

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
PERIMETER CENTER
9960 MAYLAND DRIVE
RICHMOND, VIRGINIA 23233

COMMON INTEREST COMMUNITY BOARD

Tentative AGENDA

THURSDAY, JUNE 6, 2019, 9:30 A.M.
2nd FLOOR, BOARD ROOM 4

- I. CALL TO ORDER**
- II. EMERGENCY EVACUATION PROCEDURES**
- III. APPROVAL OF AGENDA**
a. Board Agenda, June 6, 2019
- IV. APPROVAL OF MINUTES**
a. Board Meeting, March 14, 2019
- V. PUBLIC COMMENT PERIOD***
- VI. REVIEW FILES AND DISCIPLINARY MATTERS ****
a. File Number 2019-00076, Cardinal Management Group, Inc.
Consent Order (Trigiani)
b. File Number 2019-00703, Purple Sage Cluster, Inc.
Consent Order (Orlando, Trigiani)
c. File Number 2018-02143, Dominion Properties Virginia LLC
Consent Order (Orlando)
d. Consider Temporary Cease and Desist Orders Regarding Condominium Registrations
- VII. BOARD BUSINESS**
a. Update on Regulatory Actions
b. Title 55 Recodification Regulatory Actions
i. Condominium Regulations
ii. Time-Share Regulations
iii. Common Interest Community Manager Regulations
iv. Common Interest Community Management Information Fund Regulations
v. Common Interest Community Ombudsman Regulations
c. 2020 Legislative Items for Consideration
d. Update on Reserve Study Guidelines Committee (HB 2030/SB 1538)
- VIII. OTHER BUSINESS**
a. Ombudsman Report
b. Board Financial Statements
c. Consider Future Meeting Dates
d. Consideration of Resolution for Service
e. Other Board Business
- IX. COMPLETE CONFLICT OF INTEREST FORMS AND TRAVEL VOUCHERS**
- X. ADJOURN**

NEXT MEETING SCHEDULED FOR SEPTEMBER 5, 2019, at 9:30 A.M.

* Five minute public comment, per person, with the exception of any open disciplinary or application files.

** Agenda materials made available to the public do not include disciplinary case files or application files pursuant to §54.1-108 of the *Code of Virginia*.

Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-8510 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

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are proposed topics for discussion and are not to be construed as regulation or official Board position.

PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THE PREMISES IN THE EVENT OF AN EMERGENCY.

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound.

When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Board Room 1

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Room 2

Exit the room using one of the doors at the back of the room. (Point) Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

You may also exit the room using the side door, turn **Right** out the door and make an immediate **Left**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Rooms 3 and 4

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 1

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 2

Exit the room using one of the doors at the back of the room. Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board (Board) met on March 14, 2019, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2nd Floor, Board Room 3, Richmond, Virginia 23233.

The following members were present:

Lucia Anna Trigiani, Chair
Maureen A. Baker
Tom Burrell
Amanda Jonas
Drew R. Mulhare
Lori Overholt
Scott E. Sterling
Katherine E. Waddell

Board members Mary Elizabeth Johnson, Eugenia Lockett Reese, and Paul Orlando were not in attendance at the meeting.

DPOR staff present for all or part of the meeting included:

Mary Broz-Vaughan, Acting Director
Trisha L. Henshaw, Executive Director
Heather Gillespie, Ombudsman
Joseph C. Haughwout, Jr., Board and Regulatory Administrator
Tanya M. Pettus, Administrative Assistant

Joshua Laws, Assistant Attorney General with the Office of the Attorney General, was present.

Finding a quorum of the Board present, Ms. Trigiani, Chair, called the **Call to Order** meeting to order at 9:38 a.m.

Ms. Trigiani advised the Board of the emergency evacuation **Emergency Evacuation Procedures** procedures.

Ms. Trigiani introduced to the Board DPOR staff member Mary Broz-Vaughan, Acting Director. **Introduction of Staff**

Ms. Trigiani also greeted members of the public present to witness Board meeting proceedings.

Mr. Haughwout advised the Board of amendments to the agenda. Ms. Overholt moved to approve the agenda as amended. Mr. Sterling seconded the motion which was unanimously approved by: Baker, Burrell, Jonas, Mulhare, Overholt, Sterling, Trigiani, and Waddell.

Approval of Agenda

Ms. Jonas moved to approve the November 29, 2018, Board meeting minutes as presented. Mr. Mulhare seconded the motion which was unanimously approved by: Baker, Burrell, Jonas, Mulhare, Overholt, Sterling, Trigiani, and Waddell.

Approval of Minutes

There were no members of the public present to address the Board.

Public Comment Period

Ms. Baker recused herself from the meeting for discussion and deliberations on File Number 2018-01894.

Recusal of Board Member

In the matter of **File Number 2018-01894, Tagare Corporation**, the Board members reviewed the Consent Order, which imposed monetary penalties of \$150.00 (Count 1) and \$250.00 (Count 2) for a total of \$400.00, and Board costs of \$150.00. In addition, the monetary penalty of \$150.00 will be waived provided Tagare Corporation provides a copy of its current contract with The Greens of Amyclae Homeowners Association, that complies with 18 VAC 48-50-190.19., within 30 days of the effective date of the Consent Order.

File Number 2018-01894, Tagare Corporation

Ms. Henshaw and Ms. Trigiani explained the DPOR complaint process and the due process afforded to regulants for the benefit of Board members who had not previously participated in the review of a Consent Order.

After discussion, Ms. Waddell moved to accept the Consent Order as presented. Mr. Burrell seconded the motion which was unanimously approved by: Burrell, Jonas, Mulhare, Overholt, Sterling, Trigiani, and Waddell.

Discussion was held on the role Board members play as subject matter experts (SME) when participating in technical review of code and regulatory violations. Discussion was also held on the scope of information contained within case files, and accessibility of that information.

Mr. Haughwout provided the Board with an update of cease and desist actions from November 29, 2018.

Update on Cease and Desist Actions from 11/29/18 Meeting

Ms. Baker returned to the meeting.

Return of Board Member

Mr. Haughwout provided an update on the current status of the regulatory review processes for the Board's regulatory packages:

Update on Regulatory Actions

Amendments to the CIC Management Information Fund Regulations are currently undergoing Executive Branch review.

Ms. Henshaw, Ms. Trigiani, and Ms. Broz-Vaughan provided an update of legislation affecting DPOR and the Board.

2019 Legislative Update

Ms. Henshaw advised the Board that effective January 1, 2019, any guidance document drafted by the Board must now be made available to the public for a 30-day public comment period before being published as an official guidance document.

The Board recessed from 11:02 a.m. to 11:19 a.m.

Recess

Ms. Henshaw asked the Board to consider authorizing staff to file an exempt action in order to make a correction to the Code of Virginia subsection reference listed in 18 VAC48-30-560. Mr. Sterling moved to authorize staff to file an exempt action to amend the Code of Virginia subsection reference listed in 18 VAC48-30-560. Ms. Overholt seconded the motion which was unanimously approved by: Baker, Burrell, Jonas, Mulhare, Overholt, Sterling, Trigiani, and Waddell.

Consider Exempt Action to Amend Subsection Reference in 18 VAC 48-30-560

Ms. Henshaw asked the Board to consider authorizing staff to file an exempt action to amend annual assessment payment language in the CIC Manager Regulations pursuant to HB 2081. Ms. Henshaw advised the bill is currently awaiting Governor approval. After discussion, Ms. Jonas moved to authorize staff to file an exempt action to amend annual assessment payment language in the CIC Manager Regulations contingent upon the Governor's approval of HB 2081 with no amendments. Mr. Burrell seconded the motion which was unanimously approved by: Baker, Burrell, Jonas, Mulhare, Overholt, Sterling, Trigiani, and Waddell.

Consider Exempt Action to Amend Annual Assessment Payment Language in CIC Manager Regulations

Ms. Henshaw asked the Board to consider authorizing staff to file an exempt action to remove language regarding provisional licensing from the CIC Manager Regulations as provisional licensing is no longer offered by the Board. After discussion, Mr. Burrell moved to authorize staff to file an exempt action to remove language regarding provisional licensing from the CIC Manager Regulations contingent upon

confirmation from Board counsel that the removal of language regarding provisional licensing qualifies for exempt action. Ms. Baker seconded the motion which was unanimously approved by: Baker, Burrell, Jonas, Mulhare, Overholt, Sterling, Trigiani, and Waddell.

The 2015 temporary reduction of association renewal fees and registration, to meet the Callahan Act requirements, expires June 30, 2019. Ms. Henshaw asked the Board to consider authorizing staff to file an exempt action in order to extend the reduction until June 30, 2020, allowing the renewal and registration fees to remain at \$10.00 until that time. Ms. Waddell moved to approve the temporary fee reduction as recommended by staff until June 30, 2020. Mr. Mulhare seconded the motion which was unanimously approved by: Baker, Burrell, Jonas, Mulhare, Overholt, Sterling, Trigiani, and Waddell.

**Consider Exempt
Action to Extend
Temporary
Reduction of
Association
Registration
Application and
Renewal Fees-CIC
Management
Information Fund
Regulations**

Ms. Henshaw asked the Board to consider authorizing staff to file an exempt action to remove annual assessment payment language from the CIC Management Information Fund Regulations pursuant to HB 2081. Upon approval from the Governor, the amended CIC Management Information Fund Regulations will be effective July 1, 2019. After discussion, Ms. Baker moved to authorize staff to file an exempt action to remove annual assessment payment language from the CIC Management Information Fund Regulations contingent upon the Governor's approval of HB 2081 with no amendments. Mr. Mulhare seconded the motion which was unanimously approved by: Baker, Burrell, Jonas, Mulhare, Overholt, Sterling, Trigiani, and Waddell.

**Consider Exempt
Action to Remove
Annual Assessment
Payment Language-
CIC Management
Information Fund
Regulations**

Ms. Henshaw asked the Board to consider staff recommendations on revisions to the POA Disclosure Packet Notice and the Condominium Unit Owners' Association Resale Certificate Notice pursuant to HB 2019, which would require disclosure of storm management facilities. Upon Governor approval of HB 2019, the amendments to the POA Disclosure Packet Notice and the Condominium Unit Owners' Association Resale Certificate Notice will be effective July 1, 2019. After discussion, Ms. Jonas moved to adopt staff recommendations on revisions to the POA Disclosure Packet Notice and the Condominium Unit Owners' Association Resale Certificate Notice contingent upon the Governor's approval of HB 2019 with no amendments. Ms. Waddell seconded the motion which was unanimously approved by: Baker, Burrell, Jonas, Mulhare, Overholt, Sterling, Trigiani, and Waddell.

**Consider Revisions
to POA Disclosure
Packet Notice and
Condominium Unit
Owners' Association
Resale Certificate
Notice**

Ms. Henshaw advised the Board that pursuant to the passage of HB 2030 and SB 1538, the Board is required to develop guidelines for the

**Guidelines for
Reserve Studies of**

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development of reserve studies for capital components. The Board reviewed a suggested outline of reserve study guidelines compiled by Mr. Haughwout. Ms. Henshaw asked the Board to authorize staff to form a Committee of SMEs and Board members to develop guidelines to be presented to the Board for review and approval prior to July 1, 2019. After discussion, Mr. Sterling moved to authorize staff, in conjunction with the Chair, to form a Committee to develop guidelines for the development of reserve studies for capital components. Ms. Waddell seconded the motion which was unanimously approved by: Baker, Burrell, Jonas, Mulhare, Overholt, Sterling, Trigiani, and Waddell.

Capital Components

Ms. Trigiani and Ms. Henshaw asked Mr. Mulhare to serve as Chair of the Committee. Mr. Mulhare accepted. Mr. Burrell volunteered to participate as a homeowner member of the Committee.

Ms. Gillespie provided the Board with a summary of current complaint and file statistics as of March 11, 2019.

Ombudsman Report

Ms. Henshaw provided the Board with the most recent financial statements. There have been no claims from the Recovery Fund.

Board Financial Statements

Ms. Henshaw provided an overview of recent events attended by Board staff and the Ombudsman.

Staff Event Calendar

Ms. Waddell addressed the Board and stated that she has been honored to serve on the Board since its inception. Ms. Waddell commended Board members and staff, past and present, for supporting the Board's mission and allowing for growth within common interest communities as well as the legislative and regulatory environment.

Other Business

Ms. Henshaw and the Board commended Mr. Haughwout for his work on the latest edition of the Board newsletter.

Mr. Mulhare also thanked Mr. Haughwout for his assistance with continuing professional education (CPE) requirements.

There being no further business, the meeting was adjourned at 12:08p.m.

Adjourn

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Lucia Anna Trigiani, Chair

Mary Broz-Vaughan, Acting Secretary

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PUBLIC COMMENT PERIOD

Five minute public comment, per person, with the exception of any open disciplinary or application files.

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Common Interest Community Board

Update on Regulatory Actions

(as of May 28, 2019)

Action: Condominium Regulations – Technical Correction to 18 VAC 48-30-560

Current Stage: Adopted (Exempt)

- Final amendment adopted by Board on 3/14/19.
- Regulatory action submitted on 3/21/19.
- Published in Virginia Register on 4/15/19.
- Became effective on 5/15/19.

Next Step: N/A

Action: CIC Manager Regulations – Elimination of Annual Assessments

Current Stage: Adopted (Exempt)

- Final amendment adopted by Board on 3/14/19.
- Regulatory action submitted on 4/13/19.
- Published in Virginia Register on 5/13/19.
- Will become effective on 7/1/19.

Next Step: N/A

Action: CIC Management Information Fund Regulations – Elimination of Annual Assessments and Extend Temporary Fee Reduction

Current Stage: Adopted (Exempt)

- Final amendments adopted by Board on 3/14/19.
- Regulatory action submitted on 4/13/19.
- Published in Virginia Register on 5/13/19.
- Will become effective on 7/1/19.

Next Step: N/A

Action: CIC Management Information Fund – General Review

Current Status: Proposed

- Board adopted proposed amendments on 11/29/18.
- Regulatory package submitted for Executive Branch review on 2/22/19; currently under review.

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Common Interest Community Board

Next Step: Publication/Public Comment

- Completion of Executive Branch review.
- Publication in Virginia Register.
- Sixty-day public comment period; public hearing to be held.

Action: Condominium Regulations – Periodic Review

- Periodic Review Notice filed on 5/17/19.
- Notice will be published in Register on 6/10/19.
- Public comment period from 6/10/19 to 7/1/19.
- Results of public comment to be presented to Board at 9/5/19 meeting.

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1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend and reenact §§ 54.1-2345 through 54.1-2354 of the Code of Virginia; to amend the Code of
 3 Virginia by adding in Title 1 a chapter numbered 6, containing sections numbered 1-600 through 1-610,
 4 by adding in Chapter 3 of Title 8.01 an article numbered 13.1, containing sections numbered 8.01-130.1
 5 through 8.01-130.13, and an article numbered 15.1, containing sections numbered 8.01-178.1 through
 6 8.01-178.4, by adding in Title 8.01 a chapter numbered 18.1, containing articles numbered 1 and 2,
 7 consisting of sections numbered 8.01-525.1 through 8.01-525.12, by adding in Title 32.1 a chapter
 8 numbered 20, containing sections numbered 32.1-373, 32.1-374, and 32.1-375, by adding in Title 36 a
 9 chapter numbered 12, containing sections numbered 36-171 through 36-175, by adding in Title 45.1 a
 10 chapter numbered 14.7:3, containing sections numbered 45.1-161.311:9, 45.1-161.311:10, and 45.1-
 11 161.311:11, by adding a section numbered 54.1-2345.1, by adding in Chapter 23.3 of Title 54.1 an article
 12 numbered 2, containing sections numbered 54.1-2354.1 through 54.1-2354.5, by adding a title numbered
 13 55.1, containing a subtitle numbered I, consisting of chapters numbered 1 through 5, containing sections
 14 numbered 55.1-100 through 55.1-506, a subtitle numbered II, consisting of chapters numbered 6 through
 15 11, containing sections numbered 55.1-600 through 55.1-1101, a subtitle numbered III, consisting of
 16 chapters numbered 12 through 17, containing sections numbered 55.1-1200 through 55.1-1703, a subtitle
 17 numbered IV, consisting of chapters numbered 18 through 23, containing sections numbered 55.1-1800
 18 through 55.1-2306, and a subtitle numbered V, consisting of chapters numbered 24 through 29, containing
 19 sections numbered 55.1-2400 through 55.1-2906, and by adding sections numbered 57-6.1 and 64.2-108.2;
 20 and to repeal § 18.2-324.1 and Title 55 (§§ 55-1 through 55-559) of the Code of Virginia, relating to real
 21 and personal property conveyances, recordation of deeds, rental property, common interest communities,
 22 escheats, and unclaimed property.

23 [S 1080]

24 Approved

25 Be it enacted by the General Assembly of Virginia:

26 1. That §§ 54.1-2345 through 54.1-2354 of the Code of Virginia are amended and reenacted and that the
 27 Code of Virginia is amended by adding in Title 1 a chapter numbered 6, containing sections numbered
 28 1-600 through 1-610, by adding in Chapter 3 of Title 8.01 an article numbered 13.1, containing sections
 29 numbered 8.01-130.1 through 8.01-130.13, and an article numbered 15.1, containing sections numbered
 30 8.01-178.1 through 8.01-178.4, by adding in Title 8.01 a chapter numbered 18.1, containing sections
 31 numbered 8.01-525.1 through 8.01-525.12, by adding in Title 32.1 a chapter numbered 20, containing
 32 sections numbered 32.1-373, 32.1-374, and 32.1-375, by adding in Title 36 a chapter numbered 12,
 33 containing sections numbered 36-171 through 36-175, by adding in Title 45.1 a chapter numbered 14.7:3,
 34 containing sections numbered 45.1-161.311:9, 45.1-161.311:10, and 45.1-161.311:11, by adding a section
 35 numbered 54.1-2345.1, by adding in Chapter 23.3 of Title 54.1 an article numbered 2, containing sections
 36 numbered 54.1-2354.1 through 54.1-2354.5, by adding a title numbered 55.1, containing a subtitle
 37 numbered I, consisting of chapters numbered 1 through 5, containing sections numbered 55.1-100
 38 through 55.1-506, a subtitle numbered II, consisting of chapters numbered 6 through 11, containing
 39 sections numbered 55.1-600 through 55.1-1101, a subtitle numbered III, consisting of chapters numbered
 40 12 through 17, containing sections numbered 55.1-1200 through 55.1-1703, a subtitle numbered IV,
 41 consisting of chapters numbered 18 through 23, containing sections numbered 55.1-1800 through 55.1-
 42 2306, and a subtitle numbered V, consisting of chapters numbered 24 through 29, containing sections
 43 numbered 55.1-2400 through 55.1-2906, and by adding sections numbered 57-6.1 and 64.2-108.2 as
 44 follows:

45 CHAPTER 6.

46 VIRGINIA COORDINATE SYSTEMS.

47 § 1-600. Virginia coordinate systems designated.

48 The systems of plane coordinates that have been established by the National Ocean Service/National
 49 Geodetic Survey or its successors for defining and stating the positions or locations of points on the surface of

50 *the earth within the Commonwealth are to be known and designated as the "Virginia Coordinate System of*
 51 *1927" and the "Virginia Coordinate System of 1983."*

52 **§ 1-601. North and South Zones.**

53 *For the purpose of the use of the Virginia Coordinate System of 1927 and the Virginia Coordinate System*
 54 *of 1983, the Commonwealth is divided into a "North Zone" and a "South Zone."*

55 *The area now included in the following counties and cities shall constitute the North Zone: Arlington,*
 56 *Augusta, Bath, Caroline, Clarke, Culpeper, Fairfax, Fauquier, Frederick, Greene, Highland, King George,*
 57 *Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Rockingham, Shenandoah, Spotsylvania,*
 58 *Stafford, Warren, and Westmoreland Counties and the Cities of Alexandria, Fairfax, Falls Church,*
 59 *Fredericksburg, Harrisonburg, Manassas, Manassas Park, Staunton, Waynesboro, and Winchester.*

60 *The area now included in the following counties and cities shall constitute the South Zone: Accomack,*
 61 *Albemarle, Alleghany, Amelia, Amherst, Appomattox, Bedford, Bland, Botetourt, Brunswick, Buchanan,*
 62 *Buckingham, Campbell, Carroll, Charles City, Charlotte, Chesterfield, Craig, Cumberland, Dickenson,*
 63 *Dinwiddie, Essex, Floyd, Fluvanna, Franklin, Giles, Gloucester, Goochland, Grayson, Greensville, Halifax,*
 64 *Hanover, Henrico, Henry, Isle of Wight, James City, King and Queen, King William, Lancaster, Lee, Louisa,*
 65 *Lunenburg, Mathews, Mecklenburg, Middlesex, Montgomery, Nelson, New Kent, Northampton,*
 66 *Northumberland, Nottoway, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Pulaski,*
 67 *Richmond, Roanoke, Rockbridge, Russell, Scott, Smyth, Southampton, Surry, Sussex, Tazewell, Washington,*
 68 *Wise, Wythe, and York Counties and the Cities of Bristol, Buena Vista, Charlottesville, Chesapeake, Colonial*
 69 *Heights, Covington, Danville, Emporia, Franklin, Galax, Hampton, Hopewell, Lexington, Lynchburg,*
 70 *Martinsville, Newport News, Norfolk, Norton, Petersburg, Poquoson, Portsmouth, Radford, Richmond,*
 71 *Roanoke, Salem, Suffolk, Virginia Beach, and Williamsburg.*

72 **§ 1-602. Designation of systems in land description.**

73 *A. As established for use in the North Zone, the Virginia Coordinate System of 1927 or the Virginia*
 74 *Coordinate System of 1983 shall be named, and in any land description in which it is used, it shall be designated*
 75 *the "Virginia Coordinate System of 1927, North Zone" or "Virginia Coordinate System of 1983, North Zone."*

76 *B. As established for use in the South Zone, the Virginia Coordinate System of 1927 or the Virginia*
 77 *Coordinate System of 1983 shall be named, and in any land description in which it is used, it shall be designated*
 78 *the "Virginia Coordinate System of 1927, South Zone" or "Virginia Coordinate System of 1983, South Zone."*

79 **§ 1-603. Plane coordinates used in systems.**

80 *The plane coordinates of a point on the earth's surface, to be used in expressing the position or location of*
 81 *such point in the appropriate zone of these systems, shall be expressed in U.S. survey feet and decimals of a*
 82 *foot. One of these distances, to be known as the "x-coordinate," shall give the position in an east-and-west*
 83 *direction; the other, to be known as the "y-coordinate," shall give the position in a north-and-south direction.*
 84 *These coordinates shall be made to depend upon and conform to the coordinate values for the monumented*
 85 *points of the North American Horizontal Geodetic Control Network as published by the National Ocean*
 86 *Service/National Geodetic Survey, or its successors, and whose plane coordinates have been computed on the*
 87 *systems defined in this chapter. Any such station may be used for establishing a survey connection to either*
 88 *Virginia coordinate system.*

89 *When converting coordinates in the Virginia Coordinate System of 1983 from meters and decimals of a*
 90 *meter to feet and decimals of a foot, the U.S. survey foot conversion factor (one foot equals 1200/3937 meters)*
 91 *shall be used. This requirement does not preclude the continued use of the International foot conversion factor*
 92 *(one foot equals 0.3048 meters) in those counties and cities where this factor was in use prior to July 1, 1992.*
 93 *The plat or plan shall contain a statement of the conversion factor used and the coordinate values of a minimum*
 94 *of two project points in feet.*

95 **§ 1-604. Tract of land lying in both coordinate zones.**

96 *When any tract of land to be defined by a single description extends from one into the other of the two*
 97 *coordinate zones established in this chapter, the positions of all points on its boundaries may be referred to*
 98 *either of the two zones, with the zone that is used being specifically named in the description.*

99 **§ 1-605. Definition of systems by National Ocean Service/National Geodetic Survey; adopted.**

100 *A. For purposes of more precisely defining the Virginia Coordinate System of 1927, the following definition*
 101 *by the National Ocean Service/National Geodetic Survey is adopted:*

