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## Final Regulation Agency Background Document

|                                                       |                                                         |
|-------------------------------------------------------|---------------------------------------------------------|
| <b>Agency name</b>                                    | Common Interest Community Board                         |
| <b>Virginia Administrative Code (VAC) citation(s)</b> | 18 VAC 48-45 replacing 18 VAC 48-40                     |
| <b>Regulation title(s)</b>                            | Time-Share Regulations                                  |
| <b>Action title</b>                                   | General Review and Registration of Time-Share Resellers |
| <b>Date this document prepared</b>                    | October 2, 2015                                         |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The regulations have not undergone substantial revision since 2003. Following a thorough review, the regulations were reorganized. Because of this reorganization, the Board proposes replacing the current regulatory chapter 18 VAC 48-40 with new chapter 18 VAC 48-45. As a result of this thorough review, it was determined that sections specifically pertaining to Time-Share Project Registration, Alternative Purchase Registration, Exchange Program Registration, and Time-Share Reseller Registration were necessary. Also, a new section was added outlining the Board's authority and standards of conduct.

The regulations were developed by a committee of Board members, consumer representatives, and members of the public with expertise in various areas related to time-share projects. The members of the public included a time-share association member, time-share developer attorney, time-share developers, consumers, attorney representing national time-share developers and owners association, and a representative from the exchange program segment of the time-share industry. The make-up of the committee ensured that the regulations complement the current Time-Share Act, provide minimal burdens

on regulants while still protecting the public, and reflect current procedures and policies of the Department of Professional and Occupational Regulation.

### 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.*

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No acronyms or technical terms were identified that were not defined in the “Definition” section of the regulations.

### 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.*

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The Common Interest Community Board adopted final Time-Share Regulations on September 10, 2015. The final Time-Share Regulations are a result of a general review of the current regulations and requirements and are necessary to implement Chapter 751 of the Acts of the 2012 General Assembly, which were the result of HB 233. Chapter 751 of the Acts of the 2012 General Assembly establishes procedures for the registration of time-share resellers pursuant to § 55-394.3 of the *Code of Virginia*.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.*

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Section 55-396.A of the *Code of Virginia* states that the Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in furtherance of the objectives of Chapter 21 of Title 55. In addition, this general review is necessary to comply with Executive Order 14.

### Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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Minor changes have been made to the Time-Share Act by the General Assembly nearly every year since the last extensive review of the regulations. In addition, substantive changes were made to the Time-

Share Act by the General Assembly in 2012. The Board will conduct a general review of the regulations to ensure that the regulations complement the current Virginia Real Estate Time-Share Act, provide minimal burdens on regulants while still protecting the public, and reflect current procedures and policies of the Department of Professional and Occupational Regulation. Amendments will also establish requirements and procedures for the registration of time-share resellers pursuant to § 55-394.3 of the *Code of Virginia*. The amendments are necessary to implement Chapter 751 of the Acts of the 2012 General Assembly, which were the result of HB 233.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.*

Proposed changes are intended to improve the clarity of the regulations, ensure consistency with current practices and legal requirements, and ensure full and accurate disclosure to potential and actual purchasers of time-share interests and units, all to better protect the health, safety, and welfare of citizens of the Commonwealth. As a result of this thorough review, it was determined that sections specifically pertaining to Time-Share Project Registration, Alternative Purchase Registration, Exchange Program Registration, and Time-Share Reseller Registration were necessary. Also, a new section was added outlining the Board's authority and standards of conduct.

**Issues**

*Please identify the issues associated with the proposed regulatory action, 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, please indicate.*

The primary advantage to the public is that the revisions will improve the clarity of the regulations, ensure consistency with current practices and legal requirements, and ensure full and accurate disclosure to potential and actual purchasers of time-share interests and units, all to better protect the health, safety, and welfare of citizens of the Commonwealth.

The primary advantage to the Commonwealth is that the revisions to the regulations reflect the importance that Virginia places on ensuring that potential and actual purchasers of time-share interests and units have been provided with full and accurate disclosure of their most significant purchase. No disadvantages to the Commonwealth could be identified.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.*

There are no applicable federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

No impact on localities has been identified as resulting from the proposed regulation.

**Family impact**

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

No impact on families in Virginia has been identified as resulting from the proposed amendment to the regulation.

