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Proposed Regulation Agency Background Document

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) citation(s)	18 VAC 48-60
Regulation title(s)	Common Interest Community Management Information Fund Regulations
Action title	General Review 2018-19
Date this document prepared	February 11, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Common Interest Community Management Information Fund Regulations implement the requirements and duties imposed upon the Common Interest Community Board ("the Board") by Virginia law, including Chapter 29 (§ 55-528 et seq.) of Title 55 of the Code of Virginia, which establishes the Common Interest Community Information Management Fund ("the Fund").

The regulations prescribe when and how common interest community associations (property owners' associations, condominium unit owners' associations, and proprietary lessees' associations in cooperatives) are to register with the Board by filing an annual report in accordance with Chapters 4.2, 24, and 26 of Title 55 of the Code of Virginia. The regulations establish registration application filing fees, procedures for renewing registrations, and requirements for updating registration information.

This action proposes significant revisions to the current regulations to (i) provide better clarity for regulants and the public; (ii) better complement statutory requirements; and (iii) reflect current agency practice regarding association registration.

The Board proposes to amend the title of the regulations to Common Interest Community Association Registration Regulations to reflect more accurately the purpose of the regulation. The proposed amendments also include:

1. Adding several definitions, including for the terms registration, annual report, and gross assessment income;
2. Creating a new section that comprehensively outlines association registration requirements, including the potential consequences outlined in statute for associations that fail to comply;
3. Consolidating several existing sections regarding registration timeframes into a single section;
4. Removal of language indicating that associations may submit the SCC Annual Report in lieu of a Board-designated annual report form;
5. Establishing clearer procedures for renewal of a registration, including a one-year timeframe for an association to renew; and
6. Creating a new section addressing statutory requirements for associations to pay an annual fee to the Board based on associations' gross assessment income.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

"CIC" means common interest community.

"DPOR" means Department of Professional and Occupational Regulation.

"POA" means property owners' association.

"SCC" means State Corporation Commission.

"UOA" means condominium unit owners' association.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The Board initiated this regulatory change in fulfillment of its obligations to ensure the regulation complements current statutory and regulatory requirements; achieves its intended objective in the most efficient, cost-effective manner; is clearly written and understandable; provides minimal burdens on regulants while still protecting the public; and reflects current DPOR procedures and policies.

This regulatory change is not the result of any particular directive from the General Assembly, the federal government, or a court.

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

The promulgating agency is the Common Interest Community Board.

Section 55-530(A) of the Code of Virginia specifies the Board shall administer the provisions of Chapter 29 of Title 55 of the Code of Virginia. Section 55-530(I) of the Code of Virginia provides:

The Board may prescribe regulations which shall be adopted, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) to accomplish the purpose of this chapter.

Purpose

Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

In 2008, the General Assembly transferred authority over the Fund and the Fund Regulations from the Real Estate Board to the newly created Common Interest Community Board. The Board determined a comprehensive review was necessary to ensure that the regulation complements current statutory requirements; provides minimal burdens on regulants while still protecting the public; achieves its intended objective in the most efficient, cost-effective manner; is clearly written and understandable; and reflects current Department procedures and policies.

The General Assembly created the Fund, to be used at the discretion of the Board, to promote the improvement and more efficient operation of common interest communities through research and education. CIC associations are required by statute to finance the Fund on an annual basis through the filing of annual reports with the Board and payment of fees, to include payment of a percentage of gross assessment income received by associations during a preceding year.

Monies from the Fund support the operations of the Office of the Common Interest Community Ombudsman. The Ombudsman's office protects the public welfare through fulfilling its statutory obligations to

- (i) assist association members in understanding their rights and the processes available to them according to the laws and regulations governing common interest communities;
- (ii) provide members and other citizens with information concerning common interest communities upon request; and
- (iii) receive notices of final adverse decision from association members and members of the public.