102 *The Virginia Coordinate System of 1927, North Zone, is a Lambert conformal projection of the Clarke*
 103 *spheroid of 1896, having standard parallels at north latitudes 38° 02' and 39° 12', along which parallels the*

104 *scale shall be exact. The origin of coordinates is at the intersection of the meridian 78° 30' west of Greenwich*
105 *with the parallel 37° 40' north latitude, such origin being given the coordinates: $x = 2,000,000'$, and $y = 0'$.*

106 *The Virginia Coordinate System of 1927, South Zone, is a Lambert conformal projection of the Clarke*
107 *spheroid of 1896, having standard parallels at north latitudes 36° 46' and 37° 58', along which parallels the*
108 *scale shall be exact. The origin of coordinates is at the intersection of the meridian 78° 30' west of Greenwich*
109 *with the parallel 36° 20' north latitude, such origin being given the coordinates: $x = 2,000,000'$, and $y = 0'$.*

110 *B. For purposes of more precisely defining the Virginia Coordinate System of 1983, the following definition*
111 *by the National Ocean Service/National Geodetic Survey is adopted:*

112 *The Virginia Coordinate System of 1983, North Zone, is a Lambert conformal conic projection based on*
113 *the North American Datum of 1983, having standard parallels at north latitudes 38° 02' and 39° 12', along*
114 *which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 78° 30'*
115 *west of Greenwich and the parallel 37° 40' north latitude, such origin being given the coordinates: $x =$*
116 *3,500,000 meters and $y = 2,000,000$ meters.*

117 *The Virginia Coordinate System of 1983, South Zone, is a Lambert conformal conic projection based on*
118 *the North American Datum of 1983, having standard parallels at north latitudes 36° 46' and 37° 58', along*
119 *which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 78° 30'*
120 *west of Greenwich and the parallel 36° 20' north latitude, such origin being given the coordinates: $x =$*
121 *3,500,000 meters and $y = 1,000,000$ meters.*

122 **§ 1-606. Position of systems.**

123 *The position of the Virginia coordinate systems shall be as marked on the ground by triangulation or*
124 *traverse stations established in conformity with the standards of accuracy and specifications for first-order and*
125 *second-order geodetic surveying as prepared and published by the Federal Geodetic Control Subcommittee of*
126 *the Federal Geographic Data Committee of the U.S. Department of Commerce. The geodetic position of stations*
127 *defining the position of the Virginia Coordinate System of 1927 shall have been rigidly adjusted on the North*
128 *American Datum of 1927, and the plane coordinates shall have been computed on the Virginia Coordinate*
129 *System of 1927. The geodetic position of stations defining the position of the Virginia Coordinate System of*
130 *1983 shall have been rigidly adjusted on the North American Datum of 1983, and the plane coordinates shall*
131 *have been computed on the Virginia Coordinate System of 1983. Any such station may be used for establishing*
132 *a survey connection with the Virginia coordinate systems.*

133 **§ 1-607. Limitation on use of systems.**

134 *No coordinates based on the Virginia coordinate systems, purporting to define the position of a point on a*
135 *land boundary, shall be presented to be recorded in any public land records or deed records unless such point*
136 *is within two kilometers of a public or private monumented horizontal control station established in conformity*
137 *with the standards of accuracy and specifications for second-order, class II or better geodetic surveying as*
138 *prepared and published by the Federal Geodetic Control Subcommittee of the Federal Geographic Data*
139 *Committee of the U.S. Department of Commerce. Standards and specifications of the Federal Geodetic Control*
140 *Subcommittee or its successor in force on the date of such survey shall apply. The publishing of the existing*
141 *control stations, or the acceptance with intent to publish the new established control stations, by the National*
142 *Ocean Service/National Geodetic Survey constitutes evidence of adherence to the Federal Geodetic Control*
143 *Subcommittee specifications. The two kilometers' limitation may be modified by a duly authorized state agency*
144 *to meet local conditions. Nothing contained in this chapter shall be interpreted as preventing the use of the*
145 *Virginia coordinate systems in any unrecorded deeds, maps, or computations.*

146 **§ 1-608. Limitation on use of name of systems.**

147 *The use of the terms "Virginia Coordinate System of 1927" or "Virginia Coordinate System of 1983" on*
148 *any map, report of survey, or other document shall be limited to coordinates based on the Virginia coordinate*
149 *systems as defined in this chapter.*

150 **§ 1-609. Use of system not compulsory.**

151 *For purposes of describing the location of any survey station or land boundary corner in the*
152 *Commonwealth, it shall be considered a complete, legal, and satisfactory description of such location to give*
153 *the position of such survey station or land boundary corner on the system of plane coordinates defined in this*
154 *chapter. Nothing contained in this chapter shall require any purchaser or mortgagee to rely on a description*
155 *any part of which depends exclusively upon either Virginia coordinate system.*

156 **§ 1-610. Old Dominion University designated as administrative agency.**

157 *Old Dominion University is designated as the authorized state agency to collect and distribute information,*
158 *to authorize such modifications as are referred to in § 1-607, and generally to advise with and assist appropriate*
159 *state and federal agencies and individuals interested in the development of the provisions of this chapter.*

160 *Article 13.1.*

161 *Warrants in Distress.*

162 **§ 8.01-130.1. Remedy for rent and for use and occupation.**

163 *Rent of every kind may be recovered by distress or action. A landlord may also, by action, recover, when*
164 *the agreement is not by deed, a reasonable satisfaction for the use and occupation of lands. On the trial of such*
165 *action, if any parol demise or any agreement not by deed whereon a certain rent was reserved appears in*
166 *evidence, the plaintiff shall not therefor be nonsuited, but may use the same as evidence of the amount of his*
167 *debt or damages. In any action for rent, or for such use and occupation, interest shall be allowed as on other*
168 *contracts.*

169 **§ 8.01-130.2. Who may recover rent or compensation.**

170 *If a person is entitled to rent or compensation, whether such person has the reversion or not, then his*
171 *personal representative or assignee may recover it as provided in § 8.01-130.1, whatever the estate of the*
172 *person owning it, or though his estate or interest in the land has ended. When the owner of real estate in fee,*
173 *or holder of a term, yielding him rent dies, the rent due after such owner's or termholder's death shall be*
174 *recoverable by such owner's heir or devisee or such termholder's personal representative. If the owner or holder*
175 *alienates or assigns his estate or term, or the rent falls due after such alienation or assignment, the alienee or*
176 *assignee may recover such rent.*

177 **§ 8.01-130.3. Who is liable for rent.**

178 *Rent may be recovered from the lessee or other person owing it, or his assignee, or the personal*
179 *representative of either; however, no assignee shall be liable for rent that became due before his interest began.*
180 *Nothing in this section shall impair or change the liability of heirs or devisees for rent, as for other debts of*
181 *their ancestor or devisor.*

182 **§ 8.01-130.4. When and by whom distress made.**

183 *A distress action for rent may be brought no later than five years from the time the rent becomes due,*
184 *whether the lease is ended or not. The distress shall be made by a sheriff of the county or city where the premises*
185 *yielding the rent, or some part thereof, is located or the goods liable to distress may be found, under warrant*
186 *from a judge of, or a magistrate serving, the judicial district. Such warrant shall be founded upon a sworn*
187 *petition of the person claiming the rent, or his agent, that (i) the petitioner believes the amount of money or*
188 *other thing by which the rent is measured, to be specified in the petition in accordance with § 8.01-130.6, is*
189 *justly due to the claimant for rent reserved upon contract from the person of whom it is claimed, (ii) the*
190 *petitioner alleges one or more of the grounds mentioned in § 8.01-534 and sets forth in the petition specific*
191 *facts in support of such allegation, and (iii) the rent claimed is for rent due within five years from the time that*
192 *it becomes due. The petition shall also specify the amount of the rent claimed and request either levy or seizure*
193 *of the affected property prior to trial. The plaintiff shall, at the time of suing out a distress, give bond in*
194 *conformity with the provisions of § 8.01-537.1. The plaintiff praying for a distress warrant shall, at the time*
195 *that he files his petition, pay the proper costs, fees, and taxes, and in the event of his failure to do so, the distress*
196 *warrant shall not be issued.*

197 *A judge or magistrate shall make an ex parte review of the petition and may receive evidence only in the*
198 *form of a sworn petition, which shall be filed in the office of the clerks of court. The warrant may be issued in*
199 *accordance with the prayer of the petition by a judge or magistrate only upon a determination that there*
200 *appears from the petition that there is reasonable cause to believe that one of the grounds mentioned in § 8.01-*
201 *534 exists, the allegations required to be in the petition are true, and bond that complies with § 8.01-537.1 has*
202 *been posted.*

203 *Each copy of the distress warrant shall be issued and served on each defendant together with (a) a form*
204 *for requesting a hearing of exemption from levy or seizure, as provided in § 8.01-546.1, and (b) a copy of the*
205 *bond. The distress warrant may be issued or executed on any day, including a Saturday, Sunday, or other legal*
206 *holiday. Service shall be made in accordance with the methods described in § 8.01-487.1. The provisions of §*
207 *8.01-546.2 shall govern claims for exemption.*

208 *The officer into whose hands the warrant is delivered shall levy or seize as directed in the warrant, except*
209 *as may be provided by statute, the property found on the premises of the tenant as provided by § 8.01-130.6.*

210 *The officer shall return the warrant of distress to the court to which the warrant of distress is returnable by the*
211 *return date unless otherwise notified by the court to make return by an earlier date.*

212 **§ 8.01-130.5. Procedure for trial on warrant in distress.**

213 *The distress warrant shall contain a return date and be tried in the same manner as an action on a warrant*
214 *as prescribed in § 16.1-79, except that the case shall be returnable not more than 30 days from its date of*
215 *issuance. The trial or hearing of the issues, except as otherwise provided, shall be the same, as near as may be,*
216 *as in actions in personam.*

217 **§ 8.01-130.6. On what goods levied; to what extent goods liable; priorities between landlord and other**
218 **lienors.**

219 *The distress may be levied on any goods of the lessee, his assignee, or any sublessee that are found on the*
220 *premises or that may have been removed from the premises not more than 30 days prior to the levy. A levy*
221 *within such 30 days shall have like effect as if the goods levied on had not been removed from the leased*
222 *premises. If the goods of such lessee, assignee, or sublessee, when carried on the premises, are subject to a lien*
223 *that is valid against his creditors, his interest only in such goods shall be liable to such distress. If any lien is*
224 *created on such goods while they are upon the leased premises, or within 30 days after such lien is created,*
225 *they are liable to distress, but for not more than six months' rent if the premises are used for residential*
226 *purposes, and not for farming or agriculture, and for not more than 12 months' rent if the lands or premises*
227 *are used for farming or agriculture, whether such rent has accrued before or after the creation of the lien. No*
228 *other goods shall be liable to distress than such as are declared to be so liable in this section, nor shall the*
229 *goods of the sublessee be liable to a greater amount than such sublessee owed the tenant at the time the distress*
230 *was levied.*

231 **§ 8.01-130.7. Procedure when distress levied and tenant unable to give forthcoming bond; what defense**
232 **may be made.**

233 *A. On affidavit by a tenant, whose property has been levied on under a warrant of distress, that (i) he is*
234 *unable to give the bond required in § 8.01-526 and (ii) he has a valid defense under subsection B, the officer*
235 *levying the warrant shall permit the property to remain in the possession and at the risk of the tenant, and shall*
236 *return the warrant forthwith, together with the affidavit, to the court to which such warrant is returnable.*
237 *Thereupon the landlord, after 10 days' notice in writing to the tenant, may make a motion for a judgment for*
238 *the amount of the rent and for a sale of the property levied on. The tenant may make such defense as he is*
239 *authorized to make, including defenses permitted under subsection B to an action or motion on the bond when*
240 *one is given. Upon making such defense, the officer shall permit the property to remain in the possession of and*
241 *at the risk of the tenant. If the property is perishable, or expensive to keep, the court may order it to be sold,*
242 *and on the final trial of the cause, the court shall dispose of the property, or proceeds of sale, according to the*
243 *rights of the parties.*

244 *B. In an action or motion on a forthcoming bond, when it is taken under a distress warrant, the defendants*
245 *may make defense on the ground that the distress was for rent not due in whole or in part or was otherwise*
246 *illegal.*

247 **§ 8.01-130.8. Review of decision to issue ex parte order or process; claim of exemption.**

248 *Promptly after levy on the property or promptly after possession of the property is taken by the officer*
249 *pursuant to an ex parte order, or after denial of an application to issue such order by a magistrate, upon*
250 *application of either party, and after reasonable notice, a judge of the general district court having jurisdiction*
251 *shall conduct a hearing to review the decision to issue the ex parte order or process. In the event that the judge*
252 *finds that the order or process should not have been issued, the court may dismiss the distraint or award actual*
253 *damages and reasonable attorney fees to the person whose property was taken, or both. The provisions of §*
254 *8.01-546.2 shall govern claims for exemption.*

255 **§ 8.01-130.9. On what terms purchasers and lienors inferior to landlord may remove goods; certain liens**
256 **not affected.**

257 *If, after the commencement of any tenancy, a lien is obtained or created by deed of trust, mortgage, or*
258 *otherwise upon the interest or property in goods on premises leased or rented of any person liable for the rent,*
259 *or such goods are sold, the party having such lien, or the purchaser of such goods, may remove them from the*
260 *premises only on the following terms: On paying to the person entitled to the rent so much as is in arrear, and*
261 *securing to him so much as to become due, what is so paid or secured not being more altogether than six*
262 *months' rent if the premises are in a city or town, or in any subdivision of suburban and other lands divided*
263 *into building lots for residential purposes, or of premises anywhere used for residential purposes, and not for*

264 farming or agriculture, and not being more altogether than 12 months' rent, if the lands or premises are used
265 for farming or agriculture. If the goods are taken under legal process, the officer executing it shall, out of the
266 proceeds of the goods, make such payment of what is in arrear, and as to what is to become due he shall sell a
267 sufficient portion of the goods on a credit until then, taking from the purchasers bonds, with good security,
268 payable to the person so entitled, and delivering such bonds to him. If the goods are not taken under legal
269 process, such payment and security shall be made and given before their removal. Neither this section nor §
270 8.01-130.6 shall affect any lien for taxes, levies, or militia fines.

271 For the purpose of this section and § 8.01-130.6, a monthly or weekly tenancy shall not be construed as a
272 new lease for every month or week of occupation of the premises by the tenant, but his tenancy shall be
273 considered as a continuance of his original lease so long as he continues to occupy the property without making
274 any new written lease.

275 **§ 8.01-130.10. When goods of a sublessee may be removed from leased premises.**

276 The following limitations shall apply to § 8.01-130.9: a sublessee, or a purchaser from him, or a creditor
277 holding a deed of trust, mortgage or other encumbrance created on his goods after they were carried on the
278 leased premises, may remove the same upon payment of so much of the rent contracted to be paid by him as is
279 in arrear, and securing the residue, not exceeding six months' rent, if the premises are in a city or town, or in
280 any subdivision of suburban and other lands divided into building lots for residential purposes, or of premises
281 anywhere used for residential purposes, and not for farming or agriculture, and for not more than 12 months'
282 rent if the lands or premises are used for farming or agriculture. If the goods are taken under legal process
283 against him, the officer executing the same shall, out of the proceeds of his goods, make payment of so much of
284 the rent as to which he is in arrear, and as to what is to become due from him shall sell sufficient of the goods
285 upon credit until then, taking from the purchaser bonds with good security, payable to the party entitled to
286 receive the same, and deliver them to him.

287 **§ 8.01-130.11. When officer may enter by force to levy distress or attachment.**

288 The officer having such distress warrant, or an attachment for rent, if there be need for it, may, in the
289 daytime, break open and enter into any house or close in which there may be goods liable to the distress or
290 attachment and may, either in the day or night, break open and enter any house or close wherein there may be
291 any goods so liable that have been fraudulently or clandestinely removed from the demised premises. He may
292 also levy such distress warrant or attachment on property liable for the rent found in the personal possession
293 of the party liable therefor.

294 **§ 8.01-130.12. When distress not unlawful because of irregularity, etc.**

295 When distress is made for rent justly due and any irregularity or unlawful act is afterwards done by the
296 party distraining, or his agent, the distress itself shall not be deemed to be unlawful, nor is the party making it
297 therefore deemed a trespasser ab initio. The party aggrieved by such irregularity or unlawful act may, by action,
298 recover full satisfaction for the special damage he has sustained thereby.

299 **§ 8.01-130.13. Return of execution; process of sale thereunder.**

300 The sheriff under writ of execution from the court after hearing and judgment for the landlord, except as
301 otherwise provided by law, shall make return on his execution as may be placed in his hands for collection and
302 file the same, within 90 days after the same may have come to his hands, with the clerk of the court in which
303 the case was heard. Upon the return of such execution such clerk shall preserve such execution in his office as
304 is now provided as to other executions. If such return shows that a levy has been made and that property levied
305 on remains unsold, it shall be lawful for the clerk of the court in whose office such return is filed to issue a writ
306 of venditioni exponas thereon just as if the return were upon writ of fieri facias.

307 Article 15.1.

308 Waste.

309 **§ 8.01-178.1. Waste; who is liable.**

310 A. Any tenant of land or any person who has aliened land who commits any waste while he is in possession
311 of such land, unless he has special license to do so, shall be liable for damages.

312 B. Any tenant in common, joint tenant, or parcener who commits waste, shall be liable to his cotenants,
313 jointly or severally, for damages.

314 C. Any guardian or conservator who commits waste of the estate of his ward shall be liable to the ward, at
315 the expiration of his guardianship or conservatorship, for damages.

316 **§ 8.01-178.2. Civil action for waste; double damages.**

317 Any person who is injured due to another person's committing waste on his land may recover damages for
 318 such waste by initiating a civil action. If a jury finds that the waste was a result of wanton misconduct, judgment
 319 shall be for double the amount of damages assessed.

320 **§ 8.01-178.3. Waste for tenant to sell or remove manure from leased premises.**

321 If a tenant at will or for years, without a special license to do so, sells or otherwise removes manure made
 322 on such leased premises in the ordinary course of husbandry, consisting of (i) ashes leached or unleached; (ii)
 323 collections from the stables, barnyard, or cattle pens or other places on the leased premises; or (iii) composts
 324 formed by an admixture of any such manure with the soil or other substances, such removal shall be deemed
 325 waste for the purposes of the provisions of this article.

326 **§ 8.01-178.4. Waste committed during pendency of action.**

327 If a defendant who is a tenant in possession of land in an action initiated pursuant to § 8.01-178.2 commits
 328 any waste on the land, the court may, on petition of the plaintiff alleging such waste, verified by oath, and after
 329 reasonable notice to the tenant, prohibit the tenant from committing further waste on the land during the
 330 pendency of the action. Violation of such order by the tenant after he has been served with a copy may be
 331 punished as contempt. The order shall not be effective until the plaintiff gives bond with sufficient surety as
 332 prescribed by the court, with condition to pay to the tenant, in case the plaintiff does not succeed in recovering
 333 or charging the land, such damages as may accrue to the tenant as a consequence of such order. If the plaintiff
 334 succeeds in recovering or charging the land, he may recover three times the amount of the damages assessed
 335 for such waste.

336 CHAPTER 18.1.

337 ASSIGNMENTS FOR BENEFIT OF CREDITORS.

338 Article 1.

339 Assignment of Property.

340 **§ 8.01-525.1. Recordation; notice of sale; preferences prohibited.**

341 Whenever a deed of assignment for the benefit of creditors is executed, the deed shall be recorded. If no
 342 notice of the sale has previously been given, the trustee named in such deed, or the one substituted in the manner
 343 prescribed in this article, before selling under the deed of assignment, shall, at least 10 days before the sale,
 344 notify each of the creditors named in the deed by certified mail, return receipt requested, advising of (i) the
 345 execution of such sale; (ii) when, where, and how the sale will be held; (iii) the terms of such sale; and (iv)
 346 whether or not the deed provides that acceptance shall be in full satisfaction. No creditor shall be preferred in
 347 the deed except those given a lien or preference by law, or those having a valid lien upon the property conveyed,
 348 or some part of such lien, and those having a lien shall be preferred only to the extent of the value of the property
 349 upon which they have a lien.

350 **§ 8.01-525.2. Substitution of another trustee by creditors.**

351 A majority of the unsecured creditors in number and amount of the assignor may agree in writing upon a
 352 trustee different from the one named in the deed of assignment, and upon petition to the court that would have
 353 jurisdiction if an action were brought against the assignor, such agreed trustee may be substituted in lieu of
 354 such named trustee with all of the rights, powers, and duties conferred upon such named trustee in the deed of
 355 assignment. The clerk of the court where the deed of assignment is recorded shall record such order presented
 356 by one of the parties and shall include a reference to the order book and page where such deed is recorded,
 357 together with the name of the substituted trustee, and shall make proper indexing. The substitute trustee shall
 358 reside in the county or city in which the property that is conveyed in the deed of assignment or the greater
 359 portion thereof in value is located.

360 **§ 8.01-525.3. Procedure to question claim of creditor.**

361 Any creditor of the assignor who questions the validity of any other creditor's claim, or the trustee if he
 362 questions the validity of any claim, may file, within 30 days after the recordation of the deed, a petition against
 363 the creditor whose claim is questioned in the court that would have jurisdiction if the action was brought by the
 364 creditor whose claim is questioned against the assignor, and the burden of proof shall be upon the creditor
 365 whose claim is questioned. Upon the filing of such petition, the court may order the party whose claim is
 366 questioned to appear to defend such claim and the court shall determine the matter in a summary way.

367 **§ 8.01-525.4. Provision to bar further claim by creditors who accept deed.**

368 Any deed of assignment may contain a provision to the effect that those creditors who accept such
 369 assignment do so in full satisfaction of their respective claims and shall be forever barred from further recovery
 370 of any balance.

371 **§ 8.01-525.5. Compensation of trustee.**

372 Every trustee referred to in this article shall receive reasonable compensation for services.

373 Article 2.

374 Assignment of Salary, Wages, or Income.

375 **§ 8.01-525.6. Petition for assignment of salary, wages, or income for the benefit of creditors.**

376 Upon petition of a debtor for the assignment of his salary, wages, or income to a trustee for the benefit of
377 his creditors, a judge may appoint a trustee, subject to the supervision and order of the court, to receive such
378 salary, wages, or income of such debtor and pay off the obligations due by such debtor as provided in this
379 article, provided that a majority of the creditors have provided written consent of such assignment to the court.

380 If the debtor is employed on a salary or for wages, the written consent of his employer is required.

381 **§ 8.01-525.7. Trustee; rights and duties; compensation.**

382 A trustee appointed pursuant to § 8.01-525.6 shall make written reports to the court as required by the
383 court. The trustee may charge a fee of five percent of such salary, wages, or income received and disbursed by
384 him; however, no public officer or employee who receives a full-time salary and who acts as trustee under this
385 article shall retain such fee for his personal use.

386 The trustee, upon being appointed, shall give written notice to any person, firm, or corporation who may
387 owe the debtor any salary, wages, or income, and upon receiving such notice such person, firm, or corporation
388 shall pay to the trustee any salary, wages, or income that are owed to such debtor, at the time it would otherwise
389 be due to the debtor.

390 The trustee may compromise and settle any claims against the debtor when he believes such compromise
391 shall be for the benefit of all the creditors.

392 **§ 8.01-525.8. Resignation of trustee.**

393 The trustee may resign at any time after accounting for all funds in his possession, and the court may
394 appoint another trustee.

395 **§ 8.01-525.9. Debts; order of payment.**

396 The trustee shall immediately upon receipt of such salary, wages, or income, or at such other time as the
397 court may direct, disburse the funds as follows:

398 1. The trustee shall first pay to the debtor directly, or for his benefit as the court may direct, any amount
399 the debtor may be entitled to as exempt by law if he is a householder and head of a family or, if he is not a
400 householder or head of a family, then such amount for the necessities of life as may be agreed upon by the
401 creditors in the assignment. Nothing in this subdivision shall prevent the trustee from paying to the debtor a
402 greater amount than is exempt by law if agreed to by the creditors and approved by the court.

403 2. The trustee shall next pay, according to such funds as he has in his possession, a pro rata share of the
404 balance to all the creditors on an equal basis or in such proportions as the creditors may agree.

