead dealer.

B. Any individual or firm offering resale services as defined in § [55.1-2200](#) of the Code of Virginia shall be registered with the board. All names under which the time-share reseller conducts business shall be disclosed on the application. The name under which the firm conducts business and holds itself out to the public (i.e., the trade or fictitious name) shall also be disclosed on the application. Firms shall be organized as business entities under the laws of the Commonwealth of Virginia or otherwise authorized to transact business in Virginia. Firms shall register any trade or fictitious names with the State Corporation Commission in accordance with Chapter 5 of Title 59.1 (§ [59.1-69](#) et seq.) of the Code of Virginia before submitting an application to the board.

C. The applicant for a time-share reseller registration shall disclose the firm's mailing address and the firm's physical address. A post office box is only acceptable as a mailing address when a physical address is also provided.

D. In accordance with § [54.1-204](#) of the Code of Virginia, each applicant for a time-share reseller registration shall disclose the following information about the firm, the lead dealer, and any of the principals of the firm, if applicable:

1. All felony convictions.
2. All misdemeanor convictions in any jurisdiction that occurred within three years before the date of application.

3. Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication shall be considered a conviction for the purposes of this section. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.

E. The applicant for time-share reseller registration shall be in compliance with the standards of conduct set forth in Part X ([18VAC48-45-720](#) et seq.) of this chapter at the time of application, while the application is under review by the board, and at all times when the registration is in effect.

F. The applicant for time-share reseller registration, the lead dealer, and all principals of the firm shall be in good standing in Virginia and in every jurisdiction and with every board or administrative body where licensed, certified, or registered, and the board, in its discretion, may deny registration to any applicant who has been subject to, or whose lead dealer or principals have been subject to, any form of adverse disciplinary action, including reprimand, revocation, suspension or denial, imposition of a monetary penalty, required to complete remedial education, or any other corrective action, in any jurisdiction or by any board or administrative body or surrendered a license, certificate, or registration in connection with any disciplinary action in any jurisdiction prior to obtaining registration in Virginia.

G. The applicant for time-share reseller registration shall provide all relevant information about the firm, the lead dealer, and of the principals of the firm for the seven years prior to application on outstanding judgments, past-due tax assessments, defaults on bonds, or pending or past bankruptcies and specifically shall provide all relevant financial information related to providing resale services as defined in § [55.1-2200](#) of the Code of Virginia.

H. The application for time-share reseller registration shall include the exhibits required pursuant to [18VAC48-45-680](#).

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018; [Volume 36, Issue 06](#), eff. December 30, 2019; [Volume 36, Issue 17](#), eff. June 1, 2020.

18VAC48-45-680. Exhibits Required for Registration As a Time-Share Reseller.

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

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

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

3. Exhibit C: A copy of the resale transfer contract.
4. Exhibit D: A copy of disclosures required by § [55.1-2228](#) of the Code of Virginia.
5. Exhibit E: A narrative description of the marketing or advertising plan.

B. The board has the sole discretion to require additional information or amendment of existing information as the board finds necessary to ensure full and accurate disclosure and compliance with the provisions of § [55.1-2228](#) of the Code of Virginia and to ensure compliance with the provisions of § [55.1-2244](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018; [Volume 36, Issue 06](#), eff. December 30, 2019.

18VAC48-45-690. Renewal and Reinstatement of a Time-Share Reseller Registration.

- A. A time-share reseller registration issued under this chapter shall expire one year from the last day of the month in which it was issued. The fee specified in [18VAC48-45-70](#) shall be required for renewal.
- B. Prior to the expiration date shown on the registration, a registration shall be renewed upon payment of the fees specified in [18VAC48-45-70](#).
- C. The board will send a renewal notice to the regulant at the last known address of record. Failure to receive this notice shall not relieve the regulant of the obligation to renew. If the regulant fails to receive the renewal notice, a copy of the registration may be submitted with the required fees as an application for renewal. By submitting a renewal fee, the regulant is certifying continued compliance with this chapter, as applicable, and certifying that all documents required for registration pursuant to [18VAC48-45-680](#) on file with the board reflect the most current version used by the reseller.
- D. If the requirements for renewal of a registration as specified in this chapter are not completed more than 30 days and within six months after the registration expiration date, the reinstatement fee specified in [18VAC48-45-70](#) shall be required.
- E. A registration may be reinstated for up to six months following the expiration date. After six months, the registration may not be reinstated under any circumstances, and the firm or individual must meet all current entry requirements and apply as a new applicant.
- F. The board may deny renewal or reinstatement of registration for the same reasons as it may refuse initial registration or discipline a registrant.
- G. The date the renewal application and fee are received in the office of the board shall determine whether a registration shall be renewed without reinstatement, or shall be subject