The Fund also supports the functions of the Board which protects the public welfare, in part, by enforcing the requirements of the Property Owners' Association Act ("POA Act") (Chapter 26 of Title 55 of the Code of Virginia), the Condominium Act (Chapter 4.2 of Title 55 of the Code of Virginia), and the Cooperative

Act (Chapter 24 of Title 55 of the Code of Virginia); and by discharging its duties under §§ 54.1-2350 and 54.1-2351 of the Code of Virginia.

Unlike most DPOR regulatory programs, the Board’s association registration program does not grant a license or other authorization for an association to operate or exist. However, the General Assembly has imposed on associations certain obligations tied to registration with the Board. The POA Act requires that when selling a home in a POA, the owner must provide a potential purchaser with certain legally required information regarding the home, common areas, and the association. The POA Act calls the legally required information a disclosure packet. The packet must be requested by the seller, prepared by the association, and delivered to the potential purchaser. One component of the disclosure packet is documentation the association has a current registration with the Board. If an association does not have a current registration, then the disclosure packet is deemed not available, and the purchaser may cancel a purchase contract. The Condominium Act imposes a similar requirement on UOAs, but calls the disclosure document a resale certificate. Failure of a POA or UOA to comply with registration requirements poses a risk of financial harm to innocent third parties, namely purchasers and sellers in real estate transactions, due to the potential for contract cancellation and civil litigation.

In addition, POAs are authorized by the POA Act to collect certain fees during real estate transactions in order to offset costs imposed on associations for the preparation and distribution of association disclosure packets. However, this authorization is tied to the requirement for a POA to be registered. A POA that does not have a current registration with the Board is prohibited from collecting these fees. Failure of a POA’s governing board to obtain and maintain a registration with the Board prevents it from lawfully recouping costs incurred to comply with the law; which poses a financial risk to both the association and its members.

The public welfare will be enhanced by (i) changing the name of the regulation to more accurately reflect its objective, (ii) providing greater specificity as to what constitutes association registration, how registration is obtained, maintained, and renewed, and (iii) providing notice as to the potential consequences for failure to comply with registration requirements.

Unlike most DPOR statutes that pertain to licensure or registration, which are located in a single chapter in the Code of Virginia, requirements pertaining to registration of CIC associations are spread out across multiple chapters of the Code. Members of the public, including associations’ governing board members, often contact the Board’s office as they are unsure of registration requirements, in particular, where registration requirements are established. In a given month, the Board’s office receives between 15-20 inquiries pertaining to why associations must register, where to find registration requirements, and what can happen if an association does not register. An anticipated benefit of the changes proposed by this action is that statutory registration requirements for associations will be more clearly outlined and referenced in a single source. Another anticipated benefit of this action is that process for initial registration and registration renewal will be more clear to the public. The existing regulation does little in way of outlining procedurally how to achieve initial registration and registration renewal. Consequently, the Board’s office receives inquiries regarding processes for registration or renewal of a registration, and there is the risk of inconsistent application of these processes without clear provisions in the regulation.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

The proposed amendments will change the title of the regulation to Common Interest Community Association Registration Regulations, which more accurately reflects the purpose of the regulation. The amendments also make the following substantive changes.

Sections Repealed:

1. Section 18VAC48-60-20, which permits an association to submit an SCC annual report to satisfy the annual reporting requirement.
2. Sections 18VAC48-60-30, 18VAC48-60-40, and 18VAC48-60-50, which outline timeframes for registration of condominium associations, cooperative associations, and property owners' associations. These requirements are consolidated into a new, single section.

Sections Amended:

1. Section 18VAC48-60-13 to add several new definitions: "Annual report"; "Board"; "Common interest community"; "Contact person"; "Gross assessment income"; "Property owners' association"; "Registration"; and "Renew."
2. Section 18VAC48-60-17 to more clearly outline procedures for renewal of a registration, and establish a one-year renewal period.
3. Section 18VAC48-60-60 to clarify the difference between initial registration and renewal fees, and clarify that the fee schedule is based on number of lots/units subject to the association's declaration.