405 **§ 8.01-525.10. Exemption from garnishment, levy, or distress.**

406 When the assignment is executed and approved by the court and the trustee has been appointed and notice
407 given to the creditors listed in the assignment, such assignment shall be deemed legal and binding upon all
408 creditors and such salary, wages, or income shall be exempt from garnishment, levy, or distress during such
409 time as the assignment is in existence. Such assignment shall have priority over all liens subsequently obtained.

410 **§ 8.01-525.11. Termination of assignment by court.**

411 The court may, at any time, upon a motion stating that the terms of the assignment are not being complied
412 with, order the debtor and trustee to appear before the court, and the court may, if the evidence justifies, or, in
413 its discretion, declare the assignment null and void. When such action is taken by the court, a written notice
414 shall be sent to all persons named in the assignment.

415 The court may, on its own motion, revoke the assignment whenever it determines that the ends of justice
416 are not being attained.

417 When the assignment has been fully complied with, the court shall discharge the trustee and notify the
418 employer of the debtor, if there is one, that the debtor is entitled to receive his entire salary, wages, or income
419 directly.

420 **§ 8.01-525.12. Clerk to preserve assignment; fees.**

421 The clerk of the court wherein any assignment is filed, as otherwise provided by law, shall maintain the
422 court records of such assignment, together with all reports of the trustee, and shall keep an index of all such
423 assignments. For filing the assignment, the fee as prescribed in § 17.1-275 shall be charged.

424 CHAPTER 20.

*DISPOSITION OF ASSETS BY NONPROFIT HEALTH CARE ENTITIES.***425** § 32.1-373. *Definitions.*

As used in this chapter, unless the context requires a different meaning:

427 "Disposition of assets" means any action undertaken by a nonprofit entity to dispose of control of all or
428 substantially all of its assets pursuant to an agreement of sale, transfer, lease, exchange, option, joint venture,
429 or partnership, or to convert to a for-profit entity or to otherwise restructure the nonprofit entity or its assets,
430 resulting in a change in control or governance of the entity or assets.

431 "Nonprofit entity" means (i) a foreign or domestic nonstock corporation licensed and subject to regulation
432 under Chapter 42 (§ 38.2-4200 et seq.) of Title 38.2 or (ii) a person that is exempt from taxation under 26
433 U.S.C. § 501(c)(3) or (4) and is, or owns, one of the following: (a) a hospital licensed under Chapter 5 (§ 32.1-
434 123 et seq.) of this title or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2; (b) a health maintenance
435 organization licensed under Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2; (c) a nursing home, including a
436 facility known by varying nomenclature or designation such as convalescent home, skilled nursing facility or
437 skilled care facility, intermediate care facility, extended care facility, or certified nursing facility or nursing
438 care facility, licensed under the provisions of Article 1 (§ 32.1-123 et seq.) of Chapter 5; or (d) a facility for
439 the provision of continuing care registered with the State Corporation Commission pursuant to Chapter 49 (§
440 38.2-4900 et seq.) of Title 38.2.

441 § 32.1-374. *Obligations of nonprofit entity.*

442 Prior to disposition of assets, any nonprofit entity shall provide to the Attorney General written notice, on
443 a form provided by the Attorney General, of its intent to dispose of such assets, including the terms of the
444 proposal. The notice shall be given at least 60 days in advance of the effective date of such proposed transaction
445 in order that the Attorney General may exercise his common law and statutory authority over the activities of
446 these organizations. The Attorney General may employ expert assistance in reviewing any proposed
447 transaction, and such reasonable expenses incurred by the Attorney General shall be paid by a party to the
448 proposed transaction.

449 Within 10 days of receipt of the notice from the entity, the Attorney General shall cause a public notice of
450 the transaction to be published in a newspaper in which legal notices may be published in that jurisdiction.

451 No later than 40 days prior to any disposition of assets, the nonprofit entity shall convene a public meeting
452 to set forth its expectations concerning how the health care needs of the community will be served following the
453 proposed disposition of assets and to receive comments and respond to questions on the potential impact of the
454 proposed disposition of assets on the community served by the nonprofit entity. Notice of the time and place of
455 such meeting shall be published at least 10 days prior to the meeting in a newspaper in which legal notices may
456 be published in that jurisdiction.

457 Notice to the Attorney General pursuant to this section shall be given for State Corporation Commission
458 approval sought pursuant to Article 11 (§ 13.1-893.1) of Chapter 10 of Title 13.1 and §§ 38.2-203 and 38.2-
459 1322 through 38.2-1328 and subdivision A 1 of § 38.2-4316. Such notice need not be given where the State
460 Corporation Commission determines, in its sole discretion, that there is a reasonable expectation that the
461 foreign or domestic nonstock corporation licensed and subject to regulation under Chapter 42 (§ 38.2-4200 et
462 seq.) of Title 38.2 or health maintenance organization referenced in this chapter will not be able to meet its
463 obligations to subscribers or enrollees.

464 The provisions of this section shall not apply to any disposition of assets subject to the provisions of § 38.2-
465 4214.1 or any of the provisions of Chapter 15 (§ 38.2-1500 et seq.) of Title 38.2.

466 § 32.1-375. *Applicability of chapter.*

467 This chapter shall apply to any disposition of assets proposed to take effect on or after July 1, 1997.

468 CHAPTER 12.**469** FIRST-TIME HOME BUYER SAVINGS PLAN ACT.**470** § 36-171. *Definitions.*

471 As used in this chapter, unless the context requires a different meaning:

472 "Account holder" means an individual who establishes, individually or jointly with one or more other
473 individuals, an account with a financial institution for which the account holder claims a first-time home buyer
474 savings account status on his Virginia income tax return.

475 "Allowable closing costs" means a disbursement listed on a settlement statement for the purchase of a
476 single-family residence in the Commonwealth by a qualified beneficiary.
477

478 *"Eligible costs" means the down payment and allowable closing costs for the purchase of a single-family*
479 *residence in the Commonwealth by a qualified beneficiary.*

480 *"Financial institution" means any bank, trust company, savings institution, industrial loan association,*
481 *consumer finance company, or credit union or any benefit association, insurance company, safe deposit*
482 *company, money market mutual fund, or similar entity authorized to do business in the Commonwealth.*

483 *"First-time home buyer savings account" or "account" means an account with a financial institution for*
484 *which the account holder claims first-time home buyer savings account status on his Virginia income tax return*
485 *for taxable year 2014 or any taxable year thereafter, pursuant to this chapter for the purpose of paying or*
486 *reimbursing eligible costs for the purchase of a single-family residence in the Commonwealth by a qualified*
487 *beneficiary. Financial institutions shall not be required to (i) designate an account as a first-time home buyer*
488 *savings account, or designate the beneficiaries of such accounts, in the financial institutions' account contracts*
489 *or systems or in any other way; (ii) track the use of funds withdrawn from such accounts; (iii) allocate funds in*
490 *such accounts among joint account owners or multiple beneficiaries; or (iv) report any of the information stated*
491 *in clause (i), (ii), or (iii) to the Department of Taxation or other governmental agency. Financial institutions*
492 *shall not be responsible for or liable for (a) determining or ensuring that an account satisfies the requirements*
493 *to be a first-time home buyer savings account, (b) determining or ensuring that costs are eligible costs, or (c)*
494 *reporting or remitting taxes or penalties for such accounts.*

495 *"Qualified beneficiary" means only an individual who resides in the Commonwealth at the time of*
496 *settlement on the purchase of a single-family residence in the Commonwealth who (i) has never owned or*
497 *purchased under contract for deed, either individually or jointly, a single-family residence in the*
498 *Commonwealth or outside of the Commonwealth; (ii) is designated as the beneficiary of an account designated*
499 *by the account holder as a first-time home buyer savings account; and (iii) may apply moneys or funds held in*
500 *such account for eligible costs. A qualified beneficiary may use the funds from such account for eligible costs*
501 *regardless of whether such qualified beneficiary purchases the single-family residence as sole owner or jointly*
502 *with another individual.*

503 *"Settlement statement" means the statement of receipts and disbursements for a transaction related to real*
504 *estate, including a statement prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA), 12*
505 *U.S.C. § 2601 et seq., as amended, and the regulations thereunder, or an executed sales agreement for the*
506 *purchase of a manufactured home being conveyed as personal property.*

507 *"Single-family residence" means a single-family residence owned and occupied by a qualified beneficiary,*
508 *including a manufactured home, trailer, mobile home, condominium unit, or cooperative.*

509 **§ 36-172. Claiming first-time home buyer status.**

510 *A. The account holder shall be responsible for the use or application of moneys or funds in an account for*
511 *which the account holder claims first-time home buyer savings account status.*

512 *B. The account holder shall (i) not use moneys or funds held in an account to pay expenses of administering*
513 *the account, except that a service fee may be deducted from the account by a financial institution; (ii) maintain*
514 *documentation, which may include the settlement statement, of the segregation of moneys or funds in separate*
515 *accounts and documentation of eligible costs for the purchase of a single-family residence in the*
516 *Commonwealth; (iii) file, with the account holder's Virginia income tax return, forms developed by the*
517 *Department of Taxation regarding treatment of the account as a first-time home buyer savings account under*
518 *this chapter, along with the Form 1099 issued by the financial institution for such account; and (iv) remit to*
519 *the Department of Taxation the tax on any amounts (a) added to individual income pursuant to subdivision 6*
520 *of § 58.1-322.01 or (b) recaptured pursuant to subdivision 25 of § 58.1-322.02.*

521 *C. The Tax Commissioner shall develop guidelines applicable to account holders to implement the*
522 *provisions of this chapter. Such guidelines shall be exempt from the provisions of the Administrative Process*
523 *Act (§ 2.2-4000 et seq.). Such guidelines shall not apply to, or impose administrative, reporting, or other*
524 *obligations or requirements on, financial institutions-related accounts for which first-time home buyer savings*
525 *account status is claimed by the account holder.*

526 **§ 36-173. Tax exemption; conditions.**

527 *A. All interest or other income earned attributable to an account shall be excluded from the Virginia taxable*
528 *income of the account holder as provided under subdivision 25 of § 58.1-322.02.*

529 *B. There shall be an aggregate limit of \$50,000 per account on the amount of principal for which the*
530 *account holder may claim first-time home buyer savings account status. Only cash and marketable securities*
531 *may be contributed to an account.*

532 C. Subject to the aggregate limit on the amount of principal that may be contributed to an account pursuant
533 to subsection B, there shall be a limitation of \$150,000 on the amount of principal and interest or other income
534 on the principal that may be retained within an account.

535 D. An account holder shall be subject to Virginia income tax pursuant to subdivision 6 of § 58.1-322.01 to
536 the extent of any loss deducted as a capital loss by the individual for federal income tax purposes attributable
537 to the person's account.

538 E. Upon being furnished proof of the death of the account holder, a financial institution shall distribute the
539 principal and accumulated interest or other income in the account in accordance with the terms of the contract
540 governing the account.

541 **§ 36-174. Withdrawal of funds from account for purposes other than eligible costs for first-time home**
542 **purchase.**

543 If moneys or funds are withdrawn from an account for any purpose other than the payment of eligible costs
544 by or on behalf of a qualified beneficiary, there shall be imposed a penalty calculated using the Form 1099
545 showing the amount of income exempted from state income tax, and a five percent penalty shall be assessed on
546 the amount of exempted income. The penalty shall be paid to the Department of Taxation. In addition, as
547 provided under subdivision 25 of § 58.1-322.02, the account holder shall also be subject to recapture of income
548 that was subtracted pursuant to that subdivision.

549 Such five percent penalty shall not apply to, and there shall be no recapture of income with regard to, the
550 extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or
551 disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States
552 Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to
553 this chapter into another account established pursuant to this chapter for the benefit of another qualified
554 beneficiary.

555 **§ 36-175. False claims prohibited; penalty.**

556 A person who knowingly prepares or causes to be prepared a false claim, receipt, statement, or billing to
557 avoid or evade taxes or penalties upon the withdrawal of money or funds from an account for which the account
558 holder claims first-time home buyer savings account status is guilty of a Class 1 misdemeanor.

559 CHAPTER 14.7:3.

560 MINERAL RIGHTS.

561 **§ 45.1-161.311:9. Presumption that no minerals, coals, oils, or ores exist in certain lands.**

562 In any case when a claim to minerals, coals, oils, ores, or subsurface substances, in, on, or under lands in
563 the Commonwealth, it shall be prima facie presumed that no minerals, coals, oils, ores, or subsurface
564 substances existing in, on, or under such lands, except lands lying west of the Blue Ridge Mountains other than
565 in Amherst, Augusta, Bland, Botetourt, Craig, Giles, Nelson, Page, Rockingham, Roanoke, Shenandoah
566 Counties or counties having a population of more than 16,500 but less than 16,900, of more than 32,000 but
567 less than 32,940, of more than 30,000 but less than 31,000, of more than 15,700 but less than 16,000, of more
568 than 60,000 but less than 70,000, of more than 5,000 but less than 5,350, and of more than 26,670 but less than
569 26,800, of more than 26,300 but less than 27,525, of more than 6,200 but less than 6,750, of 17,500 but less
570 than 18,200, of 56,000 but less than 57,500, of 53,000 but less than 54,500, or in any county having population
571 of more than 21,950 but less than 22,000, or in the case of manganese ores only in counties having a population
572 of more than 21,300 and less than 21,900 or in any county having a population of more than 43,000 but less
573 than 50,000, or the right to enter such land for the purpose of exploring, mining, boring, and sinking shafts for
574 such minerals, coals, oils, ores, or subsurface substances is derived or reserved by any writing made 35 years
575 or more prior to the institution of the action pursuant to § 45.1-161.311:11, and (i) such right to explore or
576 mine has not for a like period been exercised and for a like period the person having such claim or right has
577 never been charged with taxes thereon but all the taxes on the land have been charged to and paid by the person
578 holding the land subject thereto, and for a like period no deed of bargain and sale of such claim or reservation
579 in such mineral rights in the lands embraced in such claim has been recorded in the clerk's office of the county
580 wherein the lands are located, or (ii) when the right to explore and mine has been exercised and the minerals,
581 coals, oils, ores, and subsurface substances in or on the land have been exhausted and the right of mining or
582 boring has been abandoned for a like period.

583 **§ 45.1-161.311:10. Presumption regarding estate of owner of mineral rights.**

584 A. Except as otherwise provided in the deed by which the owner of minerals derives title, the owner of
585 minerals shall be presumed to be the owner of the shell, container chamber, passage, and space opened

586 *underground for the removal of the minerals, with full right to haul and transport minerals from other lands*
 587 *and to pass men, materials, equipment, water, and air through such space. No injunction shall lie to prohibit*
 588 *the use of any such shell, container chamber, passage, or space opened underground by the owner of minerals*
 589 *for the purposes herein described. The provisions of this subsection shall not affect contractual obligations and*
 590 *agreements entered into prior to July 1, 1981.*

591 *B. Notwithstanding the provisions of subsection A, with respect to the coal mineral estate, unless expressly*
 592 *excepted by the instrument creating the mineral ownership or lease interest, the owner or, if leased, the lessee*
 593 *of the coal mineral estate or its successor, assign, sublessee, or affiliate retains the right to any coal remaining*
 594 *in place after the removal of surrounding coal, as well as the right to use the shell, container chamber, passage,*
 595 *space, or void opened underground that was created by the removal of the coal.*

596 *I. Any such shell, container chamber, passage, space, or void opened underground that is within the*
 597 *boundaries of a mine permit issued under this title may be used consistent with state and federal regulations*
 598 *for any activity related to removal of coal from any lands for which a permit to mine coal has been approved,*
 599 *and no injunction shall lie to prohibit such use.*

600 *2. Any such shell, container chamber, passage, space, or void opened underground that is located in a*
 601 *sealed mine for which a mining permit no longer exists may be used consistent with state and federal regulations*
 602 *for any activity related to removal of coal from any lands for which a permit to mine coal has been approved*
 603 *only with the consent of the owner of such shell, container chamber, passage, space, or void. Such consent shall*
 604 *not be unreasonably withheld if the owner has been offered reasonable compensation for such use. In*
 605 *determining whether an offer of compensation is reasonable, a court shall be guided by the compensation set*
 606 *forth in other leases for the use of mine voids as is customary in the area.*

607 *C. The provisions of subdivisions B 1 and 2 (i) shall not affect any provision contained in any contract in*
 608 *effect as of July 1, 2012, expressly prohibiting the use of any shell, container chamber, passage, space, or void*
 609 *opened underground that was created by the removal of the coal; (ii) shall not alter any contract entered into*
 610 *prior to July 1, 2012, that provides for the payment of compensation from the lessee to the lessor expressly for*
 611 *the use of any shell, container chamber, passage, space, or void opened underground that was created by the*
 612 *removal of the coal; and (iii) shall have no bearing on or application to any determination of ownership rights*
 613 *in natural gas or coalbed methane.*

614 **§ 45.1-161.311:11. Actions to extinguish certain claims.**

615 *The owner or owners of the land subject to such claim or right separately or jointly may bring an action*
 616 *praying for the extinguishment of such claim or right, to which action shall be made party defendant the person*
 617 *by whom such claim by such writing was derived or reserved, or his successors in title, by name so far as*
 618 *known, and as defendants unknown, so far as such successors in title are unknown. The venue for such action*
 619 *shall be as specified in subdivision 3 of § 8.01-261. The court shall allow a period of not less than six months*
 620 *from the time the cause is docketed and set for hearing to elapse within which time the defendant may explore*
 621 *and discover commercial minerals, coals, oils, ores, or subsurface substances, if any, and in the absence of*
 622 *satisfactory evidence to the contrary, it shall be presumed that there are no commercial minerals, coals, oils,*
 623 *ores, or subsurface substances in or on the land, and the court shall enter an order declaring the claim or right*
 624 *to be a cloud on the title and releasing the land therefrom and extinguishing the same; but if the defendant or*
 625 *defendants shall thereupon prove that there are commercial minerals, coals, oils, ores, or subsurface*
 626 *substances in or on the land, the court shall require such minerals, coals, oils, ores, or subsurface substances*
 627 *to be charged with taxes according to law.*

628 **CHAPTER 23.3.**

629 **COMMON INTEREST COMMUNITIES.**

630 **Article 1.**

631 **Common Interest Community Board.**

632 **§ 54.1-2345. Definitions.**

633 *As used in this chapter, unless the context requires a different meaning:*

634 *"Association" ~~means the same as that term is defined in § 55-528~~ includes condominium, cooperative, or*
 635 *property owners' associations.*

636 *"Board" means the Common Interest Community Board.*

637 *"Common interest community" ~~means the same as that term is defined in § 55-528;~~ real estate subject to a*
 638 *declaration with respect to which a person, by virtue of the person's ownership of a lot subject to that*
 639 *declaration, is a member of the association and is obligated to pay assessments of common expenses, provided*

640 that for the purposes of this chapter only, a common interest community ~~shall~~ does not include any time-share
641 project registered pursuant to the Virginia Real Estate Time-Share Act (§ ~~55-360~~ 55.1-2200 et seq.) or any
642 additional land that is a part of such registration. "Common interest community" does not include an
643 arrangement described in § 54.1-2345.1.

644 "Common interest community manager" means a person or business entity, including ~~but not limited to~~ a
645 partnership, association, corporation, or limited liability company, ~~who that~~, for compensation or valuable
646 consideration, provides management services to a common interest community.

647 "Declaration" means ~~the same as that term is defined in § 55-528~~ any instrument, however denominated,
648 recorded among the land records of the county or city in which the development or any part thereof is located,
649 that either (i) imposes on the association maintenance or operational responsibilities for the common area as
650 a regular annual assessment or (ii) creates the authority in the association to impose on lots, or on the owners
651 or occupants of such lots, or on any other entity any mandatory payment of money as a regular annual
652 assessment in connection with the provision of maintenance or services or both for the benefit of some or all of
653 the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or
654 supplement to the instruments described in this definition.

655 "Governing board" means the governing board of an association, including the executive organ of a
656 condominium unit owners' association, the executive board of a cooperative proprietary lessees' association,
657 and the board of directors or other governing body of a property owners' association.

658 "Lot" means ~~the same as that term is defined in § 55-528~~ (i) any plot or parcel of land designated for
659 separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries
660 of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by
661 the declaration, other than a common area, and (ii) a unit in a condominium association or a unit in a real
662 estate cooperative.

663 "Management services" means (i) acting with the authority of an association in its business, legal, financial,
664 or other transactions with association members and nonmembers; (ii) executing the resolutions and decisions
665 of an association or, with the authority of the association, enforcing the rights of the association secured by
666 statute, contract, covenant, rule, or bylaw; (iii) collecting, disbursing, or otherwise exercising dominion or
667 control over money or other property belonging to an association; (iv) preparing budgets, financial statements,
668 or other financial reports for an association; (v) arranging, conducting, or coordinating meetings of an
669 association or the governing body of an association; (vi) negotiating contracts or otherwise coordinating or
670 arranging for services or the purchase of property and goods for or on behalf of an association; or (vii) offering
671 or soliciting to perform any of the aforesaid acts or services on behalf of an association.

672 **§ 54.1-2345.1. Certain real estate arrangements and covenants not deemed to constitute a common**
673 **interest community.**

674 A. An arrangement between the associations for two or more common interest communities to share the
675 costs of real estate taxes, insurance premiums, services, maintenance, or improvements of real estate, or other
676 activities specified in their arrangement or declarations does not create a separate common interest community,
677 or an arrangement between an association and the owner of real estate that is not part of a common interest
678 community to share the costs of real estate taxes, insurance premiums, services, maintenance, or improvements
679 of real estate, or other activities specified in their arrangement does not create a separate common interest
680 community. Assessments against the lots in the common interest community required by such arrangement shall
681 be included in the periodic budget for the common interest community, and the arrangement shall be disclosed
682 in all required public offering statements and disclosure packets.

683 B. A covenant requiring the owners of separately owned parcels of real estate to share costs or other
684 obligations associated with a party wall, driveway, well, or other similar use does not create a common interest
685 community unless the owners otherwise agree to create such community.

686 **§ 54.1-2346. License required; certification of employees; renewal; provisional license.**

687 A. Unless exempted by § 54.1-2347, any person, partnership, corporation, or other entity offering
688 management services to a common interest community on or after January 1, 2009, shall hold a valid license
689 issued in accordance with the provisions of this ~~chapter~~ article prior to engaging in such management services.

690 B. Unless exempted by § 54.1-2347, any person, partnership, corporation, or other entity offering
691 management services to a common interest community without being licensed in accordance with the provisions
692 of this ~~chapter~~, article shall be subject to the provisions of § 54.1-111.

693 C. On or after July 1, 2012, it shall be a condition of the issuance or renewal of the license of a common
694 interest community manager that all employees of the common interest community manager who have principal
695 responsibility for management services provided to a common interest community or who have supervisory
696 responsibility for employees who participate directly in the provision of management services to a common
697 interest community shall, within two years after employment with the common interest community manager,
698 hold a certificate issued by the Board certifying the person possesses the character and minimum skills to engage
699 properly in the provision of management services to a common interest community or shall be under the direct
700 supervision of a certified employee of such common interest community manager. A common interest
701 community manager shall notify the Board if a certificated employee is discharged or in any way terminates
702 his active status with the common interest community manager.

703 D. It shall be a condition of the issuance or renewal of the license of a common interest community manager
704 that the common interest community manager shall obtain and maintain a blanket fidelity bond or employee
705 dishonesty insurance policy insuring the common interest community manager against losses resulting from
706 theft or dishonesty committed by the officers, directors, and persons employed by the common interest
707 community manager. Such bond or insurance policy shall include coverage for losses of clients of the common
708 interest community manager resulting from theft or dishonesty committed by the officers, directors, and persons
709 employed by the common interest community manager. Such bond or insurance policy shall provide coverage
710 in an amount equal to the lesser of \$2 million or the highest aggregate amount of the operating and reserve
711 balances of all associations under the control of the common interest community manager during the prior fiscal
712 year. The minimum coverage amount shall be \$10,000.