to reinstatement application procedures.

H. A registration that is reinstated shall be regarded as having been continuously registered without interruption. Therefore, the registration holder shall remain under the disciplinary authority of the board during the entire period and shall be accountable for its activities during the period. Nothing in this chapter shall divest the board of its authority to discipline a registration holder for a violation of the law or regulation during the period of time for which the regulant was registered.

I. Applicants for renewal shall continue to meet all of the qualifications for registration set forth in [18VAC48-45-680](#) .

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#) , eff. December 14, 2018; [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-700. Maintenance of Time-Share Reseller Registration.

Any material changes made or known by the time-share reseller that may affect the accuracy or completeness of the time-share reseller registration file shall be promptly reported to the board. The board may request additional information as necessary to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-710. Recordkeeping for a Time-Share Reseller Registration.

A time-share reseller registered by the board shall comply with the recordkeeping provisions of § [55.1-2245](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 36, Issue 06](#) , eff. December 30, 2019.

18VAC48-45-720. Grounds for Disciplinary Action.

Part X. Board Authority and Standards of Conduct

The board may revoke a registration that is not in compliance with any provision of the regulations of the board or the Virginia Real Estate Time-Share Act. Additional action may include issuance of a temporary cease and desist order, issuance of a cease and desist order, and bringing action in the appropriate circuit court to enjoin the acts or practices and to enforce compliance.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-730. Registration Required.

- A. No developer or agent of a developer shall offer a time-share prior to the registration of the time-share program and time-share project.
- B. No developer or agent of a developer shall offer an alternative purchase prior to the registration of the alternative purchase by the developer.
- C. No exchange company or agent of an exchange company shall offer an exchange program prior to the registration of the exchange program by the exchange company.
- D. No time-share reseller or agent of a time-share reseller shall offer any resale services prior to the registration of the time-share reseller.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-740. Time-Share Advertising Standards.

- A. No promise, assertion, representation, or statement of fact or opinion in connection with a time-share marketing activity shall be made that is false, inaccurate or misleading by reason of inclusion of an untrue statement of a material fact or omission of a statement of a material fact relative to the actual or intended characteristics, circumstances, or features of a time-share program or a time-share project.
- B. No promise, assertion, representation, or statement of fact or opinion made in connection with a time-share marketing activity shall indicate that a unit or common element will be built or placed on the time-share unless proposed within the meaning of subsection A of [18VAC48-45-200](#).
- C. No promise, assertion, representation, or statement of fact or opinion made in connection with a time-share marketing activity and relating to a time-share project not registered shall, by its express terms, induce, solicit, or encourage a contract for sale or performing some

other act that would create or purport to create a legal or equitable interest in the time-share, other than a security interest in or a nonbinding reservation of the time-share, when to do so would circumvent the provisions of the Virginia Real Estate Time-Share Act.

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-750. Board Oversight of Public Offering Statement and Exchange Program Disclosure Document.

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-760. Response to Inquiry and Provision of Records.

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

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

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-770. Prohibited Acts.