New Sections Created:

1. Section 18VAC48-60-14 to outline general association registration requirements and consequences for associations that fail to register in accordance with the chapter.
2. Section 18VAC48-60-15 to outline the specific registration timeframes for (i) condominium unit owners' associations; (ii) proprietary lessees' associations (cooperatives); and (iii) property owners' associations.
3. Section 18VAC48-60-25 to outline requirement for associations to notify the Board of changes in contact person's address; change of governing board members; and any other changes to association information reported on an annual report.
4. Section 18VAC48-60-55 to outline general requirements pertaining to fees paid to the Board, including the non-refundability of fees.
5. Section 18VAC48-60-70 to address requirement of associations to submit annual payments to the Board in accordance with the Code of Virginia based on association gross assessment income received during preceding calendar year; clarifies types of documentation of gross assessment income that may be accepted based on Board interpretation of statute and current agency practice.

Issues

Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantages to the public are that the amended regulation provides needed clarification, updates the regulation to better complement statutory requirements, and incorporates current agency practice.

The current title of the regulation, Common Interest Community Management Information Fund Regulations, suggests the regulation might pertain to the use and/or operation of the Fund, when in fact the regulation outlines the statutory requirements and procedures for association registration. The amended regulation title more clearly communicates the purpose and function of the regulation. Associations subject to the Property Owners' Association Act, Condominium Act, or Real Estate Cooperative Act are required by law to file annual reports with the Board and become registered. The amended regulation more clearly spells out how registration is to occur; how registration is renewed and maintained; and the potential consequences associations may face if they fail to register as required. The amendments also provide clarity and complement statute by providing definitions for terms such as registration, annual report, and gross assessment income, which are undefined in statute. The amended regulation also incorporates current agency practice, particularly regarding processes for renewal of a registration, and documentation required for verification of associations' gross assessment income.

Associations are already required to register with the Board, file annual reports, and pay fees/annual payments into the Fund. The amended regulation does not add any new requirements for registration or renewal of a registration. There are no identifiable disadvantages to the public.

The Department and the Board will primarily benefit from having a regulation that more clearly reflects statutory requirements and current agency practice. An anticipated advantage is that associations, both registered and unregistered, will have a better understanding of the requirement to register, and will be more inclined to comply. There are no identifiable disadvantages to the agency or the Commonwealth.

Requirements More Restrictive than Federal

Please identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agencies are particularly affected by the regulatory change.

Localities Particularly Affected

No localities are particularly affected by the regulatory change.

Other Entities Particularly Affected

No other entities are particularly affected by the regulatory change.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, please identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that this is change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources</p>	<p>No material fiscal impact to the agency is anticipated.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>No anticipated economic impact on other state agencies.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>The regulation will ensure that associations, both registered and unregistered, will have a better understanding of the requirement to register and will be more inclined to comply.</p>

Impact on Localities

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>No anticipated fiscal impact on localities is anticipated.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The regulation will ensure that associations, both registered and unregistered, will have a better understanding of the requirement to register and will be more inclined to comply.</p>

Impact on Other Entities

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>Common interest community associations are affected by this regulatory change. Associations include property owners' associations, condominium unit owners' associations, and proprietary lessees' associations in cooperatives. Businesses are not affected.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p>	<p>The number of non-registered associations affected is indeterminate. As of February 1, 2019, there are 6,346 associations registered with the Board.</p>

<p>a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Associations are not considered business entities. Therefore, no small businesses are affected by the regulation changes.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Please be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.</p>	<p>Non-registered associations affected by the changes in the regulations will see a minimum cost of \$20 or a maximum cost of \$1,010 in fees required to register with the Board annually. Fees vary according to association size and gross assessment revenue.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The regulation will ensure that associations, both registered and unregistered, will have a better understanding of the requirement to register and will be more inclined to comply.</p>

Alternatives

Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

The requirements for associations to file annual reports with the Board and make payments into the Fund are established by statute. The essential purpose of the regulatory change is provide clarification, complement statute, and reflect current agency practice regarding how statutory requirements are to be fulfilled by associations. This action does not establish any new requirements and there are no known viable alternatives to the proposed changes.