713 E. It shall be a condition of the issuance or renewal of the license of a common interest community manager
714 that the common interest community manager certifies to the Board (i) that the common interest community
715 manager is in good standing and authorized to transact business in Virginia; (ii) that the common interest
716 community manager has established a code of conduct for the officers, directors, and persons employed by the
717 common interest community manager to protect against conflicts of interest; (iii) that the common interest
718 community manager provides all management services pursuant to written contracts with the associations to
719 which such services are provided; (iv) that the common interest community manager has established a system
720 of internal accounting controls to manage the risk of fraud or illegal acts; and (v) that an independent certified
721 public accountant reviews or audits the financial statements of the common interest community manager at least
722 annually in accordance with standards established by the American Institute of Certified Public Accountants or
723 by any successor standard-setting authorities.

724 ~~F. The Board shall issue a provisional license to any person, partnership, corporation, or other entity offering~~
725 ~~management services to a common interest community on or before December 31, 2008, who makes application~~
726 ~~for licensure prior to January 1, 2009. Such provisional license shall expire on June 30, 2012, and shall not be~~
727 ~~renewed. This subsection shall not be construed to limit the powers and authority of the Board.~~

728 **§ 54.1-2347. Exceptions and exemptions generally.**

729 A. The provisions of this ~~chapter~~ *article* shall not be construed to prevent or prohibit:

730 1. An employee of a duly licensed common interest community manager from providing management
731 services within the scope of the employee's employment by the duly licensed common interest community
732 manager;

733 2. An employee of an association from providing management services for that association's common
734 interest community;

735 3. A resident of a common interest community acting without compensation from providing management
736 services for that common interest community;

737 4. A resident of a common interest community from providing bookkeeping, billing, or recordkeeping
738 services for that common interest community for compensation, provided the blanket fidelity bond or employee
739 dishonesty insurance policy maintained by the association insures the association against losses resulting from
740 theft or dishonesty committed by such person;

741 5. A member of the governing board of an association acting without compensation from providing
742 management services for that association's common interest community;

743 6. A person acting as a receiver or trustee in bankruptcy in the performance of his duties as such or any
744 person acting under order of any court from providing management services for a common interest community;

745 7. A duly licensed attorney-at-law from representing an association or a common interest community
746 manager in any business that constitutes the practice of law;

747 8. A duly licensed certified public accountant from providing bookkeeping or accounting services to an
748 association or a common interest community manager;

749 9. A duly licensed real estate broker or agent from selling, leasing, renting, or managing lots within a
750 common interest community; or

751 10. An association, exchange agent, exchange company, managing agent, or managing entity of a time-
752 share project registered pursuant to the Virginia Real Estate Time-Share Act (~~§ 55-360~~ 55.1-2200 et seq.) from
753 providing management services for such time-share project.

754 B. A licensee of the Board shall comply with the Board's regulations, notwithstanding the fact that the
755 licensee would be otherwise exempt from licensure under subsection A. Nothing in this subsection shall be
756 construed to require a person to be licensed in accordance with this ~~chapter~~ *article* if he would be otherwise
757 exempt from such licensure.

758 **§ 54.1-2348. Common Interest Community Board; membership; meetings; quorum.**

759 There is hereby created the Common Interest Community Board (the Board) as a policy board, within the
760 meaning of § 2.2-2100, in the executive branch of state government. Members of the Board shall be appointed
761 by the Governor and consist of ~~eleven~~ *11* members as follows: three shall be representatives of Virginia common
762 interest community managers, one shall be a Virginia attorney whose practice includes the representation of
763 associations, one shall be a representative of a Virginia certified public accountant whose practice includes
764 providing attest services to associations, one shall be a representative of the Virginia time-share industry, two
765 shall be representatives of developers of Virginia common interest communities, and three shall be Virginia
766 citizens, one of whom serves or who has served on the governing board of an association that is not
767 professionally managed at the time of appointment and two of whom reside in a common interest community.
768 Of the initial appointments, one representative of Virginia common interest community managers and one
769 representative of developers of Virginia common interest communities shall serve terms of two years and one
770 representative of Virginia common interest community managers and one representative of developers of
771 Virginia common interest communities shall serve terms of three years; the Virginia attorney shall serve a term
772 of three years; the Virginia certified public accountant shall serve a term of one year; the Virginia citizen who
773 serves or who has served on the governing board of an association shall serve a term of two years, and the two
774 Virginia citizens who reside in a common interest community shall serve terms of one year. All other initial
775 appointments and all subsequent appointments shall be for terms for four years, except that vacancies may be
776 filled for the remainder of the unexpired term. Each appointment of a representative of a Virginia common
777 interest community manager to the Board may be made from nominations submitted by the Virginia Association
778 of Community Managers, who may nominate no more than three persons for each manager vacancy. In no case
779 shall the Governor be bound to make any appointment from such nominees. No person shall be eligible to serve
780 for more than two successive four-year terms.

781 The Board shall meet at least once each year and at other such times as it deems necessary. The Board shall
782 elect from its membership a chairman and a vice-chairman to serve for a period of one year. A majority of the
783 Board shall constitute a quorum. The Board is vested with the powers and duties necessary to execute the
784 purposes of this ~~chapter~~ *article*.

785 **§ 54.1-2349. Powers and duties of the Board.**

786 A. The Board shall administer and enforce the provisions of this ~~chapter~~ *article*. In addition to the provisions
787 of §§ 54.1-201 and 54.1-202, the Board shall:

788 1. Promulgate regulations necessary to carry out the requirements of this ~~chapter~~ *article* in accordance with
789 the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) ~~to include but not be limited to~~, including
790 the prescription of fees, procedures, and qualifications for the issuance and renewal of common interest
791 community manager licenses. The Board shall annually assess each common interest community manager an
792 amount equal to the lesser of (i) \$1,000, or such other amount as the Board may establish by regulation, or (ii)
793 five hundredths of one percent (0.05%) of the gross receipts from common interest community management
794 during the preceding year. For the purposes of clause (ii), no minimum payment shall be less than \$10. The
795 annual payment shall be remitted to the State Treasurer and shall be placed to the credit of the Common Interest
796 Community Management *Information* Fund established pursuant to ~~§ 55-529~~ 54.1-2354.2;

797 2. Establish criteria for the licensure of common interest community managers to ensure the appropriate
798 training and educational credentials for the provision of management services to common interest communities.
799 Such criteria may include experiential requirements and shall include designation as an Accredited Association
800 Management Company by the Community Associations Institute. As an additional alternative to such

801 designation, the Board shall have authority, by regulation, to include one of the following: (i) successful
 802 completion of another Board-approved training program and certifying examination; or (ii) successful
 803 completion of a Virginia testing program to determine the quality of the training and educational credentials for
 804 and competence of common interest community managers;

805 3. Establish criteria for the certification of the employees of common interest community managers who
 806 have principal responsibility for management services provided to a common interest community or who have
 807 supervisory responsibility for employees who participate directly in the provision of management services to a
 808 common interest community to ensure the person possesses the character and minimum skills to engage
 809 properly in the provision of management services to a common interest community. Such criteria shall include
 810 designation as a Certified Manager of Community Associations by the ~~National Board of Certification for~~
 811 ~~Community Association Managers~~ *International Certification Board*, designation as an Association
 812 Management Specialist by the Community Associations Institute, or designation as a Professional Community
 813 Association Manager by the Community Associations Institute. As an additional alternative to such
 814 designations, the Board shall have authority, by regulation, to include one of the following: (i) successful
 815 completion of another Board-approved training program as developed by the Virginia Association of Realtors
 816 or other organization, and certifying examination, or (ii) successful completion of a Virginia testing program to
 817 determine the quality of the training and educational credentials for and competence of the employees of
 818 common interest community managers who participate directly in the provision of management services to a
 819 common interest community. The fee paid to the Board for the issuance of such certificate shall be paid to the
 820 Common Interest Community Management Information Fund established pursuant to ~~§ 55-529~~ *54.1-2354.2*;

821 4. Approve the criteria for accredited common interest community manager training programs;

822 5. Approve accredited common interest community manager training programs;

823 6. Establish, by regulation, standards of conduct for common interest community managers and for
 824 employees of common interest community managers certified in accordance with the provisions of this ~~chapter~~
 825 *article*;

826 7. Establish, by regulation, an education-based certification program for persons who are involved in the
 827 business or activity of providing management services for compensation to common interest communities. The
 828 Board shall have the authority to approve training courses and instructors in furtherance of the provisions of
 829 this ~~chapter article~~; and

830 8. Issue a certificate of registration to each association that has properly filed in accordance with this
 831 *chapter*; and

832 9. Develop and publish best practices for the content of declarations consistent with the requirements of the
 833 Property Owners' Association Act (~~§ 55-508~~ *55.1-1800* et seq.).

834 B. 1. The Board shall have the sole responsibility for the administration of this ~~chapter article~~ and for the
 835 promulgation of regulations to carry out the requirements thereof.

836 2. The Board shall also be responsible for the enforcement of this ~~chapter article~~, provided that the Real
 837 Estate Board shall have the sole responsibility for the enforcement of this ~~chapter article~~ with respect to a real
 838 estate broker, real estate salesperson, or real estate brokerage firm licensed in accordance with Chapter 21 (*§*
 839 *54.1-2100* et seq.) who is also licensed as a common interest community manager.

840 3. For purposes of enforcement of this ~~chapter article~~ or ~~Chapter 4.2~~ (~~§ 55-79.39~~ et seq.), ~~21~~ (~~§ 55-360~~ et
 841 ~~seq.~~), ~~24~~ (~~§ 55-424~~ et seq.), or ~~26~~ (~~§ 55-508~~ et seq.) of Title 55 ~~the Property Owners' Association Act~~ (*§ 55.1-*
 842 *1800* et seq.), ~~the Virginia Condominium Act~~ (*§ 55.1-1900* et seq.), ~~the Virginia Real Estate Cooperative Act~~ (*§*
 843 *55.1-2100* et seq.), or ~~the Virginia Real Estate Time-Share Act~~ (*§ 55.1-2200* et seq.), any requirement for the
 844 conduct of a hearing shall be satisfied by an informal fact-finding proceeding convened and conducted pursuant
 845 to *§ 2.2-4019* of the Administrative Process Act (*§ 2.2-4000* et seq.).

846 C. The Board is authorized to obtain criminal history record information from any state or federal law-
 847 enforcement agency relating to an applicant for licensure or certification. Any information so obtained is for
 848 the exclusive use of the Board and shall not be released to any other person or agency except in furtherance of
 849 the investigation of the applicant or with the authorization of the applicant or upon court order.

850 D. Notwithstanding the provisions of subsection ~~E A~~ of ~~§ 55-530~~ *54.1-2354.4*, the Board may receive a
 851 complaint directly from any person aggrieved by an association's failure to deliver a resale certificate or
 852 disclosure packet within the time period required under ~~§ 55-79.97, 55-79.97:1, 55-484, 55-509.5, 55-509.6, or~~
 853 ~~55-509.7~~ *55.1-1809, 55.1-1810, 55.1-1811, 55.1-1900, 55.1-1992, or 55.1-2161*.

854 **§ 54.1-2350. Annual report; form to accompany resale certificates and disclosure packets.**

855 In addition to the provisions of § 54.1-2349, the Board shall:

- 856 1. Administer the provisions of ~~Chapter 29 Article 2 (§ 55-528 54.1-2354.1 et seq.) of Title 55;~~
- 857 2. Develop and disseminate an association annual report form for use in accordance with §§ ~~55-79.93-1,~~
- 858 ~~55-504.1, and 55-516.1 55.1-1836, 55.1-1980, and 55.1-2182;~~ and
- 859 3. Develop and disseminate a form to accompany resale certificates required pursuant to § ~~55-79.97 55.1-~~
- 860 ~~1990~~ and association disclosure packets required pursuant to § ~~55-509.5 55.1-1809,~~ which form shall
- 861 summarize the unique characteristics of common interest communities generally that may affect a prospective
- 862 purchaser's decision to purchase a lot or unit located in a common interest community. The form shall include
- 863 information on the following, which may or may not be applicable to a particular common interest community:
- 864 (i) the obligation on the part of an owner to pay regular annual or special assessments to the association; (ii) the
- 865 penalty for failure or refusal to pay such assessments; (iii) the purposes for which such assessments, if any, may
- 866 be used; (iv) the importance the declaration of restrictive covenants or condominium instruments, as applicable,
- 867 and other governing documents play in association living; (v) limitations on an owner's ability to rent his lot or
- 868 unit; (vi) limitations on an owner's ability to park or store certain types of motor vehicles or boats within the
- 869 common interest community; (vii) limitations on an owner's ability to maintain an animal as a pet within the lot
- 870 or unit, or in common areas or common elements; (viii) architectural guidelines applicable to an owner's lot or
- 871 unit; (ix) limitations on an owner's ability to operate a business within a dwelling unit on a lot or within a unit;
- 872 (x) the period or length of declarant control; and (xi) that the purchase contract for a lot within an association
- 873 is a legally binding document once it is signed by the prospective purchaser where the purchaser has not elected
- 874 to cancel the purchase contract in accordance with law. The form shall also provide that (a) the purchaser
- 875 remains responsible for his own examination of the materials that constitute the resale certificate or disclosure
- 876 packet and of any table of contents that may be contained therein; (b) the purchaser shall carefully review the
- 877 entire resale certificate or disclosure packet; and (c) the contents of the resale certificate or disclosure packet
- 878 shall control to the extent that there are any inconsistencies between the form and the resale certificate or
- 879 disclosure packet.

880 **§ 54.1-2351. General powers and duties of Board concerning associations.**

881 A. The Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in

882 furtherance of the objectives of this ~~chapter article,~~ but the Board may not intervene in the internal activities of

883 an association except to the extent necessary to prevent or cure violations of this ~~chapter article~~ or of the chapter

884 pursuant to which the association is created. The Board may prescribe forms and procedures for submitting

885 information to the Board.

886 B. If it appears that any governing board has engaged, is engaging, or is about to engage in any act or

887 practice in violation of this ~~chapter article,~~ Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424

888 et seq.), or 26 (§ 55-508 et seq.) of Title 55 *the Property Owners' Association Act* (§ 55.1-1800 et seq.), *the*

889 *Virginia Condominium Act* (§ 55.1-1900 et seq.), *the Virginia Real Estate Cooperative Act* (§ 55.1-2100 et

890 seq.), or *the Virginia Real Estate Time-Share Act* (§ 55.1-2200 et seq.), or any of the Board's regulations or

891 orders, the Board without prior administrative proceedings may bring ~~suit~~ *an action* in the appropriate court to

892 enjoin that act or practice or for other appropriate relief. The Board is not required to post a bond or prove that

893 no adequate remedy at law exists.

894 C. The Board may intervene in any action or ~~suit~~ involving a violation by a declarant or a developer of a

895 time-share project of this ~~chapter article,~~ Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424

896 et seq.), or 26 (§ 55-508 et seq.) of Title 55 *the Property Owners' Association Act* (§ 55.1-1800 et seq.), *the*

897 *Virginia Condominium Act* (§ 55.1-1900 et seq.), *the Virginia Real Estate Cooperative Act* (§ 55.1-2100 et

898 seq.), or *the Virginia Real Estate Time-Share Act* (§ 55.1-2200 et seq.), or any of the Board's regulations or

899 orders.

900 D. The Board may accept grants-in-aid from any governmental source and may contract with agencies

901 charged with similar functions in this or other jurisdictions in furtherance of the objectives of this ~~chapter~~

902 *article.*

903 E. The Board may cooperate with agencies performing similar functions in this and other jurisdictions to

904 develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative

905 practices, and may develop information that may be useful in the discharge of the Board's duties.

906 F. In issuing any cease and desist order, the Board shall state the basis for the adverse determination and

907 the underlying facts.

908 G. Without limiting the remedies that may be obtained under this ~~chapter article~~, the Board, without
 909 compliance with the Administrative Process Act (§ 2.2-4000 et seq.), shall have the authority to enforce the
 910 provisions of this section and may institute proceedings in equity to enjoin any person, partnership, corporation,
 911 or any other entity violating this ~~chapter article, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§~~
 912 ~~55-424 et seq.), or 26 (§ 55-508 et seq.)~~ of Title 55 *the Property Owners' Association Act (§ 55.1-1800 et seq.),*
 913 *the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et*
 914 *seq.), or the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.),* or any of the Board's regulations or
 915 orders. Such proceedings shall be brought in the name of the Commonwealth by the Board in the circuit court
 916 or general district court of the city or county in which the unlawful act occurred or in which the defendant
 917 resides.

918 H. The Board may assess a monetary penalty to be paid to the Common Interest Community Management
 919 Information Fund of not more than \$1,000 per violation against any governing board that violates any provision
 920 of this ~~chapter article, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-~~
 921 ~~508 et seq.)~~ of Title 55 *the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium*
 922 *Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or the Virginia Real*
 923 *Estate Time-Share Act (§ 55.1-2200 et seq.),* or any of the Board's regulations or orders. In determining the
 924 amount of the penalty, the Board shall consider the degree and extent of harm caused by the violation. No
 925 monetary penalty may be assessed under this ~~chapter article, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et~~
 926 ~~seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.)~~ of Title 55 *the Property Owners' Association Act (§ 55.1-*
 927 *1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§*
 928 *55.1-2100 et seq.), or the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.),* or any of the Board's
 929 regulations or orders unless the governing board has been given notice and an opportunity to be heard pursuant
 930 to the Administrative Process Act (§ 2.2-4000 et seq.). The penalty may be sued for and recovered in the name
 931 of the Commonwealth.

932 **§ 54.1-2352. Cease and desist orders.**

933 A. The Board may issue an order requiring the governing board of the association to cease and desist from
 934 the unlawful practice and to take such affirmative action as in the judgment of the Board will carry out the
 935 purposes of this ~~chapter article~~, if the Board determines after notice and hearing that the governing board of an
 936 association has:

937 1. Violated any statute or regulation of the Board governing the association regulated pursuant to this
 938 ~~chapter article~~, including engaging in any act or practice in violation of this ~~chapter article, Chapter 4.2 (§ 55-~~
 939 ~~79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.)~~ of Title 55 *the Property*
 940 *Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia*
 941 *Real Estate Cooperative Act (§ 55.1-2100 et seq.), or the Virginia Real Estate Time-Share Act (§ 55.1-2200 et*
 942 *seq.),* or any of the Board's regulations or orders;

943 2. Failed to register as an association or to file an annual report as required by statute or regulation;

944 3. Materially misrepresented facts in an application for registration or an annual report; or

945 4. Willfully refused to furnish the Board information or records required or requested pursuant to statute or
 946 regulation.

947 B. If the Board makes a finding of fact in writing that the public interest will be irreparably harmed by delay
 948 in issuing an order, it may issue a temporary cease and desist order. Prior to issuing the temporary cease and
 949 desist order, the Board shall give notice of the proposal to issue a temporary cease and desist order to the person.
 950 Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be
 951 held promptly to determine whether or not it becomes permanent.

952 **§ 54.1-2353. Protection of the interests of associations; appointment of receiver for common interest**
 953 **community manager.**

954 A. A common interest community manager owes a fiduciary duty to the associations to which it provides
 955 management services with respect to the manager's handling the funds or the records of each association. All
 956 funds deposited with the common interest community manager shall be handled in a fiduciary capacity and
 957 shall be kept in a separate fiduciary trust account or accounts in an FDIC-insured financial institution separate
 958 from the assets of the common interest community manager. The funds shall be the property of the association
 959 and shall be segregated for each depository in the records of the common interest community manager in a
 960 manner that permits the funds to be identified on an association basis. All records having administrative or
 961 fiscal value to the association that a common interest community manager holds, maintains, compiles, or

962 generates on behalf of a common interest community are the property of the association. A common interest
963 community manager may retain and dispose of association records in accordance with a policy contained in the
964 contract between the common interest community manager and the association. Within a reasonable time after
965 a written request for any such records, the common interest community manager shall provide copies of the
966 requested records to the association at the association's expense. The common interest community manager
967 shall return all association records that it retains and any originals of legal instruments or official documents
968 that are in the possession of the common interest community manager to the association within a reasonable
969 time after termination of the contract for management services without additional cost to the association.
970 Records maintained in electronic format may be returned in such format.

971 B. If the Board has reasonable cause to believe that a common interest community manager is unable to
972 properly discharge its fiduciary responsibilities to an association to which it provides management services, the
973 Board may submit an ex parte petition to the circuit court of the city or county wherein the common interest
974 community manager maintains an office or is doing business for the issuance of an order authorizing the
975 immediate inspection by and production to representatives of the petitioner of any records, documents, and
976 physical or other evidence belonging to the subject common interest community manager. The court may issue
977 such order without notice to the common interest community manager if the petition, supported by affidavit of
978 the petitioner and such other evidence as the court may require, shows reasonable cause to believe that such
979 action is required to prevent immediate loss of property of one or more of the associations to which the subject
980 common interest community manager provides management services. The court may also temporarily enjoin
981 further activity by the common interest community manager and take such further action as shall be necessary
982 to conserve, protect, and disburse the funds involved, including the appointment of a receiver. The papers filed
983 with the court pursuant to this subsection shall be placed under seal.

984 C. If the Board has reasonable cause to believe that a common interest community manager is unable to
985 properly discharge its fiduciary responsibilities to an association to which it provides management services, the
986 Board may file a petition with the circuit court of the county or city wherein the subject common interest
987 community manager maintains an office or is doing business. The petition may seek the following relief: (i) an
988 injunction prohibiting the withdrawal of any bank deposits or the disposition of any other assets belonging to
989 or subject to the control of the subject common interest community manager; and (ii) the appointment of a
990 receiver for all or part of the funds or property of the subject common interest community manager. The subject
991 common interest community manager shall be given notice of the time and place of the hearing on the petition
992 and an opportunity to offer evidence. The court, in its discretion, may require a receiver appointed pursuant to
993 this section to post bond, with or without surety. The papers filed with the court under this subsection shall be
994 placed under seal until such time as the court grants an injunction or appoints a receiver. The court may issue
995 an injunction, appoint a receiver, or provide such other relief as the court may consider proper if, after a hearing,
996 the court finds that such relief is necessary or appropriate to prevent loss of property of one or more of the
997 associations to which the subject common interest community manager provides management services.

998 D. In any proceeding under subsection C, any person or entity known to the Board to be indebted to or
999 having in his possession property, real or personal, belonging to or subject to the control of the subject common
1000 interest community manager's business and which property the Board reasonably believes may become part of
1001 the receivership assets, shall be served with a copy of the petition and notice of the time and place of the hearing.

1002 E. The court shall describe the powers and duties of the receiver in its appointing order, which may be
1003 amended from time to time. The receiver shall, unless otherwise ordered by the court in the appointing order,
1004 (i) prepare and file with the Board a list of all associations managed by the subject common interest community
1005 manager; (ii) notify in writing all of the associations to which the subject common interest community manager
1006 provides management services of the appointment; and take whatever action the receiver deems appropriate to
1007 protect the interests of the associations until such time as the associations have had an opportunity to obtain a
1008 successor common interest community manager; (iii) facilitate the transfer of records and information to such
1009 successor common interest community manager; (iv) identify and take control of all bank accounts, including
1010 without limitation trust and operating accounts, over which the subject common interest community manager
1011 had signatory authority in connection with its management business; (v) prepare and submit an accounting of
1012 receipts and disbursements and account balances of all funds under the receiver's control for submission to the
1013 court within four months of the appointment and annually thereafter until the receivership is terminated by the
1014 court; (vi) attempt to collect any accounts receivable related to the subject common interest community
1015 manager's business; (vii) identify and attempt to recover any assets wrongfully diverted from the subject

1016 common interest community manager's business, or assets acquired with funds wrongfully diverted from the
1017 subject common interest community manager's business; (viii) terminate the subject common interest
1018 community manager's business; (ix) reduce to cash all of the assets of the subject common interest community
1019 manager; (x) determine the nature and amount of all claims of creditors of the subject common interest
1020 community manager, including associations to which the subject common interest community manager
1021 provided management services; and (xi) prepare and file with the court a report of such assets and claims
1022 proposing a plan for the distribution of funds in the receivership to such creditors in accordance with the
1023 provisions of subsection F.