**Changes made since the proposed stage**

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. \*Please put an asterisk next to any substantive changes.*

| <b>Section number</b> | <b>Requirement at proposed stage</b>                                                                                                                                                                               | <b>What has changed</b>                                                                                                                                        | <b>Rationale for change</b>                                                                                                                                                            |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18 VAC 48-45-70       | Provides fees for time-share projects, alternative purchases, exchange companies and resellers registration and annual reports. Also provides fees for time-share project phase filing and reseller reinstatement. | Added the word amendment to “time-share project phase filing” so it reads “time-share project phase amendment filing.                                          | Correction needed because the word “amendment” was inadvertently left out of the proposed language. This correction is consistent with the term used throughout the proposed language. |
| 18 VAC 48-45-130      | Provides minimum requirements for time-share project registration, including required exhibits.                                                                                                                    | Amended 18 VAC 48-45-130 C 11, to strike employment contracts from the required contracts and agreements to be included with the application for registration. | Amendment made in response to public comment. Less burdensome on developer as the provision to include                                                                                 |

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|                  |                                                                                                                                                                                                           |                                                                                                                                                                                                                                                             | employment contracts may be overly broad.                                                                                                                                                                                                                                             |
| 18 VAC 48-45-130 | Provides minimum requirements for time-share project registration, including required exhibits.                                                                                                           | Amended 18 VAC 48-45-130 C 12, to add “manager, owner, or principal” and to add “residential address”.                                                                                                                                                      | Amendment made in response to public comment. Clarifies what is required based on type of firm under which the developer is organized. Also, provides option for officer, manager, owner or principal to provide residential address instead of address valid for receipt of service. |
| 18 VAC 48-45-160 | States requirements for the preparation, including nature of information, and distribution of the public offering statement. States that the public offering statement shall be clear and understandable. | Amended 18 VAC 48-45-160 D 3 to include language requiring disclosure of who owns amenities that are not common elements and if payment is required to access and use.                                                                                      | Amendment made in response to public comment. Protects the public by clarifying and distinguishing between amenities owned by the time-share project/developer and those not owned by the time-share project/developer.                                                               |
| 18 VAC 48-45-160 | States requirements for the preparation, including nature of information, and distribution of the public offering statement. States that the public offering statement shall be clear and understandable. | Amended 18 VAC 48-45-160 D 5 to include language disclosing the purchaser is responsible for principal and interest payments in addition to paying maintenance fees or assessment, special assessment, user fees, insurance premiums and real estate taxes. | Amendment made in response to public comment. Protects the public by clarifying the purchaser is responsible for the payment of principal and interest as well as other fees.                                                                                                         |
| 18 VAC 48-45-160 | States requirements for the preparation, including nature of information, and distribution of the public offering statement. States that the public offering statement shall be clear and understandable. | Amended 18 VAC 48-45-160 F to include “which may be a supplement or”.                                                                                                                                                                                       | Amendment made in response to public comment. Less burdensome on developer by giving the developer the option to prepare documents as either exhibits to the public offering statement or supplements.                                                                                |
| 18 VAC 48-45-160 | States requirements for the preparation, including nature of information, and distribution of the public offering statement. States that the public offering statement shall be clear and understandable. | Amended 18 VAC 48-45-160 G by striking the subsection.                                                                                                                                                                                                      | Chapter 623 of the 2014 Acts of Assembly eliminated the requirement that alternative purchases have public offering statements. (§55-394.5)                                                                                                                                           |
| 18 VAC 48-45-250 | Details requirement for a narrative section on financial matters, including a budget.                                                                                                                     | Amended 18 VAC 48-45-250 F by striking “actually planned to be specially assessed” and replacing it with “(iv) any rights the developer                                                                                                                     | Amendment made in response to public comment. Protects the public by establishing a                                                                                                                                                                                                   |