CIC associations do not appear to be small businesses as contemplated under § 2.2-4007.1 of the Code of Virginia.

The Board will consider all comments received during the public comment period as to proposed alternatives.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing

performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

CIC associations do not appear to be small businesses as contemplated under § 2.2-4007.1 of the Code of Virginia. This analysis is not applicable.

Periodic Review and Small Business Impact Review Report of Findings

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

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

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

- 1) The requirements for associations to file annual reports with the Board and make payments into the Fund are established by statute, which justify the continued need for the regulation.
- 2) Members of the public, including associations' governing board members, often contact the Board's office as they are unsure of registration requirements, in particular, where registration requirements are established. In a given month, the Board's office receives between 15-20 inquiries pertaining to why associations must register, where to find registration requirements, and what can happen if an association does not register.
- 3) An anticipated benefit of the changes proposed by this action is that statutory registration requirements for associations will be more clearly outlined and referenced in a single source. Another anticipated benefit of this action is that process for initial registration and registration renewal will be more clear to the public. The existing regulation does little in way of outlining procedurally how to achieve initial registration and registration renewal. Consequently, the Board's office receives inquiries regarding processes for registration or renewal of a registration, and there is the risk of inconsistent application of these processes without clear provisions in the regulation.
- 4) The Board has no knowledge of the proposed regulations overlapping, duplicating, or conflicting with any federal or state law or regulation.
- 5) There have been no substantive, non-fee related regulatory changes since the program's initial set of standard regulations in 2008 and 2009.

Public Comment

Please summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.

No comments were received during the public comment period (September 17-October 17, 2018).

Public Participation

Please include a statement that in addition to any other comments on the regulatory change, the agency is seeking comments on the costs and benefits of the regulatory change and the impacts of the regulated community. Also, indicate whether a public hearing will be held to receive comments.

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: 1) projected reporting, recordkeeping and other administrative costs; 2) probable effect of the regulation on affected small businesses; and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Written comments must include the name and address of the commenter. Comments may also be submitted by mail, email or fax to **Joseph C. Haughwout, Jr., Board Administrator** at:

Email: CIC@dpor.virginia.gov
FAX: 866) 490-2723
U.S. Mail: Common Interest Community Board
 Department of Professional and Occupational Regulation
 9960 Mayland Drive, Suite 400, Richmond, VA 23233

In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

Detail of Changes

Please list all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation.

If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Delete inapplicable tables.

If the regulatory change is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below. Please include citations to the specific section(s) of the regulation that are changing.

For changes to existing regulation(s), please use the following chart:

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
48-60-13	N/A	Outlines definitions used in the chapter.	Proposed change includes adding several definitions to the chapter. The terms “annual report,” “gross assessment income,” and “registration” are relevant terms used in the Code of Virginia, but were not defined by the General Assembly. Addition of these terms complements statute. Other added definitions are terms used in the regulation and which require definition. Technical revisions are made to the existing definitions in the regulation for purposes of clarity.
48-60-17	N/A	Establishes that a registration expires one-year after it is issued. Establishes requirement for how a registration is renewed. Requires an association to notify the Board within 30 days of certain changes to its information, including change of address, and change of governing board members.	<p>Requirements pertaining to the updating of association information are removed from this section, and are reflected in a newly created section.</p> <p>The registration expiration date and requirement to renew a registration are unchanged.</p> <p>Subsections B and C incorporate existing agency practice regarding registration renewal into regulation. This includes notice to the registered association, stipulation that failure to receive notice does not relieve an association from the requirement to renew a registration, and that renewal is accomplished with filing of completed annual report and payment of fees. The language in this subsection is consistent with that employed in regulations for other DPOR programs.</p> <p>Subsection D establishes that an association that does not renew its registration within 12 months of expiration can no longer renew the registration, and must re-register. This change incorporates a process employed in other DPOR programs, which allow for a “reinstatement” period following the expiration of license. After the end of</p>