1024 F. Upon the court's approval of the receiver's report referenced in subsection E, at a hearing after such notice
1025 as the court may require to creditors, the receiver shall distribute the assets of the common interest community
1026 manager and funds in the receivership first to clients whose funds were or ought to have been held in a fiduciary
1027 capacity by the subject common interest community manager, then to the receiver for fees, costs, and expenses
1028 awarded pursuant to subsection G, and thereafter to the creditors of the subject common interest community
1029 manager, and then to the subject common interest community manager or its successors in interest.

1030 G. A receiver appointed pursuant to this section shall be entitled, upon proper application to the court in
1031 which the appointment was made, to recover an award of reasonable fees, costs, and expenses. If there are not
1032 sufficient nonfiduciary funds to pay the award, then the shortfall shall be paid by the Common Interest
1033 Community Management Recovery Fund as a cost of administering the Fund pursuant to ~~§ 55-530.4~~ 54.1-
1034 2354.5, to the extent that the said Fund has funds available. The Fund shall have a claim against the subject
1035 common interest community manager for the amount paid.

1036 H. The court may determine whether any assets under the receiver's control should be returned to the subject
1037 common interest community manager.

1038 I. If the Board shall find that any common interest community manager is insolvent, that its merger into
1039 another common interest community manager is desirable for the protection of the associations to which such
1040 common interest community manager provides management services, and that an emergency exists, and, if the
1041 board of directors of such insolvent common interest community manager shall approve a plan of merger of
1042 such common interest community manager into another common interest community manager, compliance
1043 with the requirements of § 13.1-718 shall be dispensed with as to such insolvent common interest community
1044 manager and the approval by the Board of such plan of merger shall be the equivalent of approval by the holders
1045 of more than two-thirds of the outstanding shares of such insolvent common interest community manager for
1046 all purposes of Article 12 (§ 13.1-715.1 et seq.) of Chapter 9 of Title 13.1. If the Board finds that a common
1047 interest community manager is insolvent, that the acquisition of its assets by another common interest
1048 community manager is in the best interests of the associations to which such common interest community
1049 manager provides management services, and that an emergency exists, it may, with the consent of the boards
1050 of directors of both common interest community managers as to the terms and conditions of such transfer,
1051 including the assumption of all or certain liabilities, enter an order transferring some or all of the assets of such
1052 insolvent common interest community manager to such other common interest community manager, and no
1053 compliance with the provisions of §§ 13.1-723 and 13.1-724 shall be required, nor shall §§ 13.1-730 through
1054 13.1-741 be applicable to such transfer. In the case either of such a merger or of such a sale of assets, the Board
1055 shall provide that prompt notice of its finding of insolvency and of the merger or sale of assets be sent to the
1056 stockholders of record of the insolvent common interest community manager for the purpose of providing such
1057 shareholders an opportunity to challenge the finding that the common interest community manager is insolvent.
1058 The relevant books and records of such insolvent common interest community manager shall remain intact and
1059 be made available to such shareholders for a period of 30 days after such notice is sent. The Board's finding of
1060 insolvency shall become final if a hearing before the Board is not requested by any such shareholder within
1061 such 30-day period. If, after such hearing, the Board finds that such common interest community manager was
1062 solvent, it shall rescind its order entered pursuant to this subsection and the merger or transfer of assets shall be
1063 rescinded. But if, after such hearing, the Board finds that such common interest community manager was
1064 insolvent, its order shall be final.

1065 J. The provisions of this ~~chapter~~ article are declared to be remedial. The purpose of this ~~chapter~~ article is
1066 to protect the interests of associations adversely affected by common interest community managers who have
1067 breached their fiduciary duty. The provisions of this ~~chapter~~ article shall be liberally administered in order to
1068 protect those interests and thereby the public's interest in the quality of management services provided by
1069 Virginia common interest community managers.

1070 **§ 54.1-2354. Variation by agreement.**

1071 Except as expressly provided in this ~~chapter article~~, provisions of this ~~chapter article~~ may not be varied by
 1072 agreement, and rights conferred by this ~~chapter article~~ may not be waived. All management agreements entered
 1073 into by common interest community managers shall comply with the terms of this ~~chapter article~~ and the
 1074 provisions of ~~Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et~~
 1075 ~~seq.) of Title 55 the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§~~
 1076 ~~55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or the Virginia Real Estate~~
 1077 ~~Time-Share Act (§ 55.1-2200 et seq.), as applicable.~~

1078 *Article 2.*

1079 *Common Interest Community Management Information Fund; Common Interest Community Ombudsman;*
 1080 *Common Interest Community Management Recovery Fund.*

1081 **§ 54.1-2354.1. Definitions.**

1082 *As used in this article, unless the context requires a different meaning:*

1083 *"Balance of the fund" means cash, securities that are legal investments for fiduciaries under the provisions*
 1084 *of subdivisions A 1, 2, and 4 of § 2.2-4519, and repurchase agreements secured by obligations of the United*
 1085 *States government or any agency thereof, and shall not mean accounts receivable, judgments, notes, accrued*
 1086 *interest, or other obligations to the fund.*

1087 *"Claimant" means upon proper application to the Director, a receiver for a common interest community*
 1088 *manager appointed pursuant to § 54.1-2353 in those cases in which there are not sufficient funds to restore all*
 1089 *funds that were or ought to have been held in a fiduciary capacity by the subject common interest community*
 1090 *manager or to pay an award of reasonable fees, costs, and expenses to the receiver.*

1091 *"Director" means the Director of the Department of Professional and Occupational Regulation.*

1092 **§ 54.1-2354.2. Common Interest Community Management Information Fund.**

1093 *A. There is hereby created the Common Interest Community Management Information Fund, referred to in*
 1094 *this section as "the Fund," to be used in the discretion of the Board to promote the improvement and more*
 1095 *efficient operation of common interest communities through research and education. The Fund shall be*
 1096 *established on the books of the Comptroller. The Fund shall consist of money paid into it pursuant to §§ 54.1-*
 1097 *2349, 55.1-1835, 55.1-1980, and 55.1-2182, and such money shall be paid into the state treasury and credited*
 1098 *to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys*
 1099 *remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general*
 1100 *fund but, at the discretion of the Board, shall remain in the Fund or shall be transferred to the Common Interest*
 1101 *Community Management Recovery Fund established pursuant to § 54.1-2354.5.*

1102 *B. Expenses for the operations of the Office of the Common Interest Community Ombudsman, including the*
 1103 *compensation paid to the Common Interest Community Ombudsman, shall be paid first from interest earned on*
 1104 *deposits constituting the Fund and the balance from the moneys collected annually in the Fund. The Board may*
 1105 *use the remainder of the interest earned on the balance of the Fund and of the moneys collected annually and*
 1106 *deposited in the Fund for financing or promoting the following:*

- 1107 1. *Information and research in the field of common interest community management and operation;*
- 1108 2. *Expeditious and inexpensive procedures for resolving complaints about an association from members of*
 1109 *the association or other citizens;*
- 1110 3. *Seminars and educational programs designed to address topics of concern to community associations;*
 1111 *and*
- 1112 4. *Other programs deemed necessary and proper to accomplish the purpose of this article.*

1113 **§ 54.1-2354.3. Common Interest Community Ombudsman; appointment; powers and duties.**

1114 *A. The Director in accordance with § 54.1-303 shall appoint a Common Interest Community Ombudsman*
 1115 *(the Ombudsman) and shall establish the Office of the Common Interest Community Ombudsman (the Office).*
 1116 *The Ombudsman shall be a member in good standing in the Virginia State Bar. All state agencies shall assist*
 1117 *and cooperate with the Office in the performance of its duties under this article.*

1118 *B. The Office shall:*

- 1119 1. *Assist members in understanding rights and the processes available to them according to the laws and*
 1120 *regulations governing common interest communities and respond to general inquiries;*
- 1121 2. *Make available, either separately or through an existing website, information concerning common*
 1122 *interest communities and such additional information as may be deemed appropriate;*
- 1123 3. *Receive notices of final adverse decisions;*

1124 4. Upon request, assist members in understanding the rights and processes available under the laws and
1125 regulations governing common interest communities and provide referrals to public and private agencies
1126 offering alternative dispute resolution services, with a goal of reducing and resolving conflicts among
1127 associations and their members;

1128 5. Ensure that members have access to the services provided through the Office and that the members
1129 receive timely responses from the representatives of the Office to the inquiries;

1130 6. Maintain data on inquiries received, types of assistance requested, notices of final adverse decisions
1131 received, actions taken, and the disposition of each such matter;

1132 7. Upon request to the Director by (i) any of the standing committees of the General Assembly having
1133 jurisdiction over common interest communities or (ii) the Housing Commission, provide to the Director for
1134 dissemination to the requesting parties assessments of proposed and existing common interest community laws
1135 and other studies of common interest community issues;

1136 8. Monitor changes in federal and state laws relating to common interest communities;

1137 9. Provide information to the Director that will permit the Director to report annually on the activities of
1138 the Office of the Common Interest Community Ombudsman to the standing committees of the General Assembly
1139 having jurisdiction over common interest communities and to the Housing Commission. The Director's report
1140 shall be filed by December 1 of each year and shall include a summary of significant new developments in
1141 federal and state laws relating to common interest communities each year; and

1142 10. Carry out activities as the Board determines to be appropriate.

1143 **§ 54.1-2354.4. Association complaint procedures; final adverse decisions; certificate of registration.**

1144 A. The Board shall establish by regulation a requirement that each association shall establish reasonable
1145 procedures for the resolution of written complaints from the members of the association and other citizens.
1146 Each association shall adhere to the written procedures established pursuant to this subsection when resolving
1147 association member and citizen complaints. The procedures shall include the following:

1148 1. A record of each complaint shall be maintained for no less than one year after the association acts upon
1149 the complaint.

1150 2. Such association shall provide complaint forms or written procedures to be given to persons who wish
1151 to register written complaints. The forms or procedures shall include the address and telephone number of the
1152 association or its common interest community manager to which complaints shall be directed and the mailing
1153 address, telephone number, and electronic mailing address of the Office. The forms and written procedures
1154 shall include a clear and understandable description of the complainant's right to give notice of adverse
1155 decisions pursuant to this section.

1156 B. A complainant may give notice to the Board of any final adverse decision in accordance with regulations
1157 promulgated by the Board. The notice shall be filed within 30 days of the final adverse decision, shall be in
1158 writing on forms prescribed by the Board, shall include copies of all records pertinent to the decision, and shall
1159 be accompanied by a \$25 filing fee. The fee shall be collected by the Director and paid directly into the state
1160 treasury and credited to the Common Interest Community Management Information Fund pursuant to § 54.1-
1161 2354.2. The Board may, for good cause shown, waive or refund the filing fee upon a finding that payment of
1162 the filing fee will cause undue financial hardship for the member. The Director shall provide a copy of the
1163 written notice to the association that made the final adverse decision.

1164 C. The Director or his designee may request additional information concerning any notice of final adverse
1165 decision from the association that made the final adverse decision. The association shall provide such
1166 information to the Director within a reasonable time upon request. If the Director upon review determines that
1167 the final adverse decision may be in conflict with laws or regulations governing common interest communities
1168 or interpretations thereof by the Board, the Director may, in his sole discretion, provide the complainant and
1169 the association with information concerning such laws or regulations governing common interest communities
1170 or interpretations thereof by the Board. The determination of whether the final adverse decision may be in
1171 conflict with laws or regulations governing common interest communities or interpretations thereof by the
1172 Board shall be a matter within the sole discretion of the Director, whose decision is final and not subject to
1173 further review. The determination of the Director shall not be binding upon the complainant or the association
1174 that made the final adverse decision.

1175 **§ 54.1-2354.5. Common Interest Community Management Recovery Fund.**

1176 A. There is hereby created the Common Interest Community Management Recovery Fund, referred to in
1177 this section as "the Fund," to be used in the discretion of the Board to protect the interests of associations.

1178 *B. Each common interest community manager, at the time of initial application for licensure, and each*
1179 *association filing its first annual report after the effective date shall be assessed \$25, which shall be specifically*
1180 *assigned to the Fund. Initial payments may be incorporated in any application fee payment or annual filing fee*
1181 *and transferred to the Fund by the Director within 30 days.*

1182 *All assessments, except initial assessments, for the Fund shall be deposited within three business days after*
1183 *their receipt by the Director, in one or more federally insured banks, savings and loan associations, or savings*
1184 *banks located in the Commonwealth. Funds deposited in banks, savings institutions, or savings banks in excess*
1185 *of insurance afforded by the Federal Deposit Insurance Corporation or other federal insurance agency shall*
1186 *be secured under the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.). The deposit of these funds*
1187 *in federally insured banks, savings and loan associations, or savings banks located in the Commonwealth shall*
1188 *not be considered investment of such funds for purposes of this section. Funds maintained by the Director may*
1189 *be invested in securities that are legal investments for fiduciaries under the provisions of § 64.2-1502.*

1190 *Interest earned on the deposits constituting the Fund shall be used for administering the Fund. The*
1191 *remainder of this interest, at the discretion of the Board, may be transferred to the Common Interest Community*
1192 *Management Information Fund, established pursuant to § 54.1-2354.2, or accrue to the Fund.*

1193 *C. On and after July 1, 2011, the minimum balance of the Fund shall be \$150,000. Whenever the Director*
1194 *determines that the principal balance of the Fund is or will be less than such minimum principal balance, the*
1195 *Director shall immediately inform the Board. At the same time, the Director may recommend that the Board*
1196 *transfer a fixed amount from the Common Interest Community Management Information Fund to the Fund to*
1197 *bring the principal balance of the Fund to the amount required by this subsection. Such transfer shall be*
1198 *considered by the Board within 30 days of the notification of the Director.*

1199 *D. If any such transfer of funds is insufficient to bring the principal balance of the Fund to the minimum*
1200 *amount required by this section, or if a transfer to the Fund has not occurred, the Board shall assess each*
1201 *association and each common interest community manager, within 30 days of notification by the Director, a*
1202 *sum sufficient to bring the principal balance of the Fund to the required minimum amount. The amount of such*
1203 *assessment shall be allocated among the associations and common interest community managers in proportion*
1204 *to each payor's most recently paid annual assessment, or if an association or common interest community*
1205 *manager has not paid an annual assessment previously, in proportion to the average annual assessment most*
1206 *recently paid by associations or common interest community managers, respectively. The Board may order an*
1207 *assessment at any time in addition to any required assessment. Assessments made pursuant to this subsection*
1208 *may be issued by the Board (i) after a determination made by it or (ii) at the time of license renewal.*

1209 *Notice to common interest community managers and the governing boards of associations of these*
1210 *assessments shall be by first-class mail, and payment of such assessments shall be made by first-class mail*
1211 *addressed to the Director within 45 days after the mailing of such notice.*

1212 *E. If any common interest community manager fails to remit the required payment within 45 days of the*
1213 *mailing, the Director shall notify the common interest community manager by first-class mail at the latest*
1214 *address of record filed with the Board. If no payment has been received by the Director within 30 days after*
1215 *mailing the second notice, the license shall be automatically suspended. The license shall be restored only upon*
1216 *the actual receipt by the Director of the delinquent assessment.*

1217 *F. If any association fails to remit the required payment within 45 days of the mailing, the Director shall*
1218 *notify the association by first-class mail at the latest address of record filed with the Board. If no payment has*
1219 *been received by the Director within 30 days after mailing the second notice, it shall be deemed a knowing and*
1220 *willful violation of this section by the governing board of the association.*

1221 *G. At the close of each fiscal year, whenever the balance of the Fund exceeds \$5 million, the amount in*
1222 *excess of \$5 million shall be transferred to the Virginia Housing Trust Fund established pursuant to Chapter 9*
1223 *(§ 36-141 et seq.) of Title 36. Except for payments of costs as set forth in this article and transfers pursuant to*
1224 *this subsection, there shall be no transfers out of the Fund, including transfers to the general fund, regardless*
1225 *of the balance of the Fund.*

1226 *H. A claimant may seek recovery from the Fund subject to the following conditions:*

1227 *1. A claimant may file a verified claim in writing to the Director for a recovery from the Fund.*

1228 *2. Upon proper application to the Director, in those cases in which there are not sufficient funds to pay an*
1229 *award of reasonable fees, costs, and expenses to the receiver or to restore all funds that were or ought to have*
1230 *been held in a fiduciary capacity by the subject common interest community manager, the Director shall report*
1231 *to the Board the amount of any shortfall to the extent that there are not sufficient funds (i) to pay any award of*

1232 fees, costs, and expenses pursuant to subsection G of § 54.1-2353 by the court appointing the receiver; or (ii)
 1233 to restore all funds that were or ought to have been held in a fiduciary capacity by the subject common interest
 1234 community manager, as certified by the court appointing the receiver.

1235 3. If the Board finds there has been compliance with the required conditions, the Board shall issue a
 1236 directive ordering payment of the amount of such shortfall to the claimant from the Fund, provided that in no
 1237 event shall such payment exceed the balance in the Fund. When the Fund balance is not sufficient to pay the
 1238 aggregate amount of such shortfall, the Board shall direct that payment be applied first in satisfaction of any
 1239 award of reasonable fees, costs, and expenses to the receiver and second to restore the funds that were or ought
 1240 to have been held in a fiduciary capacity by the subject common interest community manager. If the Board has
 1241 reason to believe that there may be additional claims against the Fund, the Board may withhold any payment
 1242 from the Fund for a period of not more than one year. After such one-year period, if the aggregate of claims
 1243 received exceeds the Fund balance, the Fund balance shall be prorated by the Board among the claimants and
 1244 paid in the above payment order from the Fund in proportion to the amounts of claims remaining unpaid.

1245 4. The Director shall, subject to the limitations set forth in this subsection, pay to the claimant from the
 1246 Fund such amount as shall be directed by the Board upon the execution and delivery to the Director by such
 1247 claimant of an assignment to the Board of the claimant's rights on its behalf and on behalf of the associations
 1248 receiving distributions from the Fund against the common interest community manager to the extent that such
 1249 rights were satisfied from the Fund.

1250 5. The claimant shall be notified in writing of the findings of the Board. The Board's findings shall be
 1251 considered a case decision as defined in § 2.2-4001, and judicial review of these findings shall be in accordance
 1252 with § 2.2-4025 of the Administrative Process Act (§ 2.2-4000 et seq.).

1253 6. Notwithstanding any other provision of law, the Board shall have the right to appeal a decision of any
 1254 court that is contrary to any distribution recommended or authorized by it.

1255 7. Upon payment by the Director to a claimant from the Fund as provided in this subsection, the Board
 1256 shall immediately revoke the license of the common interest community manager whose actions resulted in
 1257 payment from the Fund. The common interest community manager whose license was so revoked shall not be
 1258 eligible to apply for a license as a common interest community manager until he has repaid in full the amount
 1259 paid from the Fund on his account, plus interest at the judgment rate of interest from the date of payment from
 1260 the Fund.

1261 8. Nothing contained in this subsection shall limit the authority of the Board to take disciplinary action
 1262 against any common interest community manager for any violation of statute or regulation, nor shall the
 1263 repayment in full by a common interest community manager of the amount paid from the Fund on such common
 1264 interest community manager's account nullify or modify the effect of any disciplinary proceeding against such
 1265 common interest community manager for any such violation.

1266 TITLE 55.1.

1267 PROPERTY AND CONVEYANCES.

1268 SUBTITLE I.

1269 PROPERTY CONVEYANCES.

1270 CHAPTER 1.

1271 CREATION AND LIMITATION OF ESTATES.

1272 Article 1.

1273 Creation and Transfer of Estates.

1274 **§ 55.1-100. Aliens may acquire, hold, and transmit real estate; when reciprocity required.**

1275 Any alien, not an enemy, may acquire by purchase or descent and hold real estate in the Commonwealth,
 1276 and such real estate shall be transmitted in the same manner as real estate held by citizens. However, if, at the
 1277 time of the transfer, a court of the Commonwealth determines that the laws of a foreign country or sovereignty
 1278 effectively deny a Virginia resident, legatee, or distributee the benefit, use, or control of money or other property
 1279 held in such foreign country or sovereignty, a judgment or order issued in the Commonwealth concerning the
 1280 rights of a resident of that foreign country or sovereignty to the benefit, use, or control of money or property
 1281 held in the Commonwealth may direct that the money or property be paid into the court for the benefit of the
 1282 alien. The money or property paid into court shall be paid out only upon order of the court or pursuant to the
 1283 order or judgment of a court of competent jurisdiction. Any of the money or property remaining with the court
 1284 upon expiration of three years from the decedent's death shall be paid out by the court as if the alien had
 1285 predeceased the decedent.

1286 **§ 55.1-101. When deed or will necessary to convey estate; no parol partition or gift valid.**

1287 No estate of inheritance or freehold or for a term of more than five years in lands shall be conveyed unless
1288 by deed or will, and no voluntary partition of lands by coparceners, having such an estate in such land, shall
1289 be made except by deed. In addition, no right to a conveyance of any such estate or term in land shall accrue
1290 to the donee of the land or those claiming under him, under a gift or promise of gift of such estate or term in
1291 land not in writing, even if such gift or promise is followed by possession and improvement of the land by the
1292 donee or those claiming under him.

1293 **§ 55.1-102. When gift of personal property invalid.**

1294 No gift of any personal property is valid (i) unless conveyed by deed or will or (ii) unless the donee or a
1295 person claiming under the donee has and remains in actual possession of such personal property. If the donor
1296 and donee reside together at the time of the gift, possession at the place of their residence is not a sufficient
1297 possession within the meaning of this section. This section shall not apply to personal paraphernalia used
1298 exclusively by the donee.

1299 **§ 55.1-103. Suicide or attainder of felony.**

1300 Neither suicide nor attainder of felony shall cause a corruption of blood or forfeiture of estate.

1301 **§ 55.1-104. Estates to lie in grant as well as in livery.**

1302 All real estate shall, as regards the conveyance of the immediate freehold thereof, be deemed to lie in grant
1303 as well as in livery.

1304 **§ 55.1-105. Same estates may be created by deed as by will.**

1305 Any interest in or claim to real estate, including easements in gross, may be transferred by deed or will.
1306 Any estate may be made to commence at a future date, by deed, in like manner as by will, and any estate that
1307 would be valid as an executory devise or bequest is valid if created by deed.

1308 **§ 55.1-106. Power of disposal in life tenant not to defeat remainder unless exercised; power of disposal
1309 held by fiduciary.**

1310 If any interest in or claim to real estate or personal property is disposed of by deed or will for life, with a
1311 limitation in remainder over, and the same instrument confers expressly or by implication a power upon the
1312 life tenant in his lifetime or by will to dispose absolutely of such property, the limitation in remainder over shall
1313 not fail, or be defeated, except to the extent that the life tenant lawfully exercised such power of disposal. A
1314 deed of trust or mortgage executed by the life tenant shall not be construed to be an absolute disposition of the
1315 estate, unless such estate is sold under the deed of trust or mortgage. A power of disposal held by any person
1316 in a fiduciary capacity under an express trust in writing shall not be deemed to be held by such fiduciary in a
1317 beneficial capacity and shall not be construed in any manner to enlarge the beneficial interest otherwise given
1318 to him under such trust.

1319 **§ 55.1-107. Default or surrender of tenant for life not to prejudice remainderman.**

1320 If any tenant for life of land make default or surrender, the heirs or those entitled to the remainder may,
1321 before judgment, be admitted to defend their right or, after judgment, may assert their right without prejudice
1322 from such default or surrender.

1323 **§ 55.1-108. Conveyance of estate or interest in property by grantor to himself and another.**

1324 Any person having an estate or interest in real or personal property may convey such estate or interest to
1325 himself or to himself and another or others, including to himself and his spouse as tenants by the entirety or
1326 otherwise, and the fact that one or more persons are both grantor or grantee or grantors and grantees in the
1327 same conveyance shall be no objection to the conveyance. The grantee or grantees in any such conveyance
1328 shall take title in like manner, and the estate vested in them shall be the same as if the conveyance had been
1329 made by one or more persons who are not also grantee or grantees.

1330 All such conveyances made prior to July 1, 1986, are validated notwithstanding defects in the form thereof
1331 that do not affect vested rights.

