



Virginia  
Regulatory  
Town Hall

## Periodic Review and Retention of Existing Regulations Agency Background Document

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| <b>Agency Name:</b>        | Department of Professional and Occupational Regulation |
| <b>VAC Chapter Number:</b> | 18 VAC 135-30-10 et seq.                               |
| <b>Regulation Title:</b>   | Real Estate Board Condominium Regulations              |
| <b>Action Title:</b>       | Periodic Review and Retention of Existing Regulations  |
| <b>Date:</b>               | May 22, 2001   |

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

### Summary

*Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.*

The Condominium Regulations were promulgated by the Real Estate Board to provide protection to those consumers within the Commonwealth who wish to purchase a condominium by ensuring adequate disclosure of the requirements of the Condominium Act (§ 55-79.39 et seq. of the Code of Virginia). Additionally, the regulations provide guidance to declarants of condominium projects in the structure and content of the condominium instruments and requirements of registration with the Real Estate Board.

### Basis

*Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or*

*discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.*

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The Board's authority to promulgate regulations for the administration and support of the Condominium Act may be found in § 55-79.98(a) of the Code of Virginia and was effective July 1, 1974. This section of the Code indicates that the Real Estate Board "shall prescribe reasonable rules which shall be adopted, amended or repealed in compliance with the law applicable to the administrative procedure of agencies of government. The rules shall include but not be limited to provisions for advertising standards to assure full and fair disclosure; provisions for operating procedures; and other rules as are necessary and proper to accomplish the purpose of this chapter."

Executive Order 25 (1998) requires a periodic review of existing regulations in order to ensure that the regulations provide protection of the health , safety, and welfare to the public, while being the least burdensome to both the citizens and businesses of the Commonwealth.

### Public Comment

*Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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One public comment was received requesting the Board require the development and implementation of a single page disclosure sheet as required by § 54.1-2105.1(4) of the Code of Virginia. This section was added to the Code in 2000 and is specific in its applicability to disclosure packets created pursuant to § 55-512 of the Code of Virginia (Property Owners' Association Act). The Real Estate Board determined that the statutory requirement was specific to the Property Owners' Association Act, not the Condominium Act, and that current disclosure requirements are adequate.

### Effectiveness

*Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.*

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The purchase of a condominium, as well as any real estate purchase, is probably the largest purchase that is made by a consumer in their lifetime and can be complicated and subject to many laws and regulations. Condominium ownership is unique in the responsibilities placed on the owner by the undivided interest in the common elements. As a result of that undivided

interest, condominium owners are required to pay a fee, in addition to the normal expenses of ownership (mortgage, taxes, insurance, etc.) that when added to the fees paid by all of the owners, funds the budget responsible for the maintenance of the common elements. These fees are subject to fluctuation based on the expenses experienced by the condominium's unit owners' association. A condominium is also subject to the restrictions and covenants found in most common interest communities.

As a result of these factors it is important to ensure that potential purchasers of condominiums are provided with sufficient information to allow them to make an informed decision of whether or not to commit to living in a particular condominium project.

The goal of the regulations is to ensure that all condominium projects within the Commonwealth of Virginia and those condominium projects outside of the Commonwealth who meet the registration requirements, provide that adequate information described. The regulations not only require disclosure, but also provide structure requirements of the condominium instruments, allowing a consumer to complete a "side-by-side" comparison of different projects.

Without these regulations condominium developers would not be required to provide adequate disclosure to potential buyers, essentially preventing those individuals from making an informed decision prior to signing a binding contract and making what, in many cases, becomes a lifetime commitment, having a definite impact on the welfare of the consumer.

The only way to measure the effectiveness of these regulations is to review the number of disciplinary cases brought to the Real Estate Board as a result of complaints filed against condominium developers. Since 1998, the Board has not heard any complaint cases against condominium developers and has only addressed a single issue brought to them by a developer requesting an interpretation of a regulation that did not involve disclosure.

The regulation itself has no direct impact on the stability of families located within the Commonwealth and is written in such a way that it is easily understandable to the regulant population as well as residents of condominium projects.

## Alternatives

*Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.*

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The registration of condominium projects and the limited enforcement powers given to the Real Estate Board are the least burdensome types of regulation available and no alternatives have been identified.

## Recommendation

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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The Department of Professional and Occupational Regulation and the Real Estate Board are recommending that the regulation stay in effect without change.

### Family Impact Statement

*Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.*

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These regulations have no impact on the institution of the family and family stability. These regulations will not strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; encourage or discourage economic self-sufficiency or self-pride; strengthen or erode the marital commitment; nor increase or decrease disposable family income.