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

1. Violating, inducing another to violate, or cooperating with others in violating any of the provisions of any regulation of the board or the Virginia Real Estate Time-Share Act or engaging in any act enumerated in §§ [54.1-102](#) and [54.1-111](#) of the Code of Virginia.
2. Obtaining or attempting to obtain a registration by false or fraudulent representation, or maintaining, renewing, or reinstating a registration by false or fraudulent representation.
3. Failing to alter or amend the public offering statement or disclosure document as required in accordance with the provisions of this chapter.
4. Providing information to purchasers in a manner that willfully and intentionally fails to promote full and accurate disclosure.
5. Making any misrepresentation or making a false promise that might influence, persuade, or induce.
6. Failing to provide information or documents, or amendments thereof, in accordance with this chapter.
7. Failing to comply with the post-registration requirements of this chapter.
8. Filing false or misleading information in the course of terminating a registration in accordance with [18VAC48-45-450](#), [18VAC48-45-460](#), [18VAC48-45-560](#), or [18VAC48-45-630](#).
9. Failing to comply with the advertising standards contained in Part III ([18VAC48-45-80](#) et seq.) of this chapter.
10. Allowing a registration issued by the board to be used by another.
11. A regulant having been convicted, found guilty, or disciplined in any jurisdiction of any

offense or violation described in subdivisions C 13 and C 14 of [18VAC48-45-130](#) , subdivisions 4 and 5 of [18VAC48-45-210](#) , and subsections D, F, and G of [18VAC48-45-670](#) .

12. Failing to inform the board in writing within 30 days that the regulant was convicted, found guilty, or disciplined in any jurisdiction of any offense or violation described in subsections D, F, and G of [18VAC48-45-670](#) .

13. Failing to report a change as required by [18VAC48-45-470](#) .

14. Failing to satisfy any judgments or restitution orders entered by a court or arbiter of competent jurisdiction.

15. Misrepresenting or misusing the intended purpose of a power of attorney or similar document to the detriment of any grantor of such power of attorney.

16. Engaging in dishonest or fraudulent conduct in providing resale services, including the following:

a. The intentional and unjustified failure to comply with the terms of the resale purchase contract or resale transfer contract.

b. Engaging in dishonest or fraudulent conduct in providing resale services.

c. Failing to comply with the recordkeeping requirements of § [55.1-2245](#) of the Code of Virginia.

d. Failing to disclose information in writing concerning the marketing, sale, or transfer of resale time-shares required by this chapter prior to accepting any consideration or with the expectation of receiving consideration from any time-share owner, seller, or buyer.

e. Making false or misleading statements concerning offers to buy or rent; the value, pricing, timing, or availability of resale time-shares; or numbers of sellers, renters, or buyers when engaged in time-share resale activities.

f. Misrepresenting the likelihood of selling a resale time-share interest.

g. Misrepresenting the method by or source from which the reseller or lead dealer obtained the contact information of any time-share owner.

h. Misrepresenting price or value increases or decreases, assessments, special assessments, maintenance fees, or taxes or guaranteeing sales or rentals in order to obtain money or property.

i. Making false or misleading statements concerning the identity of the reseller or any of its affiliates or the time-share resale entity's or any of its affiliate's experience, performance, guarantees, services, fees, or commissions, availability of refunds, length of time in business, or endorsements by or affiliations with developers, management companies, or any other third party.

j. Misrepresenting whether or not the reseller or its affiliates, employees, or agents

hold, in any state or jurisdiction, a current real estate sales or broker's license or other government-required license.

k. Misrepresenting how funds will be utilized in any time-share resale activity conducted by the reseller.

l. Misrepresenting that the reseller or its affiliates, employees, or agents have specialized education, professional affiliations, expertise, licenses, certifications, or other specialized knowledge or qualifications.

m. Making false or misleading statements concerning the conditions under which a time-share owner, seller, or buyer may exchange or occupy the resale time-share interest.

n. Representing that any gift, prize, membership, or other benefit or service will be provided to any time-share owner, seller, or buyer without providing such gift, prize, membership, or other benefit or service in the manner represented.

o. Misrepresenting the nature of any resale time-share interest or the related time-share plan.

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

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

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

Statutory Authority

§§ [54.1-2349](#) and [55.1-2247](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018; [Volume 36, Issue 06](#), eff. December 30, 2019.