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|                  |                                                                                                                                        | or association has to institute special assessments”.                                                                                                                                              | requirement the developer disclose any rights the developer or association has to institute special assessments.                                                                     |
| 18 VAC 48-45-255 | New section.                                                                                                                           | Added section to detail requirement for a narrative section on governmental reviews.                                                                                                               | Correction needed as this section was inadvertently left out of proposed language. Section expands on the required Exhibit D of the public offering statement. 18 VAC 48-45-130 C 5. |
| 18 VAC 48-45-310 | Details requirement for a narrative section on any alternative purchase.                                                               | Amended to strike reference to the alternative purchase public offering statement.                                                                                                                 | Chapter 623 of the 2014 Acts of Assembly eliminated the requirement that alternative purchases have public offering statements. (§55-394.5)                                          |
| 18 VAC 48-45-480 | States that registration for alternative purchases is required.                                                                        | Amended to reference §55-394.5 of the Code of Virginia instead of §55-362 of the Code of Virginia.                                                                                                 | Chapter 623 of the 2014 Acts of Assembly added section §55-394.5 of the Code of Virginia which details the registration of alternative purchases.                                    |
| 18 VAC 48-45-490 | Provides specific registration requirements for alternative purchases.                                                                 | Strikes proposed regulatory language for alternative purchase registration requirements and inserts a reference to §55-394.5 of the Code of Virginia which contains the registration requirements. | Chapter 623 of the 2014 Acts of Assembly added section §55-394.5 of the Code of Virginia which details the registration of alternative purchases.                                    |
| 18 VAC 48-45-500 | Provides public offering statement requirements for alternative purchases.                                                             | Section stricken.                                                                                                                                                                                  | Chapter 623 of the 2014 Acts of Assembly eliminated the requirement that alternative purchases have public offering statements. (§55-394.5)                                          |
| 18 VAC 48-45-510 | Provides the Board's review of the alternative purchase registration.                                                                  | Amended to strike reference to the alternative purchase public offering statement.                                                                                                                 | Chapter 623 of the 2014 Acts of Assembly eliminated the requirement that alternative purchases have public offering statements. (§55-394.5)                                          |
| 18 VAC 48-45-520 | Provides minimum post-registration requirements specific to alternative purchases, including the requirement to file material changes. | Amended 18 VAC 48-45-520 A by striking reference to the alternative purchase public offering statement and escrow bond or letter of credit.                                                        | Chapter 623 of the 2014 Acts of Assembly eliminated the requirement that alternative purchases have public offering statements and maintain escrow bonds or letters of               |

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|                  |                                                                                                                                                      |                                                                                                                                                                                                                                             | credit. (§55-394.5)                                                                                                                                                                                                                                                                                                                          |
| 18 VAC 48-45-530 | Provides requirements to file an amended alternative purchase public offering statement and details the Board's review.                              | Section stricken.                                                                                                                                                                                                                           | Chapter 623 of the 2014 Acts of Assembly eliminated the requirement that alternative purchases have public offering statements. (§55-394.5)                                                                                                                                                                                                  |
| 18 VAC 48-45-540 | Provides the requirement that a developer file an annual report for an alternative purchase. Details what is required in the annual report.          | Amended 18 VAC 48-45-530 B by striking all references to the alternative purchase public offering statement and escrow bonds and letters of credit. Further amended by combining language in proposed 18 VAC 48-45-550 D into this section. | Chapter 623 of the 2014 Acts of Assembly eliminated the requirement that alternative purchases have public offering statements and maintain escrow bonds or letters of credit. (§55-394.5)                                                                                                                                                   |
| 18 VAC 48-45-550 | Provides the Board's review of the alternative purchase annual report.                                                                               | Section stricken.                                                                                                                                                                                                                           | Language stricken to match language in Fast-Track Regulatory amendment effective 10/1/15. Virginia Regulatory Town Hall Action 4288 / Stage 7110.                                                                                                                                                                                            |
| 18 VAC 48-45-560 | Provides how an alternative purchase registration can be terminated by the developer.                                                                | Amends section by striking subsection C.                                                                                                                                                                                                    | Language stricken to match language in Fast-Track Regulatory amendment effective 10/1/15. Virginia Regulatory Town Hall Action 4288 / Stage 7110.                                                                                                                                                                                            |
| 18 VAC 48-45-570 | Provides the requirement that the developer report any change that may affect the accuracy or completeness of the alternative purchase registration. | Amends section to strike "promptly filed" and replace with "within 30 days of the effective date".                                                                                                                                          | Amended to further protect the public by stating an exact timeframe in which the developer report any change that may affect the accuracy or completeness of the alternative purchase registration. Amendment matches language in Fast-Track Regulation amendment effective 10/1/15. Virginia Regulatory Town Hall Action 4288 / Stage 7110. |
| 18 VAC 48-45-750 | Provides details of the Board oversight of the public offering statement for time-share projects and alternative purchases, and                      | Amended to strike reference to the alternative purchase public offering statement.                                                                                                                                                          | Chapter 623 of the 2014 Acts of Assembly eliminated the requirement that alternative purchases                                                                                                                                                                                                                                               |

