



Common Interest Community Board

Guidance Document: Determining Value of Blanket Surety Bonds Filed by Developers in Lieu of Escrowing Deposits

Adopted June 7, 2018

I. Background

Section 55-375 of the Code of Virginia outlines requirements for deposits made in connection with the purchase or reservation of a time-share product. Subsection A of § 55-375 requires:

Any deposit made in connection with the purchase or reservation of a product shall be held in escrow. All cash deposits shall be held in a separate bank account labeled and designated solely for that purpose.

Such escrow account shall be insured by an instrumentality of the federal government and located in Virginia. All deposits shall be held in escrow until (i) delivered to the developer upon expiration of the purchaser's cancellation period provided the purchaser's right of cancellation has not been exercised, (ii) delivered to the developer because of the purchaser's default under a contract to purchase a time-share, or (iii) refunded to the purchaser.

Subsection C of § 55-375 requires that developers file and maintain with the Board a bond or letter of credit in favor of time-share purchasers for the purpose of protecting all deposits escrowed pursuant to Subsection A of § 55-375. The amount of the bond/letter of credit must be equal to the total amount of deposits in escrow at any given time, or \$25,000, whichever is greater.

During the 2018 General Assembly session, the General Assembly passed, and the Governor subsequently approved, HB 674 and SB 443 which change the existing requirements for (i) escrow of deposits for time-share purchases, and (ii) the bond or letter of credit required to be filed with the Board to insure escrow deposits.

II. Issues and Concerns

The legislation specifies the following with respect to a blanket letter of credit filed with the Board:

For the purposes of determining the amount of any blanket letter of credit that a developer maintains in any calendar year, the total amount of deposits considered held by the developer shall be determined as of May 31 in each calendar year and the amount of the letter of credit shall be in accordance with the amount of deposits held as of May 31.

However, the legislation does not contain the timeframe for calculating deposits with respect to a blanket bond filed with the Board.

III. Board Guidance

The Board adopts a guidance document that establishes the following:

For the purposes of determining the amount of any blanket bond that a developer maintains in any calendar year, the total amount of deposits considered held by the developer shall be determined as of May 31 in each calendar year and the amount of the bond shall be in accordance with the amount of deposits held as of May 31.