Forms (18VAC48-45)

[Time-Share Registration/Amendment Application A492-0515REG-v4 \(eff. 4/2020\)](#)

[Time-Share Annual Report A492-0515ANRPT-v5 \(eff. 1/2020\)](#)

[Time-Share Building Status Form A492-0515BLDST-v1 \(eff. 9/2013\)](#)

[Time-Share Bond/Letter of Credit Verification Form A492-0515BOND-v3 \(eff. 1/2020\)](#)

[Time-Share Exchange Program Registration Application A492-0516REG-v3 \(eff. 4/2020\)](#)

[Time-Share Exchange Program Annual Report A492-0516ANRPT-v2 \(eff. 1/2020\)](#)

[Alternative Purchase Registration Application A492-0524REG-v3 \(eff. 4/2020\)](#)

[Alternative Purchase Annual Report A492-0524ANRPT-v2 \(eff. 1/2020\)](#)

[Time-Share Reseller Registration Application A492-0525REG-v4 \(eff. 4/2020\)](#)

[Time-Share Reseller Lead Dealer Change Form A492-0525LDCHG-v2 \(eff. 1/2020\)](#)

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
and are not to be construed as regulation of official Board positions
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**STAFF REQUEST FOR AUTHORIZATION TO
UPDATE CIC BOARD GUIDANCE DOCUMENTS
TO REFLECT TITLE 55 RECODIFICATION**

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Materials contained in this agenda are proposed for discussion
and are not to be construed as regulation or official Board action
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COMMON INTEREST COMMUNITY BOARD 2021 LEGISLATIVE PROPOSALS

Following is a list of legislation regarding the CIC Board's programs that have been provided to the Director to consider forwarding for the Administration's legislative package. These proposals are a compilation of legislative amendments that the Board has discussed in past meetings.

A summary of the legislative proposals is below.

CICB LEGISLATIVE ITEMS | Summary

1. **Common Interest Community Act:** Amend § 54.1-2354.1 to include associations in the definition of "claimant" in order to allow associations to file a claim to recovery money from the recovery fund, as opposed to only a court-appointed receiver. In addition, amend § 54.1-2354.5 to increase the minimum balance of the Common Interest Community Management Recovery Fund to \$3.5 million. Also, amend § 54.1-2354.5.B to require payments to the recovery fund with each common interest community manager renewal and each association annual report (not just with initial application or first annual report filing as is currently required). Overall, amend § 54.1-2354.5 to more closely conform to the Department's other recovery funds.
2. **Virginia Real Estate Time-Share Act:** Remove the requirement from § 55.1-2245 of the Code of Virginia that requires time-share resellers to keep a "copy of a current government-issued photographic identification (e.g., driver's license, passport, or military identification card) of the lead dealer who provided the contact information."

VIRGINIA REAL ESTATE TIME-SHARE ACT | Reseller Recordkeeping

Code(s) referenced:

§ 55.1-2245

Summary of current language:

The current language requires time-share resellers to keep specific information for five years, including copies of government-issued photographic identification pertaining to the lead dealer.

Excerpt:

§ 55.1-2245. Recordkeeping by reseller.

A. If contact information has been obtained by a reseller from any source, including a lead dealer, the reseller and lead dealer shall maintain the following records for a period of five years from the last date of contact between the reseller and the owner:

1. The name; home address; work address, if different; telephone number; email address, if any; and *a copy of a current government-issued photographic identification (e.g., driver's license, passport, or military identification card)* of the lead dealer who provided the contact information;

Summary of proposed amendment:

Amend the language to remove the requirement that a reseller keep copies of government-issued photographic identification.

Background of proposed amendment:

Identity theft is an increasing problem, and a statutory requirement that places a responsibility on regulants to keep information that could contribute to theft of an individual's personal information is not appropriate.