1332 **§ 55.1-109. Deed valid for grantor's right; operation of warranty.**

1333 A writing that purports to pass or assure a greater right or interest in real estate than the person making it
1334 may lawfully pass or assure shall operate as an alienation of such right or interest in such real estate as such
1335 person might lawfully convey or assure; and when the deed of the alienor mentions that he and his heirs will
1336 warrant what it purports to pass or assure, if anything descends from him, his heirs shall be barred for the
1337 value of what is so descended or liable for such value.

1338 **§ 55.1-110. Conveyance, devise, or grant without words of limitation.**

1339 When any real estate is conveyed, devised, or granted to any person without any words of limitation, such
1340 conveyance, devise, or grant shall be construed to pass the fee simple or other whole estate or interest that the
1341 testator or grantor has power to dispose of in such real estate, unless a contrary intention is apparent in the
1342 conveyance, devise, or grant.

1343 **§ 55.1-111. Fee tail converted into fee simple.**

1344 Every estate in lands so limited that, as the law was on October 7, 1776, such estate would have been an
1345 estate tail shall be deemed an estate in fee simple, and every limitation upon such an estate shall be held valid
1346 if the same would be valid when limited upon an estate in fee simple created by technical language.

1347 **§ 55.1-112. Estate of freehold to one with remainder to heirs, etc.; rule in Shelley's Case abolished.**

1348 Wherever any person by deed, will, or other writing takes an estate of freehold in land, or takes such an
1349 interest in personal property as would be an estate of freehold if it were an estate in land, and in the same deed,
1350 will, or writing an estate is afterwards limited by way of remainder to his heirs, or the heirs of his body, or his
1351 issue, the words "heirs," "heirs of his body," and "issue," or other words of like import used in the deed, will,
1352 or writing in the limitation therein by way of remainder shall not be construed as words of limitation carrying
1353 to such person the inheritance as to the land, or the absolute estate as to the personal property, but they shall
1354 be construed as words of purchase, creating a remainder in the heirs, heirs of the body, or issue.

1355 **§ 55.1-113. Doctrine of worthier title abolished.**

1356 The doctrine of worthier title is abolished in the Commonwealth as a rule of law and as a rule of
1357 construction.

1358 **§ 55.1-114. When contingent remainder not to fail.**

1359 A contingent remainder shall not fail for want of a particular estate to support it.

1360 **§ 55.1-115. When remainders not defeated.**

1361 The alienation of a particular estate on which a remainder depends, or the union of such estate with the
1362 inheritance by purchase or descent, shall not operate, by merger or otherwise, to defeat, impair, or otherwise
1363 affect such remainder.

1364 **§ 55.1-116. In what conveyances possession transferred to the use.**

1365 By deed of bargain and sale, or by deeds of lease and release, or by covenant to stand seized to the use, or
1366 deed operating by way of covenant to stand seized to the use, the possession of the grantor shall be deemed
1367 transferred to the grantee or other person entitled to the use, for the estate or interest that such person has in
1368 the use, as perfectly as if the grantee or other person entitled to the use had been enfeoffed with livery of seisin
1369 of the land intended to be conveyed by such deed or covenant.

1370 **§ 55.1-117. Land trusts not to fail because no beneficiaries are specified by name and no duties laid on
1371 trustee; when interest of beneficiaries deemed personal property; liens.**

1372 No trust relating to real estate shall fail nor shall any use relating to real estate be defeated because no
1373 beneficiaries are specified by name in the recorded deed of conveyance to the trustee or because no duties are
1374 imposed upon the trustee. The power conferred by any such instrument on a trustee to sell, lease, encumber, or
1375 otherwise dispose of property described in such instrument shall be effective, and no person dealing with such
1376 a trustee shall be required to make further inquiry as to the right of such trustee to act, nor shall he be required
1377 to inquire as to the disposition of any proceeds.

1378 In any case under this section where there is a recorded deed of conveyance to a trustee, the interest of the
1379 beneficiaries thereunder shall be deemed to be personal property. Judgments against a beneficiary and
1380 consensual liens against real property of a beneficiary do not attach to real property that is the subject of such
1381 a deed of conveyance unless the judgment is docketed or the lien recorded in the county or city where the
1382 property is located (i) before recordation of the deed creating the land trust and (ii) while the beneficiary has
1383 record title to the real property.

1384 In any case under this section where there is a recorded deed of conveyance to a trustee and the trustee
1385 named in the deed declines to serve, resigns, is disqualified or removed, or is adjudicated incapacitated and
1386 there is (a) no successor trustee named in the deed, (b) no successor trustee designated by the terms of the trust
1387 instrument, or (c) no procedure set forth in the deed or trust instrument to designate a successor trustee, the
1388 beneficiaries of the trust, by majority decision, shall name a successor trustee. However, if the identities of the
1389 beneficiaries of the trust cannot be identified from the recorded deed of conveyance or a majority of the
1390 beneficiaries are unable to agree upon a successor trustee, the circuit court of the county or city in which the
1391 deed was recorded, upon the motion of any party interested in the administration of the trust, shall appoint a
1392 successor trustee whenever the court considers the appointment necessary for the administration of the trust.

1393 *The name and address of any successor trustee so named or appointed shall be recorded with the clerk of the*
 1394 *circuit court of the county or city in which the deed was recorded, and such successor trustee shall succeed to*
 1395 *all the rights, powers, and privileges, and shall be subject to all the duties, liabilities, and responsibilities*
 1396 *imposed upon, the original trustee unless the deed of conveyance expressly provides to the contrary.*

1397 *Nothing in this section shall be construed to (1) affect any right that a creditor may otherwise have against*
 1398 *a trustee or beneficiary except as provided in this section, (2) enlarge upon the power of a corporation to act*
 1399 *as trustee under § 6.2-1001, or (3) affect the rule against perpetuities.*

1400 **§ 55.1-118. Deed of release effectual.**

1401 *Every deed of release of any estate or interest capable of passing by deed of lease or release shall be as*
 1402 *effectual for the purposes expressed in such deed of release, without the execution of a lease, as if the same had*
 1403 *been executed.*

1404 **§ 55.1-119. When person not a party, etc., may take or sue under instrument.**

1405 *An immediate estate or interest in or the benefit of a condition respecting any estate may be taken by a*
 1406 *person under an instrument, although he is not a party to such instrument; and if a covenant or promise is made*
 1407 *for the benefit, in whole or in part, of a person with whom it is not made, or with whom it is made jointly with*
 1408 *others, such person, whether named in the instrument or not, may maintain in his own name any action thereon*
 1409 *that he might maintain as though it had been made with him only and the consideration had moved from him*
 1410 *to the party making such covenant or promise. In such action, the covenantor or promisor shall be permitted*
 1411 *to make all defenses he may have, not only against the covenantee or promisee, but also against such*
 1412 *beneficiary.*

1413 **§ 55.1-120. Informalities in deeds made by attorneys-in-fact.**

1414 *If, in a deed made by one as attorney-in-fact for another, the words of conveyance or the signature is in the*
 1415 *name of the attorney, it is as much the principal's deed as if the words of conveyance or the signature were in*
 1416 *the name of the principal by the attorney, if it is manifest on the face of the deed that it should be construed to*
 1417 *be that of the principal to give effect to its intent.*

1418 **§ 55.1-121. Time for objections to irregularities in advertising sales made by trustees.**

1419 *All deeds made and executed prior to January 1, 1940, by trustees conveying property sold under deeds of*
 1420 *trust in which default was made in the debt secured and as to which irregularities in advertising such sales*
 1421 *have occurred shall be held and the same are hereby declared valid in all respects, if otherwise valid according*
 1422 *to law then in force, after the expiration of 15 years from the date on which such sale was made by such trustees.*

1423 **§ 55.1-122. Recovery at death of life tenant of taxes paid on life estate.**

1424 *When any person dies possessed of a life estate in real estate that was assessed with taxes in the name of*
 1425 *such life tenant for the year in which such life tenant dies and such taxes are paid for that year by any person*
 1426 *other than the remainderman entitled to such real estate, such person or his estate so paying such taxes shall*
 1427 *be entitled to recover from such remainderman such proportionate part of the sum so paid as that part of the*
 1428 *year following the death of the life tenant bears to the entire year, provided, however, that if upon the death of*
 1429 *the life tenant the real estate shall come into the possession of another life tenant, such recovery shall be had*
 1430 *from the subsequent life tenant and not from the remainderman.*

1431 **§ 55.1-123. Removal of a cloud on title; nature of plaintiff's title.**

1432 *When a petition is filed to remove a cloud on the title to real estate, relief shall not be denied the*
 1433 *complainant because he has only an equitable title to such real estate and is out of possession, but the court*
 1434 *shall grant to the complainant such relief as he would be entitled to if he held the legal title and was in*
 1435 *possession. If an issue of fact is raised which but for this section would entitle either party to a trial by jury, the*
 1436 *court shall, upon the request of the party so entitled, order such issue to be tried by a jury.*

1437 *Article 2.*

1438 *Rule Against Perpetuities.*

1439 **§ 55.1-124. Uniform Statutory Rule Against Perpetuities.**

1440 *A. A nonvested property interest is invalid unless:*

1441 *1. When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an*
 1442 *individual then alive; or*

1443 *2. The interest either vests or terminates within 90 years after its creation.*

1444 *B. A general power of appointment not presently exercisable because of a condition precedent is invalid*
 1445 *unless:*

1446 1. When the power is created, the condition precedent is certain to be satisfied or becomes impossible to
 1447 satisfy no later than 21 years after the death of an individual then alive; or

1448 2. The condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its
 1449 creation.

1450 C. A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

1451 1. When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later
 1452 than 21 years after the death of an individual then alive; or

1453 2. The power is irrevocably exercised or otherwise terminates within 90 years after its creation.

1454 D. In determining whether a nonvested property interest or a power of appointment is valid under
 1455 subdivision A 1, B 1, or C 1, the possibility that a child will be born to an individual after the individual's death
 1456 is disregarded.

1457 E. If, in measuring a period from the creation of a trust or other property arrangement, language in a
 1458 governing instrument (i) seeks to disallow the vesting or termination of any interest or trust beyond, (ii) seeks
 1459 to postpone the vesting or termination of any interest or trust until, or (iii) seeks to operate in effect in any
 1460 similar fashion upon, the later of (a) the expiration of a period of time not exceeding 21 years after the death
 1461 of the survivor of specified lives in being at the creation of the trust or other property arrangement or (b) the
 1462 expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in
 1463 being at the creation of the trust or other property arrangement, that language is inoperative to the extent it
 1464 produces a period of time that exceeds 21 years after the death of the survivor of the specified lives.

1465 **§ 55.1-125. When nonvested property interest or power of appointment created.**

1466 A. Except as provided in subsections B and C and in § 55.1-128, the time of creation of a nonvested property
 1467 interest or a power of appointment is determined under general principles of property law.

1468 B. For the purposes of §§ 55.1-124 through 55.1-129, if there is a person who alone can exercise a power
 1469 created by a governing instrument to become the unqualified beneficial owner of (i) a nonvested property
 1470 interest or (ii) a property interest subject to a power of appointment described in subsection B or C in § 55.1-
 1471 124, the nonvested property interest or power of appointment is created when the power to become the
 1472 unqualified beneficial owner terminates.

1473 C. For the purposes of §§ 55.1-124 through 55.1-129, a nonvested property interest or a power of
 1474 appointment arising from a transfer of property to a previously funded trust or other existing property
 1475 arrangement is created when the nonvested property interest or power of appointment in the original
 1476 contribution was created.

1477 **§ 55.1-126. Reformation.**

1478 Upon the petition of an interested person, a circuit court in the county or city in which the affected property
 1479 or the greater part of such property is located shall reform a disposition in the manner that most closely
 1480 approximates the transferor's manifested plan of distribution and is within the 90 years allowed by subdivision
 1481 A 2, B 2, or C 2 of § 55.1-124 if:

1482 1. A nonvested property interest or a power of appointment becomes invalid under § 55.1-124;

1483 2. A class gift is not but might become invalid under § 55.1-124 and the time has arrived when the share of
 1484 any class member is to take effect in possession or enjoyment; or

1485 3. A nonvested property interest that is not validated by subdivision A 1 of § 55.1-124 can vest but not
 1486 within 90 years after its creation.

1487 **§ 55.1-127. Exclusions from statutory rule against perpetuities.**

1488 A. Section 55.1-124 does not apply to:

1489 1. A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a
 1490 nonvested property interest or a power of appointment arising out of (i) a premarital or postmarital agreement;
 1491 (ii) a separation or divorce settlement; (iii) a spouse's election; (iv) a similar arrangement arising out of a
 1492 prospective, existing, or previous marital relationship between the parties; (v) a contract to make or not to
 1493 revoke a will or trust; (vi) a contract to exercise or not to exercise a power of appointment; (vii) a transfer in
 1494 satisfaction of a duty of support; or (viii) a reciprocal transfer;

1495 2. A fiduciary's power relating to the administration or management of assets, including the power of a
 1496 fiduciary to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income;

1497 3. A power to appoint a fiduciary;

1498 4. A discretionary power of trustee to distribute principal before termination of a trust to a beneficiary
 1499 having an indefensibly vested interest in the income and principal;

1500 5. A nonvested property interest held by a charity, government, or governmental agency or subdivision, if
1501 the nonvested property interest is preceded by an interest held by another charity, government, or governmental
1502 agency or subdivision;

1503 6. A nonvested property interest in or a power of appointment with respect to a trust or other property
1504 arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income
1505 deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their
1506 beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of
1507 the participants or their beneficiaries or spouses the property, income, or principal in the trust or other property
1508 arrangement, except a nonvested property interest or a power of appointment that is created by an election of
1509 a participant or a beneficiary or spouse;

1510 7. A property interest, power of appointment, or arrangement that was not subject to the common-law rule
1511 against perpetuities or is excluded by another statute of the Commonwealth; or

1512 8. A nonvested interest in or power of appointment over personal property held in trust, or a power of
1513 appointment over personal property granted under a trust, if the trust instrument, by its terms, provides that §
1514 55.1-124 shall not apply.

1515 B. The exception to the Uniform Statutory Rule Against Perpetuities under subdivision A 8 shall not extend
1516 to real property held in trust. For purposes of this subsection, real property does not include an interest in a
1517 corporation, limited liability company, partnership, business trust, or other entity, even if such entity owns an
1518 interest in real property.

1519 **§ 55.1-128. Prospective application.**

1520 Sections 55.1-124 through 55.1-129 apply to a nonvested property interest or a power of appointment that
1521 is created on or after July 1, 2000. For purposes of this section, a nonvested property interest or a power of
1522 appointment created by the exercise of a power of appointment is created when the power is irrevocably
1523 exercised or when a revocable exercise becomes irrevocable.

1524 **§ 55.1-129. Uniformity of application and construction.**

1525 Sections 55.1-124 through 55.1-129 shall be applied and construed to effectuate their general purpose to
1526 make the law uniform with respect to the rule against perpetuities among states enacting it.

1527 **§ 55.1-130. Certain limitations construed.**

1528 Every limitation in any deed or will contingent upon the dying of any person without heirs, heirs of the
1529 body, issue, issue of the body, children, offspring or descendants, or other relatives shall be construed a
1530 limitation to take effect when such person dies not having such heir, issue, child, offspring, descendant, or other
1531 relative, as the case may be, living at the time of his death, or born to him within 10 months after his death,
1532 unless the intention of such limitation be otherwise plainly declared on the face of the deed or will creating it.

1533 **§ 55.1-131. Employee trusts.**

1534 Pension, profit sharing, stock bonus, annuity, or other employee trusts established by employers for the
1535 purpose of distributing the income and principal of such trust to some or all of their employees, or the
1536 beneficiaries of such employees, shall not be invalid as violating any laws or rules against perpetuities or
1537 restraints on the power of alienation of title to property; but such trusts may continue for such period of time
1538 as may be required by their provisions to accomplish the purposes for which they are established.

1539 **§ 55.1-132. Determination of "lives in being" for purpose of rule against perpetuities.**

1540 A. For the purpose of determining whether the terms of an inter vivos trust provide for a duration in excess
1541 of that allowed under the rule against perpetuities, the determination of "lives in being" shall be made as of the
1542 death of the settlor, if the settlor has at his death the unrestricted right, acting alone, to revoke the trust or to
1543 have transferred to himself the entire legal and beneficial interest in all property, both principal and income,
1544 held in the trust. In the event that the settlor surrenders both such rights at any time prior to his death, the
1545 determination of "lives in being" shall be made as of the time that the settlor, upon establishment of the trust or
1546 otherwise, surrenders the unrestricted right acting alone to revoke the trust and the unrestricted right acting
1547 alone to have transferred to himself the entire legal and beneficial interest in all property, both principal and
1548 income, held in the trust.

1549 B. This section shall apply only to a nonvested property interest in an inter vivos trust created before July
1550 1, 2000.

1551 **§ 55.1-133. Application of the rule against perpetuities to nondonative transfers.**

1552 A. Except for the transactions set forth in § 55.1-127, which are governed by the provisions of §§ 55.1-124
 1553 through 55.1-129, a nondonative transfer of an interest in property fails, if the interest does not vest, if it ever
 1554 vests, within the period of the common-law rule against perpetuities.

1555 B. The provisions of this section (i) in force on June 30, 2000, shall apply to all donative interests created
 1556 on or after July 1, 1982, and before July 1, 2000, and (ii) in force on July 1, 2000, shall apply to all nondonative
 1557 interests created on or after July 1, 1982.

1558 Article 3.

1559 Joint Ownership of Real or Personal Property.

1560 § 55.1-134. **Survivorship between joint tenants abolished.**

1561 A. When any joint tenant dies, before or after the vesting of the estate, whether the estate is real or personal,
 1562 or whether partition could have been compelled or not, his part shall descend to his heirs, pass by devise, or
 1563 go to his personal representative, subject to debts or distribution, as if he had been a tenant in common.

1564 B. This section shall not apply to any estate that joint tenants have as fiduciaries or to any real or personal
 1565 property transferred to persons in their own right when it manifestly appears from the tenor of the instrument
 1566 transferring such property or memorializing the existence of a chose in action that it was intended the part of
 1567 the one dying should then belong to the others. This section does not affect the mode of proceeding on any joint
 1568 judgment or order in favor of or on any contract with two or more one of whom dies.

1569 § 55.1-135. **Joint ownership in real and personal property.**

1570 Any persons may own real or personal property as joint tenants with or without a right of survivorship.
 1571 When any person causes any real or personal property, or any written memorial of a chose in action, to be
 1572 titled, registered, or endorsed in the name of two or more persons "jointly," as "joint tenants," in a "joint
 1573 tenancy," or other similar language, such persons shall own the property in a joint tenancy without survivorship
 1574 as provided in § 55.1-134. If, in addition, the expression "with survivorship," or any equivalent language, is
 1575 employed in such titling, registering, or endorsing, it shall be presumed that such persons are intended to own
 1576 the property as joint tenants with the right of survivorship as at common law. This section is not applicable to
 1577 multiple party accounts under Article 2 (§ 6.2-604 et seq.) of Chapter 6 of Title 6.2 or to any other matter
 1578 specifically governed by another provision of the Code.

1579 If any real or personal property is conveyed or devised to spouses, they shall take and hold such property
 1580 by moieties in the same manner as if a distinct moiety had been given to each spouse by a separate conveyance,
 1581 unless language as provided in this section or in § 55.1-136 is used that designates the tenancy as a joint
 1582 tenancy or a tenancy by the entirety and all requirements for holding property by such tenancy are met.

1583 § 55.1-136. **Tenants by the entirety in real and personal property; certain trusts.**

1584 A. Spouses may own real or personal property as tenants by the entirety for as long as they are married.
 1585 Personal property may be owned as tenants by the entirety whether or not the personal property represents the
 1586 proceeds of the sale of real property. An intent that the part of the one dying should belong to the other shall
 1587 be manifest from a designation of the spouses as "tenants by the entireties" or "tenants by the entirety."

1588 B. Except as otherwise provided by statute, no interest in real property held as tenants by the entirety shall
 1589 be severed by written instrument unless the instrument is a deed signed by both spouses as grantors.

1590 C. Notwithstanding any contrary provision of § 64.2-747, any property of spouses that is held by them as
 1591 tenants by the entirety and conveyed to their joint revocable or irrevocable trusts, or to their separate revocable
 1592 or irrevocable trusts, and any proceeds of the sale or disposition of such property, shall have the same immunity
 1593 from the claims of their separate creditors as it would if it had remained a tenancy by the entirety, so long as
 1594 (i) they remain married to each other, (ii) it continues to be held in the trust or trusts, and (iii) it continues to
 1595 be their property, including where both spouses are current beneficiaries of one trust that holds the entire
 1596 property or each spouse is a current beneficiary of a separate trust and the two separate trusts together hold
 1597 the entire property, whether or not other persons are also current or future beneficiaries of the trust or trusts.
 1598 The immunity from the claims of separate creditors under this subsection may be waived as to any specific
 1599 creditor, including any separate creditor of either spouse, or any specifically described property, including any
 1600 former tenancy by the entirety property conveyed into trust, by the trustee acting under the express provision
 1601 of a trust instrument or with the written consent of both spouses.

1602 Article 4.

1603 Virginia Solar Easements Act.

1604 § 55.1-137. **Creation of solar easements.**

1605 Any easement obtained for the purpose of exposure of solar energy equipment, facilities, or devices shall
 1606 be created in writing and shall be subject to the same conveyancing and instrument recording requirements as
 1607 other easements.

1608 **§ 55.1-138. Contents of solar easement agreements.**

1609 Any instrument creating a solar easement shall include, at a minimum:

- 1610 1. The vertical and horizontal angles, expressed in degrees, at which the solar easement extends over the
- 1611 real property subject to the solar easement;
- 1612 2. Any terms or conditions under which the solar easement is granted or will be terminated; and
- 1613 3. Any provisions for compensation of the owner of the property subject to the solar easement.

1614 **CHAPTER 2.**

1615 **PROPERTY RIGHTS OF MARRIED PERSONS.**

1616 **§ 55.1-200. How married persons may acquire and dispose of property.**

1617 Married persons shall have the right to acquire, hold, use, control, and dispose of property as if they were
 1618 unmarried. Such power of use, control, and disposition shall apply to all property of a married person. The
 1619 marital rights of persons married to each other shall not entitle either spouse to the possession or use, or to the
 1620 rents, issues, and profits, of such real estate of the other spouse during the coverture, nor shall the property of
 1621 either spouse be subject to the debts or liabilities of the other spouse.

1622 **§ 55.1-201. Contracts of, and actions by and against, married persons.**

1623 A married person may contract and be contracted with and sue and be sued in the same manner and with
 1624 the same consequences as if he were unmarried, regardless of the date on which the right or liability asserted
 1625 by or against him accrued. In an action by a married person to recover for a personal injury inflicted on him,
 1626 he may recover the entire damage sustained, including the personal injury and expenses arising out of the
 1627 injury, whether chargeable to him or his spouse, notwithstanding that the spouse may be entitled to the benefit
 1628 of his services about domestic affairs and consortium, and any sum recovered therein shall be chargeable with
 1629 expenses arising out of the injury, including hospital, medical, and funeral expenses, and any person, including
 1630 the spouse, partially or completely discharging such debts shall be reimbursed out of the sum recovered in the
 1631 action, whensoever paid, to the extent that such payment was justified by services rendered or expenses incurred
 1632 by the obligee, provided that written notice of such claim for reimbursement, and the amount and items thereof,
 1633 shall be served on such married person and on the defendant prior to any settlement of the sum recovered by
 1634 him, and no action for such injury, expenses, or loss of services or consortium shall be maintained by his spouse.

1635 **§ 55.1-202. Spouse not responsible for other spouse's contracts, etc.; mutual liability for necessities;
 1636 responsibility of personal representative.**

1637 Except as otherwise provided in this section, a spouse shall not be responsible for the other spouse's
 1638 contract or tort liability to a third party, whether such liability arose before or after the marriage. The doctrine
 1639 of necessities as it existed at common law shall apply equally to both spouses, except where they are
 1640 permanently living separate and apart, but shall in no event create any liability between such spouses as to
 1641 each other. No lien arising out of a judgment under this section shall attach to the judgment debtors' principal
 1642 residence held by them as tenants by the entirety or that was held by them as tenants by the entirety prior to the
 1643 death of either spouse where the tenancy terminated as a result of the death of either spouse.

