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Exempt Action Final Regulation Agency Background Document

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) citation(s)	18 VAC48-45
Regulation title(s)	Time-Share Regulations
Action title	2018 Time-Share Regulations Amendments - HB 674
Final agency action date	June 7, 2018
Date this document prepared	September 27, 2018

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, 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.

In February 2018, the Governor approved Chapter 33 (2018) of the 2018 Acts of Assembly, which amended § 55-375 of the Virginia Real Estate Time-Share Act (“the Time-Share Act”).¹ This legislation changed the requirements for (i) escrow of deposits for time-share purchases, and (ii) the bond or letter of credit required to be filed with the Common Interest Community Board (“the Board”) to insure escrow deposits. Developers of time-share projects are no longer required to file a bond, letter of credit, or cash with the Board for the purpose of protecting escrowed deposits. Deposits made in connection with the purchase or reservation of a time-share may be placed in a separate escrow account designated by the

¹ In March 2018, the Governor approved Chapter 133 (2018) of the 2018 Acts of Assembly which made identical changes to the Time-Share Act.

developer for that purpose, or may be placed in the regular escrow account of either a Virginia-licensed real estate broker or attorney. However, the developer of a time-share project consisting of more than 25 units may file with the Board a corporate surety bond or irrevocable letter of credit in lieu of placing deposits in escrow. The amendment to the Time-Share Act became effective on July 1, 2018.

This action amends the Board's Time-Share Regulations to revise registration requirements for time-shares and time-share resellers to conform to the statutory changes. Section 18 VAC 48-45-20 is revised to incorporate an applicable definition from the Time-Share Act, and to establish definitions for individual and blanket bonds/letters of credit referenced in § 55-375. Section 18 VAC 48-45-130 is revised to remove the requirement for an applicant developer to file a bond/letter of credit for the purpose of escrowing deposits, as this is no longer required by the Time-Share Act. Applicant developers will be required to file any bond/letter of credit obtained pursuant to § 55-375 in lieu of escrowing deposits. Section 18 VAC 48-45-220 is revised to require a developer to disclose in a public offering statement whether the developer has obtained a bond/letter of credit in lieu of placing deposits in escrow, and that deposits are no longer protected by a bond/letter of credit after the expiration of the statutory cancellation period. Section 18 VAC 48-45-400 is revised to require the developer to provide a statement regarding the amount of deposits held as of May 31 of the calendar year when it files an annual report in order to establish the amount of a blanket bond/letter of credit that the developer maintains. Section 18 VAC 48-45-430 is revised to outline procedures for the return of an individual bond/letter of credit or blanket bond/letter of credit on file with the Board. Sections 18 VAC 48-45-670 and 18 VAC 48-45-680 are revised to remove the registration requirement for a time-share reseller to file a bond or letter of credit with the Board for the purpose of insuring deposits, as such bonds/letters of credit are no longer required by § 55-375. Section 18 VAC 48-45-690 is revised to remove the requirement for a time-share reseller to provide evidence of a current bond or letter of credit as a condition for renewal of registration. Section 18 VAC 48-45-770 is revised to remove the prohibited act relating to a time-share reseller's failure to notify the Board of a change in the status of a bond/letter of credit filed with the Board. Sections 18 VAC 48-45-330, 18 VAC 48-45-350, and 18 VAC 48-45-440 are revised to remove references to the requirement of a developer to file a bond/letter of credit for the purpose of protecting escrowed deposits.

Section 18 VAC 48-45-130 is revised to require submission of signed, original bonds/letters of credit, as is current agency practice. Applicable forms are revised to better comport with current regulations, and to reflect the changes in this action.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On June 7, 2018, the Common Interest Community Board adopted the amendments to the Time-Share Regulations.