DPOR UPDATES AS IT RELATES TO COVID-19 RESPONSE

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OMBUDSMAN REPORT

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UPDATE ON PUBLIC HEARINGS

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**Department of Professional and Occupational Regulation
Statement of Financial Activity**

**Common Interest Community Board
954520**

2020-2022 Biennium

July 2020

	July 2020 Activity	Biennium-to-Date Comparison	
		July 2018 -	July 2020 -
Cash/Revenue Balance Brought Forward			15,716
Revenues	19,652	65,210	19,652
Cumulative Revenues			35,368
Cost Categories:			
Board Expenditures	52,975	51,889	52,975
Board Administration	0	0	0
Administration of Exams	0	0	0
Enforcement	17,017	16,183	17,017
Legal Services	0	0	0
Information Systems	3,776	4,436	3,776
Facilities and Support Services	6,883	2,798	6,883
Agency Administration	5,643	6,408	5,643
Other / Transfers	0	0	0
Total Expenses	86,293	81,713	86,293
Transfer To/(From) Cash Reserves	(66,641)	0	(66,641)
Ending Cash/Revenue Balance			15,716

Cash Reserve Beginning Balance	3,141,474	0	3,141,474
Change in Cash Reserve	(66,641)	0	(66,641)
Ending Cash Reserve Balance	3,074,833	0	3,074,833

Number of Regulants

Current Month	7,470
Previous Biennium-to-Date	7,105

**VIRGINIA COMMON INTEREST
COMMUNITY MANAGEMENT
RECOVERY FUND**

Financial Statements

Cash Basis

For the Month Ended
June 30, 2020

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
VIRGINIA COMMON INTEREST COMMUNITY MANAGEMENT
RECOVERY FUND
BALANCE SHEET
GOVERNMENTAL FUNDS
June 30, 2020

	Special Revenue Funds		
	Principal	Interest	Totals
ASSETS			
CASH AND CASH EQUIVALENTS	\$ 213,597	\$ 11,133	\$ 224,730
TOTAL ASSETS	\$ 213,597	\$ 11,133	\$ 224,730
FUND BALANCES			
RESERVED FOR PAYMENT OF FUTURE CLAIMS	\$ 213,597	\$ -	\$ 213,597
RESERVED FOR ADMINISTRATION OF RECOVERY ACT	-	11,133	11,133
TOTAL FUND BALANCES	\$ 213,597	\$ 11,133	\$ 224,730

The accompanying notes are an integral part of this statement.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
VIRGINIA COMMON INTEREST COMMUNITY MANAGEMENT RECOVERY FUND
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES
GOVERNMENTAL FUNDS
FOR THE MONTH ENDED
June 30, 2020

	MONTH OF JUNE			YEAR TO DATE		
	Principal Fund	Interest Fund	Totals	Principal Fund	Interest Fund	Totals
REVENUES:						
Assessments:	\$ 379	\$ -	\$ 379	\$ 6,115	\$ -	\$ 6,115
Investment Income	-	55	55	-	2,575	2,575
Total Revenues:	<u>379</u>	<u>55</u>	<u>434</u>	<u>6,115</u>	<u>2,575</u>	<u>8,690</u>
EXPENDITURES:						
Administrative Expense	-	-	-	-	-	-
Total Expenses:	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Net Change in Fund Balances	<u>379</u>	<u>55</u>	<u>434</u>	<u>6,115</u>	<u>2,575</u>	<u>8,690</u>
Beginning Fund Balance	<u>213,218</u>	<u>11,078</u>	<u>224,296</u>	<u>207,482</u>	<u>8,558</u>	<u>216,040</u>
Ending Fund Balance	<u>\$ 213,597</u>	<u>\$ 11,133</u>	<u>\$ 224,730</u>	<u>\$ 213,597</u>	<u>\$ 11,133</u>	<u>\$ 224,730</u>

The accompanying notes are an integral part of this statement.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
 VIRGINIA COMMON INTEREST COMMUNITY MANAGEMENT RECOVERY FUND
 SUPPLEMENTAL SCHEDULE OF CLAIMS PAID
 June 30, 2020

