



Common Interest Community Board

PROPOSED Guidance Document: Regarding that Letters of Credit may be Accepted in Lieu of Bonds to Comply with § 55.1-1968 of the Code of Virginia

*Adopted June 27, 2013
Revised September 3, 2020*

Effective upon conclusion of the public comment period required pursuant to § 2.2-4002.1 of the Code of Virginia

I. Issue

Section 55.1-1968 of the Code of Virginia does not require letters of credit that may be accepted in lieu of bonds to be issued by financial institutions whose accounts are insured by the FDIC. This does not coincide with § 55.1-1983(B)(2) of the Code of Virginia pertaining to letters of credit in lieu of escrowing deposits which requires an “irrevocable letter of credit issued by a financial institution whose accounts are insured by the FDIC . . .”

II. Applicable Statute

§ 55.1-1968. Bond to be posted by declarant.

A. The declarant of a condominium containing units which are required by this chapter to be registered with the Common Interest Community Board shall post a bond in favor of the unit owners' association with good and sufficient surety, in a sum equal to \$1,000 per unit, except that such sum shall not be less than \$10,000, nor more than \$100,000. Such bond shall

be filed with the Common Interest Community Board and shall be maintained for so long as the declarant owns more than 10 percent of the units in the condominium or, if the declarant owns less than 10 percent of the units in the condominium, until the declarant is current in the payment of assessments. However, the Board shall return a bond where the declarant owns one unit in a condominium containing less than 10 units, provided such declarant is current in the payment of assessments.

B. No bond shall be accepted for filing unless it is with a surety company authorized to do business in the Commonwealth, or by such other surety as is satisfactory to the Board and such bond shall be conditioned upon the payment of all assessments levied against condominium units owned by the declarant. The Board may accept a letter of credit in lieu of the bond contemplated by this section.

III. Policy

Letters of credit submitted in lieu of bonds as required by § 55.1-1968 of the Code of Virginia shall be issued by financial institutions that are FDIC insured. Any letter of credit submitted that does not meet this policy will be reviewed on a case-by-case basis by the Board.

The Common Interest Community Board will be taking public comment on this proposed guidance document. A 30-day comment period will begin on November 9, 2020.

If you wish to comment on the proposed guidance document, you may do so via the Town Hall website or you may submit written comments so that they are received no later than December 9, 2020 to:

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