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|  | Board oversight of the exchange program disclosure document. |  | have public offering statements. (§55-394.5) |
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**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.*

| Committer                                                                                             | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Agency response                                                                                                                                                                                                                                                                                                                                                                                                        |
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| Chris Nolen, McGuireWoods Consulting, on behalf of the American Resort Development Association (ARDA) | <p><b>18VAC48-45-130(C)(11) Exhibit K:</b> <u>A copy of any management agreements, employment contracts or other contracts or agreements affecting the use, maintenance, management, or access of all or any part of the time- share project.</u></p> <p>The commenter indicated that the provision may be overly-broad as there are no qualifiers on the management agreements or employment contracts that should be filed with the Board. The commenter suggests that the Board amend the provision to limit the provision solely to management agreements pertaining to the overall management of the project. Alternatively, the Board could amend the provision to state “contracts or agreements substantially affecting the use . . .”</p> | <p>The Board concurs with the commenter and will revise the section to read:</p> <p>“A copy of any management agreements and other contracts or agreements affecting the overall use, maintenance, management, or access of all or any part of the time- share project.”</p>                                                                                                                                           |
| Chris Nolen, McGuireWoods Consulting, on behalf of the American Resort Development Association (ARDA) | <p><b>18VAC48-45-130(C)(12) Exhibit L:</b> <u>requires a developer to file “A list with the names of every officer of the developer or persons occupying a similar status within or performing similar functions for the developer. The list must include each individual's address valid for receipt of service, principal occupation for the past five years, and title.”</u></p>                                                                                                                                                                                                                                                                                                                                                                | <p><b>COMMENT 1:</b> The Board agrees to clarify the language by amending the first sentence of the subdivision to read:</p> <p>“A list with the names of every officer, manager, owner, or principal, as applicable to the type of firm under which the developer is organized to do business, of the developer or persons occupying a similar status within or performing similar functions for the developer. “</p> |

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|                                                                                                              | <p><b>COMMENT 1:</b> The commenter expressed concern that neither “officer” nor “persons occupying a similar status” are defined in the regulations. Thus, there is concern that the provision will unintentionally include employees with certain titles (i.e., vice-president or similar), but who are not actual officers of the corporation. The commenter suggests adding a definition of these terms or to confirm that the terms are interpreted by the CIC Board to mean those officers on file in a developer’s corporate registration with the Virginia State Corporation Commission.</p> <p><b>COMMENT 2:</b> The commenter recommends that the Board amend the second sentence of the subdivision to delete “valid for receipt of service” and replace with “residential address.” The registered agent is the appropriate recipient for legal service and not all officers are equipped to accept service on behalf of the developer. In addition, the Board’s current time-share registration form only asks for a residential address.</p> | <p>The reference to the Virginia State Corporation Commission may not be sufficient as some entity types may not need to register with the State Corporation Commission, or may not need to file certain information with the State Corporation Commission. The amendment clarifies that the Board is requesting information pertaining to those in a principal-type position with the entity.</p> <p><b>COMMENT 2:</b><br/>The Board concurs with the commenter and will amend the second sentence of the subdivision to read:</p> <p>“The list must include each individual’s residential address or other address valid for the receipt of service, principal occupation for the past five years, and title.”</p>                                                                                       |
| <p>Chris Nolen, McGuireWoods Consulting, on behalf of the American Resort Development Association (ARDA)</p> | <p><b>18VAC48-45-160 (D)(3) A</b><br/><u>brief description of all amenities located within or outside of the time-share project available to purchasers.</u></p> <p>The commenter requests the Board to amend this section to read: <i>“A brief description of all recreational facilities available to time-share owners. If such facilities are not common elements of the time-share plan describe who owns the facilities and whether time-share owners are required to pay to access and use.”</i></p> <p>As currently written, the proposed regulation does not make a distinction between</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>The Board partially agrees with the commenter and will revise this section to read:</p> <p>“A brief description of all amenities located within or outside of the time-share project and available to time-share owners by virtue of ownership in the time-share project. If such amenities are not common elements of the time-share project, identify who owns the amenities and whether time-share owners are required to pay to access and use.”</p> <p>Not all amenities may be recreational in nature so it may be unclear to applicants whether to list certain amenities that should be listed, but are not recreational. Since the purpose of the regulation is to ensure full and accurate disclosure to purchasers, the Board agrees that the description of any amenities available for</p> |