			<p>such period, a license may not be renewed. The regulation currently does not address what happens after a registration expires. Under current agency practice, an association with an expired registration can essentially reinstate a registration, regardless of how long after expiration, by submitting a completed annual report, fee, and annual payment. This subsection incorporates current agency practice, but establishes a specified timeframe for reinstatement.</p> <p>Subsection E references the Board's enforcement authority as it pertains to an association that fails to comply with registration requirements. This is consistent with language employed in other DPOR programs.</p>
48-60-60	N/A	<p>Establishes the application fee schedule for initial registration and renewal of registration. Fee rates are established in tiers based on the number of lots or units in an association.</p> <p>Establishes that fees are non-refundable.</p> <p>Establishes a temporary reduction of application fees for a certain period.</p>	<p>Changes clarify existing requirements by segmenting the section into two subsections.</p> <p>Subsection A addresses the basic registration fee structure, which is based progressively on the number of lots or units in the association. Clarifies the difference between a fee paid for initial registration of an association, and a fee paid for renewal of a registration.</p> <p>Subsection B addresses the temporary reduction of registration fees. Starting in 2015, the Board adopted a policy of temporarily reducing registration fees in an effort to address a high balance in the Fund. The temporary fee reduction is effective through June 30, 2019, but is expected to be extended by the Board through at least 2020.</p> <p>Reference to the "size" of an association is replaced by more precise terminology to address the number of lots or units in an association.</p> <p>Reference to the non-refundability of fees is removed, as this provision is incorporated into a newly created section addressing general fee requirements.</p>

If an existing regulation or regulations (or parts thereof) are being repealed and replaced by one or more new regulations, please use the following chart:

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
48-60-20	48-60-14	Requires associations to file an annual report on a form designated by the Board or submit a copy of the annual report the association filed with the SCC. Requires associations filing an annual report to pay an application fee prescribed by the Board, and an annual assessment payment on association gross assessment income established by statute.	<p>Section 48-60-20 is repealed and replaced, in part, with a new section, 48-60-14. Section 48-60-14 outlines general association registration requirements that are established by statute.</p> <p>Section 48-60-20 currently permits an association to file an SCC annual report with the Board in lieu of a Board-designated form. This aspect of the regulation will be eliminated, as current agency practice does not allow for acceptance of SCC annual report filings. The information requested by the SCC for purposes of registering a corporate entity is wholly different than the information requested by the Board for the purposes of association registration.</p> <p>Subsection A outlines that an association becomes registered upon the Board's acceptance of the association's annual report, and issuance of a certificate of filing by the Board, as referenced in § 55-30(H) of the Code of Virginia.</p> <p>Subsection B outlines potential consequences to UOAs and POAs resulting from failure to properly register with the Board. The Condominium Act and the POA Act stipulate that in the event a UOA or POA is not properly registered with the Board (by having filed a current annual report) then the condominium resale certificate or property owners' association disclosure packet, as applicable, is deemed not available to a purchaser; thereby creating a cause for the purchaser to cancel the contract.</p> <p>Subsection C outlines an additional potential consequence to POAs resulting from failure to properly register with the Board. The POA Act allows associations to collect fees for the preparation and distribution of disclosure packets, as well as certain fees for services related to preparation of packets. However, POAs may only collect these fees if properly</p>