1644 **§ 55.1-203. Spouse's right of entry into land not barred by certain judgments; when a spouse may defend
 1645 his right in lands that are his inheritance.**

1646 A spouse shall not be barred of his right of entry into land by a judgment in the other spouse's lifetime by
 1647 default or collusion, but after the other spouse's death may prosecute the same by any proper action; or, in the
 1648 lifetime of the other spouse, if the other spouse will not appear or, against the spouse's consent, will render the
 1649 spouse's lands during the coverture in an action against both spouses for lands that are the spouse's inheritance,
 1650 the spouse may come at any time before judgment and defend his right.

1651 **§ 55.1-204. Rights of spouse not affected by other spouse's acts only.**

1652 No conveyance or other act by one spouse only of any land that is the inheritance of the other spouse shall
 1653 be or make any discontinuance thereof, or be prejudicial to the other spouse or his heirs or to any having right
 1654 or title to the same by his death, but they may respectively enter into such land, according to their right and
 1655 title in such land, as if no such conveyance or act had been done.

1656 **§ 55.1-205. Conveyance from married persons; effect on right of either spouse.**

1657 When persons married to each other have signed and delivered a writing purporting to convey any estate,
 1658 real or personal, such writing, whether recorded or not, shall (i) if delivered prior to January 1, 1991, operate

1659 to convey from the spouse her right of dower or his right of curtesy in the real estate embraced in such writing
 1660 and (ii) if delivered after December 31, 1990, operate to manifest the spouse's written consent or joinder, as
 1661 contemplated in § 64.2-305 or 64.2-308.9 to the transfer embraced in such writing. In either case, the writing
 1662 passes from such spouse and his representatives all right, title, and interest of every nature that at the date of
 1663 such writing he may have in any estate conveyed thereby as effectually as if he were at such date an unmarried
 1664 person. If, in either case, the writing is a deed conveying a spouse's land, no covenant or warranty in such land
 1665 on behalf of the other spouse joining in the deed shall operate to bind him any further than to convey his interest
 1666 in such land, unless it is expressly stated that such spouse enters into such covenant or warranty for the purpose
 1667 of binding himself personally.

1668 **§ 55.1-206. How infant spouse may release interests in spouse's property.**

1669 Notwithstanding the disability of infancy, on or after January 1, 1991, an infant spouse, whether married
 1670 before or after January 1, 1991, may release his marital rights in the other spouse's real or personal property
 1671 by uniting in any contract, deed, or other instrument executed by the other spouse or by a commissioner of a
 1672 court pursuant to an order entered under §§ 8.01-67 through 8.01-77 or any other law with respect to the
 1673 infant's property.

1674 **§ 55.1-207. Appointment of attorney-in-fact by married person; effect of writing executed by such**
 1675 **attorney.**

1676 A married person, whether a resident of the Commonwealth or not, may, by power of attorney duly executed
 1677 and acknowledged as prescribed in § 55.1-612 or 55.1-613, appoint an attorney-in-fact to execute and
 1678 acknowledge, for him and in his name, any deed or other writing that he might execute. Every deed or other
 1679 writing so executed by such attorney-in-fact in pursuance of such power of attorney while the same remains in
 1680 force shall be valid and effectual, in all respects, to convey the interest and title of such married person in and
 1681 to any real estate thereby conveyed or otherwise transferred.

1682 **§ 55.1-208. How estate of a married person to pass at death.**

1683 When a married person, having title to any estate, dies intestate, such estate, or any part of such estate,
 1684 shall pass according to the provisions of Chapter 2 (§ 64.2-200 et seq.) of Title 64.2, subject to his debts.

1685 **§ 55.1-209. Equitable separate estates abolished.**

1686 The estate known as the equitable separate estate no longer exists and any language in any writing,
 1687 whenever executed, that purports to convey real property to a person as an equitable separate estate has no
 1688 legal or equitable significance after January 1, 1991, except as provided in § 64.2-301 or 64.2-308.2.

1689 **§ 55.1-210. Tangible personal property.**

1690 No presumption of ownership of tangible personal property shall arise by operation of law to prefer one
 1691 spouse of a marriage over the other if such presumption is based solely on the sex of the spouse.

1692 CHAPTER 3.

1693 FORM AND EFFECT OF DEEDS AND COVENANTS; LIENS.

1694 Article 1.

1695 Form and Effect of Deeds; Easements.

1696 **§ 55.1-300. Form of a deed.**

1697 Every deed and corrected or amended deed may be made in the following form, or to the same effect: "This
 1698 deed, made the _____ day of _____, in the year _____, between (here insert names of parties as
 1699 grantors or grantees), witnesseth: that in consideration of (here state the consideration, nominal or actual), the
 1700 said _____ does (or do) grant (or grant and convey) unto the said _____,
 1701 all (here describe the property or interest therein to be conveyed, including the name of the city or county in
 1702 which the property is located, and insert covenants or any other provisions). Witness the following signature
 1703 (or signatures)."

1704 **§ 55.1-301. How construed.**

1705 Unless the deed provides otherwise, any deed conveying land shall be construed to include all the estate,
 1706 right, title, and interest, both at law and in equity, of the grantor in or to such land.

1707 **§ 55.1-302. Construction of generic terms.**

1708 In the interpretation of deeds, adopted persons and persons born out of wedlock are included in class gift
 1709 terminology or terms of relationship in accordance with rules for determining relationships for purposes of
 1710 intestate succession unless a contrary intent appears on the face of the deed. In determining the intent of a
 1711 grantor, adopted persons are presumptively included in such terms as "children," "issue," "kindred," "heirs,"
 1712 "relatives," "descendants," or similar words of classification and are presumptively excluded by such terms as

1713 "natural children," "issue of the body," "blood kindred," "heirs of the body," "blood relatives," "descendants of
1714 the body," or similar words of classification.

1715 **§ 55.1-303. Appurtenances, etc., included in deed of land.**

1716 Every deed conveying land shall be construed to include all buildings, privileges, and appurtenances of
1717 every kind belonging to such land unless an exception is made in the deed.

1718 **§ 55.1-304. Relocation of easement.**

1719 The owner of land that is subject to an easement for the purpose of ingress and egress may relocate the
1720 easement, on the servient estate, by recording in the office of the clerk of the circuit court of the county or city
1721 in which the easement or any part of such easement is located, a written agreement evidencing the consent of
1722 all affected persons and setting forth the new location of the easement. In the absence of such written agreement,
1723 the owner of the land that is subject to such easement may seek relocation of the easement on the servient estate
1724 upon petition to the circuit court and notice to all parties in interest. The petition shall be granted if, after a
1725 hearing held, the court finds that (i) the relocation will not result in economic damage to the parties in interest,
1726 (ii) there will be no undue hardship created by the relocation, and (iii) the easement has been in existence for
1727 not less than 10 years.

1728 **§ 55.1-305. Enjoyment of easement.**

1729 Unless otherwise provided for in the terms of an easement, the owner of a dominant estate shall not use an
1730 easement in a way that is not reasonably consistent with the uses contemplated by the grant of the easement,
1731 and the owner of the servient estate shall not engage in an activity or cause to be present any objects either
1732 upon the burdened land or immediately adjacent to such land that unreasonably interferes with the enjoyment
1733 of the easement by the owner of the dominant estate. For the purposes of this section, "object" does not include
1734 any fence, electric fence, cattle guard, gate, or division fence adjacent to such easement as those terms are
1735 defined in §§ 55.1-2800 through 55.1-2826. Any violation of this section may be deemed a private nuisance,
1736 provided, however, that the remedy for a violation of this section shall not in any manner impair the right to
1737 any other relief that may be applicable at law or in equity.

1738 **§ 55.1-306. Utility easements.**

1739 A. For the purposes of this section, "utility services" means any products, services, and equipment related
1740 to energy, telecommunications, water, and sewerage.

1741 B. Where an easement, whether appurtenant or gross, is expressly granted by an instrument recorded on
1742 or after July 1, 2006, that imposes on a servient tract of land a covenant (i) to provide an easement in the future
1743 for the benefit of utility services; (ii) to relocate, construct, or maintain facilities owned by an entity that
1744 provides utility services; or (iii) to pay the cost of such relocation, construction, or maintenance, such covenant
1745 shall be deemed for all purposes to touch and concern the servient tract, to run with the servient tract, its
1746 successors, and assigns for the benefit of the entity providing utility services, its successors, and assigns.

1747 **§ 55.1-307. Public road easements; maintenance and improvements.**

1748 Whenever a public road that has never been abandoned but is no longer publicly maintained serves as
1749 access for more than one property owner and operates as the primary source of ingress and egress for that
1750 property, any one of the property owners may maintain, repair, or improve the road at his own expense without
1751 the express permission of the other property owners but only after administrative review by the local
1752 government. All other property owners shall be notified by mail of any pending maintenance, repair, or
1753 improvements prior to commencement of the work. Nothing in this section shall be construed as allowing the
1754 property owner who is doing the maintenance, repairs, or improvements to the road to interfere with the other
1755 property owners' use of the road for ingress and egress.

1756 **§ 55.1-308. Private roads; public use; maintenance and improvements.**

1757 Notwithstanding any provision of a recorded deed or plat to the contrary, a private road serving a
1758 subdivision of 50 or fewer lots may be dedicated for public use and may be taken into the secondary state
1759 highway system, subject to the provisions and requirements set forth in §§ 33.2-335 and 33.2-336, if the owner
1760 of the fee interest in such private road obtains the written consent of every lot owner in the subdivision whose
1761 lot is served by the private road and the holder of any restrictive covenant or easement rights over and
1762 concerning the private road prior to making such dedication and before requirements for acceptance of the
1763 road into the secondary state highway system are met. Such consent shall be recorded in the land records of
1764 the clerk's office of the circuit court of the county in which the private road is located.

1765 **§ 55.1-309. Deeds good between parties.**

1766 Any deed, or a part of a deed, that fails to take effect by virtue of this chapter shall, nevertheless, be as
 1767 valid and effectual and as binding upon the parties, so far as the rules of law and equity permit, as if this chapter
 1768 had not been enacted.

1769 **§ 55.1-310. Conveyance of property not owned but subsequently acquired.**

1770 When a deed purports to convey property, real or personal, describing it with reasonable certainty, that
 1771 the grantor does not own at the time of the execution of the deed, but subsequently acquires, such deed shall,
 1772 as between the parties, have the same effect as if the title that the grantor subsequently acquires were vested in
 1773 him at the time of the execution of such deed and thereby conveyed.

1774 **§ 55.1-311. Vendor's equitable lien abolished.**

1775 If any person conveys any real estate and the purchase money or any part thereof remains unpaid at the
 1776 time of the conveyance, he shall not thereby have a lien for such unpaid purchase money, unless such lien is
 1777 expressly reserved on the face of the conveyance.

1778 **§ 55.1-312. Certain deeds to county real estate validated.**

1779 All deeds executed prior to January 1, 1920, by a county commissioner, county commissioners, or a board
 1780 of supervisors that convey any part of the real estate previously acquired by such county for county purposes
 1781 are hereby validated and declared to have effectually passed the title to the part so conveyed even though the
 1782 conveyance thereof reduced the real estate of the county to an area less than the county was required by law to
 1783 own at the time of such conveyance.

1784 **§ 55.1-313. Validation of sales, etc., by county courts prior to 1860.**

1785 All sales or leases made prior to the year 1860 by the county court, or court of monthly session, of any
 1786 county of any land or building then owned by such county and situated within the limits of land previously
 1787 acquired by such county as a site for its courthouse and other public buildings, when the consideration therefor
 1788 has been fully paid and the purchaser, or lessee as the case may be, and those claiming through or under him,
 1789 shall have held continuous possession of such land or building from January 1, 1860, until January 1, 1934,
 1790 are hereby validated and declared to be forever binding upon such county.

1791 **§ 55.1-314. Deeds and writings executed for persons in military service, etc., under defective powers.**

1792 All deeds or other writings executed by an agent or attorney-in-fact for a person in the armed forces or
 1793 military service of the United States, or for a person who after executing a power of attorney or agency
 1794 agreement entered the armed forces or military service of the United States, or for a person who departed from
 1795 the United States by permission or direction of any department or official of the United States in connection
 1796 with work relating to the prosecution of the war, when the power of attorney or agency agreement under which
 1797 the deed or other instrument was signed was not executed in such a manner as to be valid as a sealed instrument,
 1798 shall be held, and the same are hereby declared, valid and effective in all respects if otherwise valid according
 1799 to the law then in force.

1800 The provisions of this section shall not operate to affect adversely intervening vested rights.

1801 **§ 55.1-315. Effect of option; recording.**

1802 A. Any option to purchase real estate, and any memorandum, renewal, or extension of such option, shall
 1803 be void as to (i) all purchasers for valuable consideration without notice who are not parties to such instrument
 1804 and (ii) lien creditors, until such instrument is recorded in the county or city in which the property embraced
 1805 in the option, memorandum, renewal, or extension is located.

1806 B. Notwithstanding any rule of law or equity denominated "fettering," "clogging the equity of redemption"
 1807 or "claiming a collateral advantage" or any similar rule:

1808 1. A party secured by a mortgage or deed of trust, without adversely affecting his security interest, may
 1809 acquire from a borrower any direct or indirect present or future ownership interest in the collateral encumbered
 1810 thereby, including rights to any income, proceeds, or increase in value derived from such collateral; and

1811 2. An option to acquire an interest in real estate granted to a party secured by a mortgage or deed of trust,
 1812 other than an option granted to such party in connection with a mortgage loan as defined in § 6.2-1600, is
 1813 effective according to its terms and takes priority as provided in subsection A if the right to exercise the option
 1814 is not dependent upon the occurrence of a default under the mortgage or deed of trust.

1815 **Article 2.**

1816 *Form and Effect of Deeds of Trust; Sales Thereunder; Assignments; Releases.*

1817 **§ 55.1-316. Form of deed of trust to secure debts, etc.**

1818 A deed of trust to secure debts or indemnify sureties may be in the following form, or to the same effect:
 1819 "This deed, made the _____ day of _____, in the year _____, between _____

1820 (the grantor) and _____ (the trustee), witnesseth: that the said _____ (the
 1821 grantor) does (or do) grant (or grant and convey) unto the said _____ (the trustee), the
 1822 following property (here describe it): In trust to secure (here describe the debts to be secured or the sureties to
 1823 be indemnified and insert covenants or any other provisions the parties may agree upon). Witness the following
 1824 signature (or signatures)."

1825 **§ 55.1-317. Requirements for trustees.**

1826 A. No person may be named or act, in person or by agent or attorney, as the trustee of a deed of trust
 1827 conveying property to secure the payment of money or the performance of an obligation, either individually or
 1828 as one of several trustees, unless such person is a resident of the Commonwealth. No corporation, limited
 1829 liability company, partnership, or other entity may be named or act as the trustee or as one of the trustees of a
 1830 deed of trust conveying property to secure the payment of money or the performance of an obligation, unless it
 1831 is organized under the laws of the Commonwealth or of the United States. However, the foregoing requirements
 1832 shall not apply to any deed of trust conveying property lying partly in the Commonwealth and partly outside
 1833 the Commonwealth or to a deed of trust conveying property in the Commonwealth to secure bonds or
 1834 obligations that are also secured by one or more deeds of trust or mortgages conveying property outside of the
 1835 Commonwealth.

1836 B. A deed of trust conveying property to secure the payment of money or the performance of an obligation
 1837 shall state the full residence or business address of the trustee named in such deed of trust, including street
 1838 address and zip code, and such address shall be valid for purposes of all notices under the deed of trust to the
 1839 trustee. Such address of the trustee may be changed by amendment of the deed of trust or by a separate
 1840 instrument executed by the trustee, or by the beneficiary of such deed of trust, stating the changed address and
 1841 otherwise in recordable form, and recorded in the office of the clerk of the circuit court where the deed of trust
 1842 was recorded.

1843 C. Notwithstanding any other provisions of this section, if any deed of trust is recorded by a clerk, it shall
 1844 be conclusively presumed that such deed of trust complies with all the requirements of this section, and it shall
 1845 be deemed to be validly recorded.

1846 D. All deeds of trusts, mortgages, bonds, or other instruments recorded by a clerk prior to January 1, 1999,
 1847 without the residence or business address of the trustee named in such deed of trust shall be valid for all
 1848 purposes as if such address had been named if such recordation is otherwise valid according to the law then in
 1849 force, provided that this section shall not affect any right or remedy of any third party that accrued after the
 1850 recordation of such instrument or before July 1, 1960.

1851 **§ 55.1-318. Credit line deed of trust defined; relative priority of credit line deed of trust and other**
 1852 **instruments of judgment.**

1853 A. For the purpose of this section:

1854 "Beneficiary" means the noteholder, lender, or other party or parties identified in the credit line deed of
 1855 trust as secured thereby. In the case of a credit line deed of trust that identifies a party acting as agent for all
 1856 of the lenders or parties secured by a credit line deed of trust, such agent shall be the beneficiary for purposes
 1857 of this section.

1858 "Credit line deed of trust" means any deed of trust, mortgage, bond, or other instrument entered into after
 1859 July 1, 1982, in which title to real property located in the Commonwealth is conveyed, transferred, encumbered,
 1860 or pledged to secure payment of money, including advances or other extensions of credit to be made in the
 1861 future.

1862 B. A credit line deed of trust shall set forth on the front page, either in capital letters or in language
 1863 underscored, the words "THIS IS A CREDIT LINE DEED OF TRUST." Such phrase shall convey notice to all
 1864 parties that advances or other extensions of credit are to be made or are contemplated to be made from time to
 1865 time against the security described in the credit line deed of trust. Such credit line deed of trust shall specify
 1866 the maximum aggregate amount of principal to be secured at any one time.

1867 C. From the date and actual time of the recording of a credit line deed of trust, the lien shall have priority
 1868 (i) as to all other deeds, conveyances, or other instruments, or contracts in writing, that are unrecorded as of
 1869 such date and time of recording and of which the beneficiary has no knowledge or notice and (ii) as to judgment
 1870 liens subsequently docketed, except as provided in subsection D. Such priority shall extend to any advances or
 1871 other extensions of credit made following the recordation of the credit line deed of trust. Amounts outstanding,
 1872 together with interest, and other items provided by § 55.1-320, shall continue to have priority until paid or
 1873 curtailed. Mechanics' liens created under Title 43 shall continue to enjoy the same priority as created by that

1874 *title. Purchase money security interests in goods and fixtures shall have the same priority as provided in Subpart*
 1875 *3 (§ 8.9A-317 et seq.) of Part 3 of Title 8.9A.*

1876 *D. Notwithstanding the provisions of subsections A, B, and C, if a judgment creditor gives written notice to*
 1877 *the beneficiary of record at the address indicated in the credit line deed of trust, such credit line deed of trust*
 1878 *shall have no priority as to such judgment for any advances or extensions of credit made under such credit line*
 1879 *deed of trust from the day following receipt of that notice except those that have been unconditionally and*
 1880 *irrevocably committed prior to such date.*

1881 *E. In addition to the language specified in subsection B, the credit line deed of trust shall set forth the name*
 1882 *of the beneficiary and the address at which communications may be mailed or delivered to the beneficiary. Such*
 1883 *name or address may be changed or modified by duly recorded instrument executed by the beneficiary only. If*
 1884 *the note or indebtedness secured by the credit line deed of trust is assigned or transferred, the name and address*
 1885 *of the new beneficiary may be set forth in the certificate of transfer provided by § 55.1-336. Such original name*
 1886 *or address, or if changed, such changed name or address, shall be the address for delivery of notices*
 1887 *contemplated by this section. Receipt of notice at such address shall be deemed receipt by the beneficiary.*

1888 *F. The grantor may require at any time a modification under the credit line deed of trust whereby any*
 1889 *priority over subsequently recorded deeds of trust is surrendered as to future advances or other extensions of*
 1890 *credit, which advances or extensions of credit are in the discretion of the party secured by the credit line deed*
 1891 *of trust.*

1892 *G. Notwithstanding the provisions of subsections A, B, and C, if a deed of trust under this section is a*
 1893 *subordinate mortgage, as defined in subsection A of § 55.1-319, upon the recording of a refinance mortgage,*
 1894 *as defined in subsection A of § 55.1-319, the credit line deed of trust shall retain the same subordinate position*
 1895 *with respect to the refinance mortgage as it had with the prior mortgage, as defined in subsection A of § 55.1-*
 1896 *319, provided that the refinance mortgage complies with the requirements of § 55.1-319.*

1897 **§ 55.1-319. Priority of residential refinance mortgage over subordinate mortgage.**

1898 *A. As used in this section:*

1899 *"Prior mortgage" means a mortgage, deed of trust, or other instrument encumbering or conveying an*
 1900 *interest in residential real estate containing not more than one dwelling unit to secure a financing.*

1901 *"Refinance mortgage" means a mortgage, deed of trust, or other instrument encumbering or conveying an*
 1902 *interest in residential real estate containing not more than one dwelling unit to secure a refinancing.*

1903 *"Refinancing" means the replacement of a loan secured by a prior mortgage with a new loan secured by a*
 1904 *refinance mortgage and the payment in full of the debt owed under the original loan secured by the prior*
 1905 *mortgage.*

1906 *"Subordinate mortgage" means a mortgage or deed of trust securing an original principal amount not*
 1907 *exceeding \$150,000, encumbering or conveying an interest in residential real estate containing not more than*
 1908 *one dwelling unit that is subordinate in priority (i) under subdivision A 1 of § 55.1-407 or (ii) as a result of a*
 1909 *previous refinancing.*

1910 *B. Upon the refinancing of a prior mortgage, a subordinate mortgage shall retain the same subordinate*
 1911 *position with respect to a refinance mortgage as the subordinate mortgage had with the prior mortgage,*
 1912 *provided that:*

1913 *1. Such refinance mortgage states on the first page thereof in bold or capitalized letters: "THIS IS A*
 1914 *REFINANCE OF A (DEED OF TRUST, MORTGAGE OR OTHER SECURITY INTEREST) RECORDED IN*
 1915 *THE CLERK'S OFFICE, CIRCUIT COURT OF (NAME OF COUNTY OR CITY), VIRGINIA, IN DEED BOOK*
 1916 *_____, PAGE _____, IN THE ORIGINAL PRINCIPAL AMOUNT OF _____, AND WITH*
 1917 *THE OUTSTANDING PRINCIPAL BALANCE WHICH IS _____.";*

1918 *2. The principal amount secured by such refinance mortgage does not exceed the outstanding principal*
 1919 *balance secured by the prior mortgage plus \$5,000; and*

1920 *3. The interest rate is stated in the refinance mortgage at the time it is recorded and does not exceed the*
 1921 *interest rate set forth in the prior mortgage.*

1922 *C. The priorities among two or more subordinate mortgages shall be governed by subdivision A 1 of § 55.1-*
 1923 *407.*

1924 *D. The provisions of subsection B shall not apply to a subordinate mortgage securing a promissory note*
 1925 *payable to any locality or any agency, authority, or political subdivision of the Commonwealth if such*
 1926 *subordinate mortgage is financed pursuant to an affordable dwelling unit ordinance adopted pursuant to §*
 1927 *15.2-2304 or 15.2-2305, or pursuant to any program authorized by federal or state law or local ordinance or*

1928 resolution, for (i) low-income and moderate-income persons or households or (ii) improvements to residential
1929 potable water supplies and sanitary sewage disposal systems made to address an existing or potential public
1930 health hazard, and which mortgage, if recorded on or after July 1, 2003, states on the first page thereof in bold
1931 or capitalized letters: "THIS (DEED OF TRUST, MORTGAGE OR OTHER SECURITY INTEREST) SHALL
1932 NOT, WITHOUT THE CONSENT OF THE SECURED PARTY HEREUNDER, BE SUBORDINATED UPON
1933 THE REFINANCING OF ANY PRIOR MORTGAGE."