CLAIMS PAID:	Number of Payments	Dollar Amount of Claims Paid	Related Recoveries	Net Payments
July 1, 2019 - June 30, 2020	0	\$0.00	\$0.00	\$0.00
July 1, 2018 - June 30, 2019	0	\$0.00	\$0.00	\$0.00
July 1, 2017 - June 30, 2018	0	\$0.00	\$0.00	\$0.00
July 1, 2016 - June 30, 2017	0	\$0.00	\$0.00	\$0.00
July 1, 2015 - June 30, 2016	0	\$0.00	\$0.00	\$0.00
July 1, 2014 - June 30, 2015	0	\$0.00	\$0.00	\$0.00
July 1, 2013 - June 30, 2014	0	\$0.00	\$0.00	\$0.00
July 1, 2012 - June 30, 2013	0	\$0.00	\$0.00	\$0.00
July 1, 2011 - June 30, 2012	0	\$0.00	\$0.00	\$0.00
July 1, 2010 - June 30, 2011	0	\$0.00	\$0.00	\$0.00
July 1, 2009 - June 30, 2010	0	\$0.00	\$0.00	\$0.00
July 1, 2008 - June 30, 2009	0	\$0.00	\$0.00	\$0.00
Total	<u>0</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>

This schedule is presented on a cash basis and represents aggregate claims paid and related recoveries. Recoveries are often received and reported in a different year from when the claim was paid.

DEPARTMENT OF PROFESSIONAL AND OCCUPATION REGULATION
VIRGINIA COMMON INTEREST COMMUNITY MANAGEMENT RECOVERY FUNDS
NOTES TO FINANCIAL STATEMENTS

June 30, 2020

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The following is a summary of certain significant accounting policies employed by the Department of Professional and Occupational Regulation in administering the Virginia Common Interest Community Management Recovery Fund.

A. Basis of Presentation

The accompanying financial statements have been prepared using governmental fund accounting as prescribed by the Governmental Accounting Standards Board (GASB). The financial statements are prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

B. Reporting Entity

These financial statements report the financial activity of the Virginia Common Interest Community Management Recovery Fund, which is administered by the Department of Professional and Occupational Regulation. The Department exercises oversight authority over other funds which are not included in these financial statements.

C. Financial Statement Presentation

Special Revenue Funds account for transactions related to resources received and used for restricted or specific purposes. The Virginia Common Interest Community Management Recovery Fund, which is reported as a special revenue fund, is established under Section 55-530.1 of the *Code of Virginia* to reimburse associations for losses that occur when their community manager fails to perform his or her fiduciary responsibilities.

D. Measurement Focus and Basis of Accounting

The governmental fund financial statements are reported using the current financial resources measurement focus and the cash basis of accounting. Revenues are recognized when cash is received and expenditures are recorded when paid. The Department uses the cash basis of accounting during the year and prepares financial statements in accordance with generally accepted accounting principles at year end.

E. Cash and Cash Equivalents

Cash and cash equivalents consist of cash on hand, demand deposits, and investments in the Local Government Investment Pool (LGIP). Investments in the Local Government Investment Pool are reported as cash equivalents since they are readily convertible to cash.

2. RESTRICTED FUND BALANCES

Assets held in the Virginia Common Interest Community Management Recovery Funds are restricted to the payment of claims in accordance with Section 55.530.1H of the *Code of Virginia*. Interest earned on the deposits is used to pay the expenses of administering the fund, to pay claims, or may be transferred to the Common Interest Community Management Information Fund.

3. ASSESSMENTS

The Common Interest Community Management Recovery Fund is financed through assessments. Each new common interest community manager pays a \$25 assessment into the Recovery Fund at the time of application. Each association pays \$25 into the Recovery Fund at the time of filing its first annual report. After July 1, 2011, the *Code of Virginia* requires the Board to transfer funds from the Common Interest Community Management Information Fund and/or assess each association and each common interest community manager additional fees whenever the principal balance of the Recovery Fund is less than \$150,000. If the principal balance of the fund exceeds \$5,000,000 on June 30 of any year, the Board must transfer the excess to the Virginia Housing Partnership Revolving Fund.

* These financial statements are prepared by Jordan Perryman, Fund Accountant. Please call 804-367-4003 if you have questions.

The accompanying notes are an integral part of this statement.

OTHER BUSINESS

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COMPLETE CONFLICT OF INTEREST
FORMS AND
TRAVEL VOUCHERS

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ADJOURN

Please return your document folders to Tanya Pettus.

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