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|                                                                                                              | <p>amenities outside of the physical plant of time-share project that are owned by the project and those that are not owned by the project/developer but that may be available to the purchaser for use. The ARDA proposed language makes it clear what type of amenities are at issue (i.e. recreational) and provides clarity as to what is disclosed to the purchaser.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>time-share owners should include whether the amenities are common elements, and whether time-share owners must pay for access and use.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>Chris Nolen, McGuireWoods Consulting, on behalf of the American Resort Development Association (ARDA)</p> | <p><b>18VAC48-45-160 (D)(5): <u>A statement regarding the payment of principal and interest due under any deferred purchase agreement for the purchase of the time-share, maintenance fees or assessments, special assessments, user fees, insurance premiums, and real estate taxes. A time-share owner cannot reduce the amount of any owner obligation for any reason, including the refraining from using the time-share, a developer amenity, or any common element.</u></b></p> <p>The commenter requests the Board amend this section to read: <i>“A statement describing all types of expenses and fees the owners will be required to pay for maintenance fees or assessments, special assessments, user fees, insurance premiums, and real estate taxes and that a time-share owner cannot reduce the amount of any owner obligation for any reason, including the refraining from using the time-share, a developer amenity, or any common element.”</i></p> <p>As the principal and interest payments will be included in the purchase contract, and could vary, the commenter suggests a more general statement regarding the purchaser’s responsibility for the payment of principal and interest (without specific</p> | <p>The Board’s intention was that the proposed language means a general statement that the purchaser is responsible for the payment of principal and interest. Therefore, the Board concurs with the commenter and revises the regulation to read:</p> <p>“A statement describing the purchaser’s responsibility to make principal and interest payments in connection with the purchase of the time-share as well as to pay maintenance fees or assessments, special assessments, user fees, insurance premiums, and real estate taxes and that a time-share owner cannot reduce the amount of any owner obligation for any reason.”</p> |

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|                                                                                                              | <p>amounts).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>Chris Nolen, McGuireWoods Consulting, on behalf of the American Resort Development Association (ARDA)</p> | <p><b>18VAC48-45-160(F):</b> <u>Clear and legible copies of the following documents shall be attached as exhibits to the public offering statement:</u></p> <p>The commenter requests the Board amend this section to read: <i>“Clear and legible copies of the following documents shall be attached as which may be a supplement or exhibit to the public offering statement.”</i> Alternative language could be: <i>“Clear and legible copies of the following documents shall either be attached as exhibits to the public offering statement or provided in a separate booklet incorporated by reference to the public offering statement.”</i></p> <p>Requiring the documents to be attached to the Public Offering Statement may make the POS too lengthy and unwieldy and reduces the utility of it to the purchaser. IN addition, either of these alternative suggestions for the proposed regulation is consistent with Virginia Code §55-374((A)(16) which provides: “Copies of the project instrument and the association’s articles of incorporation and bylaws, each of which may be a supplement to the public offering statement.”</p> | <p>The Board concurs with the commenter and will amend this section to read:</p> <p>“Clear and legible copies of the following documents which may be a supplement or exhibit to the public offering statement:</p> <ol style="list-style-type: none"> <li>1. the project time-share instrument;</li> <li>2. the association articles of incorporation;</li> <li>3. the bylaws;</li> <li>4. the association annual report or projected budget for time-share estate programs;</li> <li>5. rules and regulations of the time-share owners' association, if available;</li> <li>6. any management contract, if applicable;</li> <li>7. exchange company disclosure document and narrative statement required pursuant to § 55-374.B of the Code of Virginia, if applicable; and</li> <li>8. other documents obligating the association or time-share owner to perform duties or obligations or pay charges or fees, if applicable.”</li> </ol> |
| <p>Chris Nolen, McGuireWoods Consulting, on behalf of the American Resort Development Association (ARDA)</p> | <p><b>18VAC48-45-250 (F):</b> <u>The section shall discuss any (i) time-share expenses; (ii) time-share estate occupancy expenses as defined in § 55-369 of the Code of Virginia; and (iii) all other costs that may be borne directly by individual time-share owners, actually planned to be specially assessed.</u></p> <p>The commenter indicates that the phrase “actually planned to be specially assessed” is unclear given the clause that precedes it</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>The Board agrees the section should be revised to require a statement as to any rights the developer or association has to institute special assessments. Therefore, the Board will revise the section to read:</p> <p>“The section shall discuss any (i) time-share expenses; (ii) time-share estate occupancy expenses as defined in § 55-369 of the Code of Virginia; (iii) all other costs that may be borne directly by individual time-share owners; and (iv) any rights the developer or association has to institute special assessments.”</p>                                                                                                                                                                                                                                                                                                                                                                                    |

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|  | <p>“all other costs that may be borne directly by individual time-share owners.” The commenter recommends deleting “actually planned to be specially assessed” or amending the language to require a statement as to any rights the developer or association has to institute special assessments.</p> |  |
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**All changes made in this regulatory action**

*Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation*

| <b>Current section number</b>      | <b>Proposed new section number, if applicable</b> | <b>Current requirement</b>                                                                                                                                | <b>Proposed change and rationale</b>                                                                                                                                                                               |
|------------------------------------|---------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                    | 18 VAC 48-45-10                                   | New section.                                                                                                                                              | This section describes the purpose of the regulation.                                                                                                                                                              |
| 18 VAC 48-40-10                    | 18 VAC 48-45-20                                   | Provides the definitions and explanation of terms.                                                                                                        | This section provides the definitions.                                                                                                                                                                             |
| 18 VAC 48-40-10                    | 18 VAC 48-45-30                                   | Provides the definitions and explanation of terms.                                                                                                        | This section provides the explanation of terms.                                                                                                                                                                    |
|                                    | 18 VAC 48-45-40                                   | New section.                                                                                                                                              | This section provides the requirements specific to time-shares located outside of Virginia.                                                                                                                        |
| 18 VAC 48-40-20<br>18 VAC 48-40-30 | 18 VAC 48-45-50                                   | Provides application and submission requirements for time-share projects.                                                                                 | Provides general application procedures for time-share projects, alternative purchases, exchange companies and resellers.                                                                                          |
|                                    | 18 VAC 48-45-60                                   | New section.                                                                                                                                              | Provides general Board review information.                                                                                                                                                                         |
| 18 VAC 48-40-40                    | 18 VAC 48-45-70                                   | Filing fees for initial time-share project registration, phase amendments and annual reports as well as exchange program registration and annual reports. | Provides fees for time-share projects, alternative purchases, exchange companies and resellers registration and annual reports. Also provides fees for time-share project phase filing and reseller reinstatement. |
| 18 VAC 48-40-50                    | 18 VAC 48-45-80                                   | Prohibited preregistration offers and defines time-share marketing standards                                                                              | Defines time-share marketing activities including that no time-share marketing activity shall be deemed an offer until the Board has issued an order of registration.                                              |
| 18 VAC                             | 18 VAC 48-                                        | Provided time-share                                                                                                                                       | Moved to Part X, Board Authority and                                                                                                                                                                               |

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| 48-40-60                                              | 45-740           | marketing standards.                                                                                                                                                                                      | Standards of Conduct. The section was amended (expanded) for clarity.                             |
|                                                       | 18 VAC 48-45-90  | New section.                                                                                                                                                                                              | States that offers of gifts and prizes shall be disclosed.                                        |
|                                                       | 18 VAC 48-45-100 | New section.                                                                                                                                                                                              | Specifically states that registration of time-share project is required.                          |
|                                                       | 18 VAC 48-45-110 | New section.                                                                                                                                                                                              | Provides the prerequisites for time-share project registration.                                   |
|                                                       | 18 VAC 48-45-120 | New section.                                                                                                                                                                                              | Provides specific Board review information of time-share projects.                                |
|                                                       | 18 VAC 48-45-130 | New section.                                                                                                                                                                                              | Provides minimum requirements for time-share project registration, including required exhibits.   |
| 18 VAC 48-40-70<br>18 VAC 48-40-80<br>18 VAC 48-40-90 | 18 VAC 48-45-140 | States requirements for the preparation, including nature of information, and distribution of the public offering statement. States that the public offering statement shall be clear and understandable. | General public offering statement requirements.                                                   |
| 18 VAC 48-40-70<br>18 VAC 48-40-80<br>18 VAC 48-40-90 | 18 VAC 48-45-150 | States requirements for the preparation, including nature of information, and distribution of the public offering statement. States that the public offering statement shall be clear and understandable. | States requirements for full and accurate disclosure in the public offering statement.            |
| 18 VAC 48-40-70<br>18 VAC 48-40-80<br>18 VAC 48-40-90 | 18 VAC 48-45-160 | States requirements for the preparation, including nature of information, and distribution of the public offering statement. States that the public offering statement shall be clear and understandable. | Provides the content requirements of the public offering statement, including narrative sections. |
|                                                       | 18 VAC 48-45-170 | New section.                                                                                                                                                                                              | Details requirement for a narrative section on the time-share concept.                            |
|                                                       | 18 VAC 48-45-180 | New section.                                                                                                                                                                                              | Details requirement for a narrative section on the creation of the time-share project.            |
|                                                       | 18 VAC 48-45-190 | New section.                                                                                                                                                                                              | Details requirement for a narrative section on the description of the time-share concept.         |
|                                                       | 18 VAC 48-45-200 | New section.                                                                                                                                                                                              | Details requirement for a narrative section on the individual time-shares.                        |
|                                                       | 18 VAC 48-45-210 | New section.                                                                                                                                                                                              | Details requirement for a narrative section on the time-share developer.                          |
|                                                       | 18 VAC 48-45-220 | New section.                                                                                                                                                                                              | Details requirement for a narrative section on the terms of offering.                             |
|                                                       | 18 VAC 48-45-230 | New section.                                                                                                                                                                                              | Details requirement for a narrative section on any encumbrances.                                  |
|                                                       | 18 VAC 48-45-240 | New section.                                                                                                                                                                                              | Details requirement for a narrative section on any exchange program.                              |
|                                                       | 18 VAC 48-       | New section.                                                                                                                                                                                              | Details requirement for a narrative section                                                       |