			<p>registered with the Board and current in payments due to the Board.</p> <p>Subsection D refers to the Board’s authority, outlined in the Code of Virginia, to take enforcement action against the governing board of an association that fails to register with the Board. Actions available to the Board include imposition of a cease and desist order, an affirmative order to file an annual report, and imposition of a monetary penalty not to exceed \$1,000.</p> <p>Subsections A, B, C, and D are intended to complement current statutory requirements and provide clarity.</p> <p>The requirement in Section 48-60-20 pertaining to the annual report filing fee is incorporated into the new definition of annual report outlined in Section 48-60-13.</p> <p>The requirement in Section 48-60-20 pertaining to payment of annual assessments is reflected in a newly created section.</p>
<p>48-60-30; 48-60-40; and 48-60-50</p>	<p>48-60-15</p>	<p>Establish timeframe for POAs, UOAs, and proprietary lessees’ associations (cooperatives) to file annual reports with the Board. UOAs are required to file within 30 days of termination of declarant control period over association. Cooperative associations are required to file within 30 days of termination of declarant control period. POAs are required to file within 30 days of creation of the POA.</p> <p>All associations are required to file an annual report every year after filing their initial annual report.</p>	<p>Sections 48-60-30, 48-60-40, and 48-60-50 are repealed and replaced with Section 48-30-15 that consolidates these requirements.</p> <p>For UOAs and proprietary lessees’ associations, the timeframe for filing is unchanged.</p> <p>For POAs, the timeframe for filing is essentially unchanged. However, the language reflects a change in statute regarding the event triggering the requirement. Effective July 1, 2019, § 55-501.9 of the POA Act requires the developer of a development to register the POA with the Board within 30 days of recordation of the declaration. The Board does not have regulatory authority over developers, so the regulation places the obligation to register on the POA.</p> <p>The section also revises language referring to these CIC associations to accurately reflect terminology used in statute. In addition, the section references applicable sections of the</p>

			<p>Code of Virginia which require these CIC associations to file annual reports.</p> <p>Consolidating three existing sections of the regulation into a single section, employing accurate terminology, and referencing applicable sections of statute should (i) make locating registration requirements in the regulation easier; and (ii) complement existing statute by tying registration requirements to their statutory basis. This should improve clarity and understanding of the regulations.</p>
48-60-17	48-60-25	Requires an association to notify the Board within 30 days of certain changes to its information, including change of address, and change of governing board members.	<p>Newly created section that incorporates requirement for associations to notify the Board within 30 days of change in certain association information. This requirement was previously contained in Section 48-60-17.</p> <p>Clarifies the existing requirement by incorporating agency practice regarding a change of address. Under current practice, an association is to provide the Board with the name and address for a contact person, an individual designated to receive notices and other correspondence from the Board on behalf of the association. The change also clarifies that an association is to provide notice of any other changes in information furnished on the association's annual report.</p>
48-60-60	48-60-55	Establishes that fees are non-refundable.	<p>Establishes general requirement for fees received by the agency by stipulating (i) all fees are non-refundable and cannot be prorated; (ii) the date the fee is received by the agency determines whether the fee is received on time; and (iii) to whom checks or money orders are to be made payable. The change incorporates existing agency practice as it pertains to fees; and is consistent with similar regulatory provisions in other DPOR programs.</p> <p>Incorporates provision regarding non-refundability of fees previously outlined in Section 48-60-60.</p>
48-60-20	48-60-70	Requires associations filing an annual report to pay an annual assessment payment on association gross	<p>Outlines requirement for CIC associations to pay an annual payment to the Board in accordance with statute as part of annual report filing.</p>

		assessment income established by statute.	<p>Incorporates agency practice regarding the submission of documentation of an association's gross assessment income during the preceding calendar year to verify amount due to the Board. Incorporates previous Board guidance regarding acceptable forms of documentation.</p> <p>This change more clearly outlines the requirement for CIC associations to remit statutory annual payments to the Board, and provides clarity as to what information is required in order for the association to comply with the requirement.</p>
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