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|                  | 45-250           |                                                                              | on financial matters, including a budget.                                                                                                                                                                                                                                                                                                                                                       |
|                  | 18 VAC 48-45-255 | New section.                                                                 | Details requirement for a narrative section on governmental reviews.                                                                                                                                                                                                                                                                                                                            |
|                  | 18 VAC 48-45-260 | New section.                                                                 | Details requirement for a narrative section on any restrictions on transfer.                                                                                                                                                                                                                                                                                                                    |
|                  | 18 VAC 48-45-270 | New section.                                                                 | Details requirement for a narrative on any time-share owners' association.                                                                                                                                                                                                                                                                                                                      |
|                  | 18 VAC 48-45-280 | New section.                                                                 | Details requirement for a narrative section on any managing entity.                                                                                                                                                                                                                                                                                                                             |
|                  | 18 VAC 48-45-290 | New section.                                                                 | Details requirement for a narrative section on conversion time-share projects, if applicable to the registration application.                                                                                                                                                                                                                                                                   |
|                  | 18 VAC 48-45-300 | New section.                                                                 | Details requirement for a narrative section on insurance.                                                                                                                                                                                                                                                                                                                                       |
|                  | 18 VAC 48-45-310 | New section.                                                                 | Details requirement for a narrative section on any alternative purchase.                                                                                                                                                                                                                                                                                                                        |
|                  | 18 VAC 48-45-320 | New section.                                                                 | Provides requirements for a substituted public offering statement from other jurisdictions outside of Virginia.                                                                                                                                                                                                                                                                                 |
| 18 VAC 48-40-100 | 18 VAC 48-45-330 | Provides requirements for material changes to the public offering statement. | Provides minimum post-registration requirements specific to time-share projects, including the requirement to file material changes. This section has been amended and expanded for clarity.                                                                                                                                                                                                    |
|                  | 18 VAC 48-45-340 | New section.                                                                 | States that any amendment to the time-share project public offering statement or substituted public offering statement shall comply with 18 VAC 48-45.                                                                                                                                                                                                                                          |
|                  | 18 VAC 48-45-350 | New section.                                                                 | Provides requirements for non-material changes to the time-share project public offering statement.                                                                                                                                                                                                                                                                                             |
| 18 VAC 48-40-110 | 18 VAC 48-45-360 | Provides requirements to file an amended public offering statement.          | Provides requirements to file an amended time-share project public offering statement and details the Board's review. This section has been amended and expanded for clarity.                                                                                                                                                                                                                   |
|                  | 18 VAC 48-45-370 | New section.                                                                 | Provides requirement to furnish the current (amended and accepted by the Board) time-share project public offering statement to any purchasers who received the public offering statement and summary of proposed amendments during the Board review period and that the public offering statement remains current until any future new effective date is established pursuant to 18 VAC 48-45. |
|                  | 18 VAC 48-45-380 | New section.                                                                 | Provides that the developer shall notify purchasers who have not received the current time-share project public offering statement. Details the notification requirements.                                                                                                                                                                                                                      |
|                  | 18 VAC 48-45-390 | New section.                                                                 | Provides the phase amendment application requirements for time-share projects. This application is used when phase(s) are added to a time-share project.                                                                                                                                                                                                                                        |

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|  | 18 VAC 48-45-400 | New section. | Provides the requirement that a developer file an annual report for a time-share project. Details what is required in the annual report.                                 |
|  | 18 VAC 48-45-410 | New section. | Provides the Board's review of the time-share project annual report.                                                                                                     |
|  | 18 VAC 48-45-420 | New section. | Provides the process of returning the completion bond or letter of credit upon completion of the units and common elements in the time-share project.                    |
|  | 18 VAC 48-45-430 | New section. | Provides the process for returning the escrow bond or letter of credit upon termination of the time-share project.                                                       |
|  | 18 VAC 48-45-440 | New section. | Provides the requirement of the developer to report the extension, cancellation, amendment, expiration, termination or any other change of any bond or letter of credit. |
|  | 18 VAC 48-45-450 | New section. | Provides how a time-share project registration can be terminated by the developer.                                                                                       |
|  | 18 VAC 48-45-460 | New section. | Provides how a time-share project registration can be terminated by the Board.                                                                                           |
|  | 18 VAC 48-45-470 | New section. | Provides the requirement that the developer report any change that may affect the accuracy or completeness of the time-share project registration.                       |
|  | 18 VAC 48-45-480 | New section. | States that registration for alternative purchases is required.                                                                                                          |
|  | 18 VAC 48-45-490 | New section. | Provides specific registration requirements for alternative purchases.                                                                                                   |
|  | 18 VAC 48-45-500 | New section. | Provides public offering statement requirements for alternative purchases.                                                                                               |
|  | 18 VAC 48-45-510 | New section. | Provides the Board's review of the alternative purchase registration.                                                                                                    |
|  | 18 VAC 48-45-520 | New section. | Provides minimum post-registration requirements specific to alternative purchases, including the requirement to file material changes.                                   |
|  | 18 VAC 48-45-530 | New section. | Provides requirements to file an amended alternative purchase public offering statement and details the Board's review.                                                  |
|  | 18 VAC 48-45-540 | New section. | Provides the requirement that a developer file an annual report for an alternative purchase. Details what is required in the annual report.                              |
|  | 18 VAC 48-45-550 | New section. | Provides the Board's review of the alternative purchase annual report.                                                                                                   |
|  | 18 VAC 48-45-560 | New section. | Provides how an alternative purchase registration can be terminated by the developer.                                                                                    |
|  | 18 VAC 48-45-570 | New section. | Provides the requirement that the developer report any change that may affect the accuracy or completeness of the alternative purchase registration.                     |

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|  | 18 VAC 48-45-580 | New section. | States that registration for an exchange program is required.                                                                                                                                |
|  | 18 VAC 48-45-590 | New section. | Provides specific registration requirements, including a disclosure document, for exchange programs.                                                                                         |
|  | 18 VAC 48-45-600 | New section. | Provides minimum post-registration requirements specific to exchange programs, including the requirement to file material changes.                                                           |
|  | 18 VAC 48-45-610 | New section. | Provides the requirement that a developer file an annual report for an exchange program. Details what is required in the annual report.                                                      |
|  | 18 VAC 48-45-620 | New section. | Provides the Board's review of the exchange program annual report.                                                                                                                           |
|  | 18 VAC 48-45-630 | New section. | Provides how an exchange program registration can be terminated by the developer.                                                                                                            |
|  | 18 VAC 48-45-640 | New section. | Provides the requirement that the developer report any change that may affect the accuracy or completeness of the exchange program registration.                                             |
|  | 18 VAC 48-45-650 | New section. | States that registration for a time-share reseller is required.                                                                                                                              |
|  | 18 VAC 48-45-660 | New section. | Provides exemption to registration of time-share resellers.                                                                                                                                  |
|  | 18 VAC 48-45-670 | New section. | Provides specific registration requirements for time-share resellers.                                                                                                                        |
|  | 18 VAC 48-45-680 | New section. | Provides exhibits required for registration as a time-share resellers.                                                                                                                       |
|  | 18 VAC 48-45-690 | New section. | Provides renewal and reinstatement requirements for time-share resellers.                                                                                                                    |
|  | 18 VAC 48-45-700 | New section. | Provides the requirement that the time-share reseller report any change that may affect the accuracy or completeness of the time-share reseller registration.                                |
|  | 18 VAC 48-45-710 | New section. | States that a time-share reseller shall comply with the recordkeeping provisions of 55.394.4 of the Code of Virginia.                                                                        |
|  | 18 VAC 48-45-720 | New section. | States the discipline authority of the Board for registrations that are not in compliance.                                                                                                   |
|  | 18 VAC 48-45-730 | New section. | States that registration is required prior to offering time-shares, alternative purchases, exchange programs, and resale services.                                                           |
|  | 18 VAC 48-45-740 | New section. | States time-share advertising standards including that no promise, assertion, representation or statement of fact or opinion shall be made that is false, inaccurate or misleading.          |
|  | 18 VAC 48-45-750 | New section. | Provides details of the Board oversight of the public offering statement for time-share projects and alternative purchases, and Board oversight of the exchange program disclosure document. |
|  | 18 VAC 48-       | New section. | States that the developer of a time-share                                                                                                                                                    |

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|  | 45-760           |              | project, developer of an alternative purchase, the exchange company, or the reseller must respond within 15 days to a request by the Board or one of its agents regarding any complaint or request for any transaction document, book, or record. A 21 day response time is allowed for all other Board inquiries. |
|  | 18 VAC 48-45-770 | New section. | States the prohibited acts for time-share projects, alternative purchases, exchange programs and time-share resellers. States that any violation of the prohibited acts may result in action by the Board.                                                                                                         |