1934 **§ 55.1-320. How deed of trust construed; duties, rights, etc., of parties.**

1935 Every deed of trust to secure debts or indemnify sureties is in the nature of a contract and shall be construed
1936 according to its terms to the extent not in conflict with the requirements of law. Unless the deed of trust provides
1937 otherwise, it shall be construed to impose and confer upon the parties and beneficiaries the following duties,
1938 rights, and obligations in like manner as if the same were expressly provided for by such deed of trust:

1939 1. The deed shall be construed as given to secure the performance of each of the covenants entered into by
1940 the grantor as well as the payment of the primary obligation.

1941 2. The grantor shall be deemed to covenant that he will pay all taxes, levies, assessments, and charges upon
1942 the property, including the fees and charges of such agents or attorneys as the trustee may deem advisable to
1943 employ at any time for the purpose of the trust, so long as any obligation upon the grantor under the deed of
1944 trust remains undischarged.

1945 3. The grantor shall be deemed to covenant that he will keep the improvements on the property in tenantable
1946 condition, whether such improvements were on the property when the deed of trust was given or were placed
1947 there at a later time.

1948 4. The grantor shall be deemed to covenant that no waste shall be committed or suffered upon the property.

1949 5. The grantor shall be deemed to covenant that in the event of his failure to meet any obligations imposed
1950 upon him, then the trustee or any beneficiary may, at his option, satisfy such obligations. The money so
1951 advanced, with interest as provided in the deed of trust, shall be a part of the debt secured by the deed of trust,
1952 in the event of sale to be paid next after the expenses of executing the trust, and shall be otherwise recoverable
1953 from the grantor as a debt. In addition, to the extent not otherwise covered, the grantor shall be deemed to
1954 covenant that amount advanced or incurred by the trustee or any beneficiary under a deed of trust (i) with
1955 respect to an obligation secured by a lien or encumbrance prior to the lien of the deed of trust or (ii) for the
1956 protection of the lien secured by the deed of trust, together with interest as provided in the deed of trust, shall
1957 be a part of the debt secured by the deed of trust, to be paid next after expenses of executing the trust.

1958 6. A covenant to pay interest shall be deemed a covenant to pay interest on the principal balance as such
1959 rate may vary or be modified from time to time by the parties under the original instruments or agreements or
1960 a written agreement of modification, whether or not recorded, and all the interest on the principal secured by
1961 the deed of trust shall be on an equal priority with the principal debt secured by the deed of trust, in the event
1962 of sale to be paid next after the expenses of executing the trust.

1963 Any covenant, otherwise authorized by law, that the lender shall be entitled to share in the gross income or
1964 the net income, or the gross rent or revenues, or net rents or revenues of the property, or in any portion of the
1965 proceeds or appreciation upon sale or appraisal or similar event, shall be on an equal priority with the principal
1966 debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust,
1967 and shall be specified in the recorded deed of trust or other recorded document in order to be notice of record
1968 as against subsequent parties.

1969 7. In the event of default in the payment of the debt secured, or any part thereof, at maturity, or in the
1970 payment of interest when due, or of the breach of any of the covenants entered into or imposed upon the grantor,
1971 then at the request of any beneficiary the trustee shall forthwith declare all the debts and obligations secured
1972 by the deed of trust at once due and payable and may take possession of the property and proceed to sell the
1973 same at auction at the premises or in the front of the circuit court building or at such other place in the county
1974 or city in which the property or the greater part thereof lies, or in the corporate limits of any city surrounded
1975 by or contiguous to such county, or in the case of annexed land, in the county of which the land was formerly a
1976 part, as the trustee may select upon such terms and conditions as the trustee may deem best.

1977 8. If the sale is upon credit terms, the deferred purchase money shall bear interest from the day of sale and
1978 shall be secured by a deed of trust upon the property contemporaneous with the trustee's deed to the purchaser.

1979 9. The party secured by the deed of trust, or the holders of greater than 50 percent of the monetary
1980 obligations secured thereby, shall have the right and power to appoint one or more substitute trustees for any
1981 reason and, regardless of whether such right and power is expressly granted in such deed of trust, by executing

1982 and acknowledging an instrument designating and appointing a substitute. When the instrument of appointment
1983 has been executed, the substitute trustee named therein shall be vested with all the powers, rights, authority,
1984 and duties vested in the trustee in the original deed of trust. The instrument of appointment shall be recorded
1985 in the office of the clerk in which the original deed of trust is recorded prior to or at the time of recordation of
1986 any instrument in which a power, right, authority, or duty conferred by the original deed of trust is exercised.

1987 **§ 55.1-321. Notices required before sale by trustee to owners, lienors, etc.; if note lost.**

1988 A. In addition to the advertisement required by § 55.1-322, the trustee or the party secured shall give written
1989 notice of the time, date, and place of any proposed sale in execution of a deed of trust, and such notice shall
1990 include either (i) the instrument number or deed book and page numbers of the instrument of appointment filed
1991 pursuant to § 55.1-320, or (ii) a copy of the executed and notarized appointment of substitute trustee by personal
1992 delivery or by mail to (a) the present owner of the property to be sold at his last known address as such owner
1993 and address appear in the records of the party secured; (b) any subordinate lienholder who holds a note against
1994 the property secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address
1995 is recorded with the deed of trust; (c) any assignee of such a note secured by a deed of trust, provided that the
1996 assignment and address of assignee are likewise recorded at least 30 days prior to the proposed sale; (d) any
1997 condominium unit owners' association that has filed a lien pursuant to § 55.1-1966; (e) any property owners'
1998 association that has filed a lien pursuant to § 55.1-1833; and (f) any proprietary lessees' association that has
1999 filed a lien pursuant to § 55.1-2148. Written notice shall be given pursuant to clauses (d), (e), and (f) only if the
2000 lien is recorded at least 30 days prior to the proposed sale. If the secured party has received notification that
2001 the owner of the property to be sold is deceased, the notice required by clause (a) shall be given to (1) the last
2002 known address of such owner as such address appears in the records of the party secured; (2) any personal
2003 representative of the deceased's estate whose appointment is recorded among the records of the circuit court
2004 where the property is located, at the address of the personal representative that appears in such records; and
2005 (3) any heirs of the deceased who are listed on the list of heirs recorded among the records of the circuit court
2006 where the property is located, at the addresses of the heirs that appear in such records. Mailing of a copy of
2007 the advertisement or a notice containing the same information to the owner by certified or registered mail no
2008 less than 14 days prior to such sale and to lienholders, the property owners' association or proprietary lessees'
2009 association, their assigns, and the condominium unit owners' association, at the address noted in the
2010 memorandum of lien, by ordinary mail no less than 14 days prior to such sale shall be a sufficient compliance
2011 with the requirement of notice. The written notice of proposed sale when given as provided in this subsection
2012 shall be deemed an effective exercise of any right of acceleration contained in such deed of trust or otherwise
2013 possessed by the party secured relative to the indebtedness secured. The inadvertent failure to give notice as
2014 required by this subsection shall not impose liability on either the trustee or the secured party.

2015 B. If a note or other evidence of indebtedness secured by a deed of trust is lost or for any reason cannot be
2016 produced and the beneficiary submits to the trustee an affidavit to that effect, the trustee may nonetheless
2017 proceed to sale, provided that the beneficiary has given written notice to the person required to pay the
2018 instrument that the instrument is unavailable and a request for sale will be made of the trustee upon expiration
2019 of 14 days from the date of mailing of the notice. The notice shall be sent by certified mail, return receipt
2020 requested, to the last known address of the person required to pay the instrument as reflected in the records of
2021 the beneficiary and shall include the name and mailing address of the trustee. The notice shall further advise
2022 the person required to pay the instrument that if he believes he may be subject to a claim by a person other than
2023 the beneficiary to enforce the instrument, he may petition the circuit court of the county or city where the
2024 property or some part thereof lies for an order requiring the beneficiary to provide adequate protection against
2025 any such claim. If deemed appropriate by the court, the court may condition the sale on a finding that the person
2026 required to pay the instrument is adequately protected against loss that might occur by reason of a claim by
2027 another person to enforce the instrument. Adequate protection may be provided by any reasonable means. If
2028 the trustee proceeds to sale, the fact that the instrument is lost or cannot be produced shall not affect the
2029 authority of the trustee to sell or the validity of the sale.

2030 C. When the written notice of proposed sale is given as provided in this section, there is a rebuttable
2031 presumption that the lienholder has complied with any requirement to provide notice of default contained in a
2032 deed of trust. Failure to comply with the requirements of notice contained in this section shall not affect the
2033 validity of the sale, and a purchaser for value at such sale shall be under no duty to ascertain whether such
2034 notice was validly given.

2035 *D. In the event of postponement of sale, which may be done in the discretion of the trustee, no new or*
2036 *additional notice is required to be given pursuant to this section.*

2037 **§ 55.1-322. Advertisement required before sale by trustee.**

2038 *A. Advertisement of sale by a trustee or trustees in execution of a deed of trust shall be in a newspaper*
2039 *having a general circulation in the county or city in which the property to be sold, or any portion of such*
2040 *property, lies pursuant to the following provisions:*

2041 *1. If the deed of trust itself provides for the number of publications of such newspaper advertisement, which*
2042 *may be done by using the words "advertisement required" or similar words followed by the number agreed*
2043 *upon, then no other or different advertisement shall be necessary, provided that, if such advertisement be*
2044 *inserted on a weekly basis, it shall be published not less than once a week for two weeks, and if such*
2045 *advertisement be inserted on a daily basis, it shall be published not less than once a day for three days, which*
2046 *may be consecutive days, and in either case shall be subject to the provisions of § 55.1-330 in the same manner*
2047 *as if the method were set forth in the deed of trust. Should the deed of trust provide for advertising on other*
2048 *than a weekly or daily basis, either of the foregoing provisions shall be complied with in addition to those*
2049 *provided in such deed of trust. Notwithstanding the provisions of the deed of trust, the sale shall be held on any*
2050 *day following the day of the last advertisement that is no earlier than eight days following the first advertisement*
2051 *or more than 30 days following the last advertisement.*

2052 *2. If the deed of trust does not provide for the number of publications of such newspaper advertisement, the*
2053 *trustee shall advertise once a week for four successive weeks, provided, however, that if the property or some*
2054 *portion of such property is located in a city or in a county immediately contiguous to a city, publication of the*
2055 *advertisement five different days, which may be consecutive days, shall be deemed adequate. The sale shall be*
2056 *held on any day following the day of the last advertisement that is no earlier than eight days following the first*
2057 *advertisement or more than 30 days following the last advertisement.*

2058 *B. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where*
2059 *the type of property being sold is generally advertised for sale.*

2060 *C. In addition to the advertisement required by subsection A, the trustee shall give such other further and*
2061 *different advertisement as the deed of trust may require and in addition may give such additional advertisement*
2062 *as he may deem appropriate.*

2063 *D. In the event of postponement of sale, which postponement shall be at the discretion of the trustee,*
2064 *advertisement of such postponed sale shall be in the same manner as the original advertisement of sale.*

2065 *E. Failure to comply with the requirements for advertisement contained in this section shall, upon petition,*
2066 *render a sale of the property voidable by the court.*

2067 **§ 55.1-323. Contents of advertisements of sale.**

2068 *A. The advertisement of sale under any deed of trust, in addition to such other matters as may be required*
2069 *by such deed of trust or by the trustee, in his discretion, shall set forth a description of the property to be sold.*
2070 *Such description need not be as extensive as that contained in the deed of trust, but it shall identify the property*
2071 *by street address, if any, or, if none, shall give the general location of the property with reference to streets,*
2072 *routes, or known landmarks. Where available, tax map identification may be used but is not required. The*
2073 *advertisement shall also include the time, place, and terms of sale and shall give the name or names of the*
2074 *trustee or trustees. It shall set forth the name, address, and telephone number of a person, either a trustee or*
2075 *the party secured or his agent or attorney who may be able to respond to inquiries concerning the sale.*

2076 *B. 1. If the property being sold is a time-share estate, the advertisement of sale required under subsection*
2077 *A of § 55.1-322 shall set forth, in addition to such other matters as the trustee finds appropriate, (i) a description*
2078 *of the specific time-share estate or estates to be sold, and such description shall also include (a) the name of*
2079 *the time-share project and (b) the street address of the time-share project or, if no street address, the general*
2080 *location of the time-share project with reference to streets, routes, or known landmarks; (ii) the date, time,*
2081 *place, and terms of sale; (iii) the name of the trustee; and (iv) the name, address, and telephone number of the*
2082 *representative, agent, or attorney who is authorized to respond to inquiries concerning the sale and shall give*
2083 *additional information concerning the time-share estate or estates to be sold.*

2084 *2. In lieu of the requirements of subdivision 1, the advertisement shall set forth (i) the name of the time-*
2085 *share project in which the time-share estate or estates to be sold are contained; (ii) the street address of the*
2086 *time-share project in which the time-share estate or estates to be sold are contained or, if no street address, the*
2087 *general location of the time-share project with reference to streets, routes, or known landmarks; (iii) the date,*
2088 *time, place, and terms of sale; (iv) the name of the trustee; and (v) the name, address, and telephone number of*

2089 *the representative, agent, or attorney who is authorized to respond to inquiries concerning the sale and shall*
2090 *give additional information concerning the time-share estate or estates to be sold, including providing, upon*
2091 *request, in either hard copy or electronic form, a schedule of the time-share estate or estates to be sold. In*
2092 *addition, the advertisement shall contain a website address where a description of the specific time-share estate*
2093 *or estates to be sold is displayed.*

2094 **§ 55.1-324. Powers and duties of trustee in event of sale under or satisfaction of deed of trust.**

2095 *A. In the event of sale under a deed of trust, the trustee shall have the following powers and duties in*
2096 *addition to all others:*

2097 *1. Written one-price bids may be made and shall be received by the trustee from the beneficiary or any*
2098 *other person for entry by announcement of the trustee at the sale. Any person other than the trustee may bid at*
2099 *the foreclosure sale, including a person who has submitted a written one-price bid. Upon request to the trustee,*
2100 *any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Whenever the*
2101 *written bid of the beneficiary is the highest bid submitted at the sale, such document shall be filed by the trustee*
2102 *with his account of sale required under § 64.2-1309. The written bid submitted pursuant to this subsection may*
2103 *be prepared by the beneficiary, its agent, or its attorney.*

2104 *2. The trustee may require of any bidder at any sale a cash deposit of as much as 10 percent of the sale*
2105 *price, unless the deed of trust specifies a higher or lower maximum, which may be done by the words "bidder's*
2106 *deposit of not more than _____ dollars may be required" or similar words, before his bid is received,*
2107 *which shall be refunded to the bidder unless the property is sold to him, otherwise to be applied to his credit in*
2108 *settlement or, should he fail to complete his purchase promptly, to be applied to pay the costs and expense of*
2109 *sale and the balance, if any, to be retained by the trustee as his compensation in connection with that sale.*

2110 *3. The trustee shall receive and receipt for the proceeds of sale, account for the same to the commissioner*
2111 *of accounts pursuant to § 64.2-1309 and apply the same, first, to discharge the expenses of executing the trust,*
2112 *including a reasonable commission to the trustee; secondly, to discharge all taxes, levies, and assessments,*
2113 *with costs and interest if they have priority over the lien of the deed of trust, including the due pro rata thereof*
2114 *for the current year; thirdly, to discharge in the order of their priority, if any, the remaining debts and*
2115 *obligations secured by the deed, and any liens of record inferior to the deed of trust under which sale is made,*
2116 *with lawful interest; and, fourthly, the residue of the proceeds shall be paid to the grantor or his assigns,*
2117 *provided, however, that the trustee as to such residue shall not be bound by any inheritance, devise, conveyance,*
2118 *assignment, or lien of or upon the grantor's equity, without actual notice thereof prior to distribution, and*
2119 *provided further that such order of priorities shall not be changed or varied by the deed of trust. The trustee's*
2120 *deed shall show the trustee's mailing address.*

2121 *B. Upon discharge, other than by sale by the trustee, of all debts, duties, and obligations imposed by the*
2122 *deed upon the grantor, including any expenses incurred preparatory to sale, then upon the grantor's request*
2123 *the trustee shall execute and deliver a good and sufficient deed of release at the grantor's own proper costs and*
2124 *charges.*

2125 **§ 55.1-325. Meaning of phrases that may be included in deed of trust.**

2126 *The following provisions may be incorporated in any deed of trust to secure debts or indemnify sureties in*
2127 *the respective short forms indicated, namely:*

2128 *1. The words "identified by trustee's signature" or similar words shall be construed as if the deed set forth:*
2129 *"All of which said notes (or other obligations) bear the marginal signature of the trustee for the purpose of*
2130 *identification but for no other purpose whatever."*

2131 *2. The words "deferred purchase money," "purchase money," or similar words shall be construed as if the*
2132 *deed set forth: "This deed of trust is a contemporaneous purchase money deed of trust and secures the payment*
2133 *of deferred purchase money due by the grantor upon the property hereby conveyed." Any deed of trust securing*
2134 *a loan, proceeds of which are used by the borrower to acquire the secured real property, shall be deemed to be*
2135 *a purchase money deed of trust.*

2136 *3. The words "exemptions waived" or similar words shall be construed as if the deed set forth: "The grantor*
2137 *hereby waives the benefit of his exemptions as to the debt hereby secured and as to all other obligations that*
2138 *may be imposed upon him by the provisions of this deed of trust."*

2139 *4. The words "subject to call upon default" or similar words shall be construed as if the deed set forth:*
2140 *"Should default be made in the payment of any part of the debt hereby secured, principal or interest, at the*
2141 *maturity of such part, or in the event of the breach of any of the covenants entered into or imposed upon the*

2142 grantor, then the entire obligation of this deed of trust and the whole debt hereby secured shall, at the option
2143 of the beneficiaries, become forthwith due and payable."

2144 5. The words "renewal or extension permitted" or similar words shall be construed as if the deed set forth:
2145 "The grantor hereby consents and agrees that the debt hereby secured, or any part thereof, may be renewed or
2146 extended beyond maturity as often as may be desired by agreement between the creditor and any subsequent
2147 owner of the property, and no such renewal or extension shall in any way affect the grantor's responsibility,
2148 whether as surety or otherwise."

2149 6. The words "reinstatement permitted" or similar words shall be construed as if the deed set forth: "The
2150 grantor and any other party assuming liability hereunder hereby consent and agree that if the property
2151 conveyed hereby or a substantial portion thereof is transferred to any subsequent owner, and the creditor
2152 exercises the right to accelerate the debts secured hereby, the creditor may accept any delinquent payments or
2153 other cure of default giving rise to such acceleration from the then owner of the property or any other person
2154 and reinstate the indebtedness in accordance with the schedule of maturity as of the time of acceleration or
2155 upon such new schedule as may be agreed if renewal or extension are otherwise permitted and no such
2156 reinstatement shall in any way affect the liability of such prior parties, whether as surety or otherwise."

2157 The words "renewal, extension, or reinstatement permitted" or similar words shall have the meaning
2158 ascribed to the individual words or phrases in this subdivision and in subdivision 5.

2159 7. The words "right of anticipation reserved" or similar words shall be construed as if the deed set forth:
2160 "The grantor reserves the right to anticipate the payment of the debt hereby secured, or any part thereof which
2161 is represented by a separate note (or other obligation) at any interest period by the payment of principal and
2162 interest to the date of such anticipated payment only."

2163 8. The words "priority in direct order of maturity" or similar words shall be construed as if the deed set
2164 forth: "The notes (or other obligations) hereby secured have priority amongst themselves in the direct order of
2165 their maturities, each having priority over all others falling due after its maturity." And the words "priority in
2166 inverse order of maturity" or similar words shall be construed as if the deed set forth: "The notes (or other
2167 obligations) hereby secured have priority amongst themselves in the inverse order of their maturities, each
2168 having priority over all others falling due before its maturity."

2169 9. The words "insurance required _____ dollars" or similar words shall be construed as if the deed
2170 set forth: "The grantor covenants that he will keep the improvements on the property insured against fire in
2171 some solvent insurance company approved by the trustee for the benefit of the beneficiaries hereunder in the
2172 sum of at least _____ dollars, and will deposit with the trustee or beneficiary the policies, with standard
2173 loss payable clauses with full contribution in favor of the trustee as his interest may appear; and the grantor
2174 further covenants that in the event of his failure to keep the property so insured and the policies so deposited,
2175 then the trustee or any beneficiary may, at his option, effect such insurance and pay the premium thereon, and
2176 the money so paid, with interest thereon, shall become a part of the debt hereby secured, in the event of sale to
2177 be paid next after the expenses of executing this trust, and shall be otherwise recoverable from the grantor as
2178 a debt, but there shall be no obligation upon the trustee or beneficiary to effect such insurance."

2179 10. The words "substitution of trustee permitted" or similar words shall be construed as if the deed set
2180 forth: "Grantor grants unto the beneficiary or beneficiaries or to a majority in amount of the holders of the
2181 obligations secured hereunder and to their assigns the right and power, under the provisions of § 55.1-320, to
2182 appoint a substitute trustee or trustees."

2183 11. The words "any trustee may act" or similar words shall be construed as if the deed set forth: "The
2184 grantors, and all interested in the obligations hereby secured, by accepting the benefits hereof, agree that all
2185 authority, power, and discretion hereinabove granted to the trustees may be exercised by any of them, without
2186 any other, with the same effect as if exercised jointly by all of them."

2187 12. The words "this is a credit line deed of trust" or similar words, if in capital letters or underscored and
2188 on the first page of the deed of trust and containing the name and address of the noteholder, shall have the
2189 meaning set forth in § 55.1-318.

2190 **§ 55.1-326. Evidences of indebtedness placed on equal footing.**

2191 When bonds, notes, or other evidences of indebtedness are secured by a deed of trust, mortgage, vendor's
2192 lien, or other lien, such bonds, notes, or other evidences of indebtedness shall, in the event the lien is executed
2193 or foreclosed, be secured on an equal footing and shall be paid ratably out of the proceeds of any sale of
2194 property subjected to the lien and shall have no priority, the one over the other, whether by priority of
2195 assignment or otherwise, unless the instrument creating the lien expressly provides otherwise.

2196 § 55.1-327. Sales under deeds of trust that contain no maturity date or provision authorizing sale.

2197 When any property, real or personal, is conveyed by deed of trust to a trustee to secure the payment of a
2198 debt, money, notes, bonds, stocks, or other evidences of debt and there is no date fixed for the maturity thereof
2199 and such deed of trust contains no provision authorizing the trustee to make sale of such property, or any part
2200 thereof, and the reinvestment of the proceeds of sale in other property subject to the terms of such deed of trust,
2201 the circuit court, or such court having jurisdiction of the subject matter, upon a complaint filed by any one or
2202 more of the lien debtors, in which complaint all persons interested in such lien and all holders of the evidences
2203 of debt secured by the deed of trust thereon, and all other necessary or proper parties, except the plaintiffs,
2204 shall be made defendants, may order a sale of such property, or any part thereof, and may invest the proceeds
2205 of sale under order of court subject to the terms of the deed of trust, provided that (i) the complaint sets forth
2206 facts that will justify the sale of the property, to be verified by the affidavit of at least one of the plaintiffs, (ii)
2207 no order shall be made authorizing such sale unless it is shown to the satisfaction of the court that the interests
2208 of the lien debtor or debtors will be promoted and the interests of no person holding the evidences of debt
2209 secured by the deed of trust will be violated thereby, and (iii) the plaintiff or the party for whose benefit the
2210 action is brought shall bear the cost.

2211 § 55.1-328. Validation of conveyances of real property under trust instrument not authorizing sale.

2212 When any real property is conveyed by deed of trust or other trust instrument to a trustee and there is no
2213 provision authorizing the trustee to convey the property that is the subject of the deed of trust, or any part of
2214 such property, and the trustee conveys such property or any part of such property, such conveyance shall be
2215 valid after a period of 30 years from the date of such conveyance, provided that (i) there have been no adverse
2216 claims against the property so conveyed in the interim, and (ii) such conveyances to and from such trustee were
2217 properly recorded and indexed at the time of the conveyance, in the appropriate clerk's office in which deeds
2218 are recorded in the county or city in which the property lies.

2219 § 55.1-329. Permissible form for notice of sale under deed of trust.

2220 Notice of sale under any deed of trust regardless of whether it conforms with § 55.1-320, in the absence of
2221 provision in such deed of trust requiring other or additional matter, may be substantially in the following form:

2222 Trustee's Sale of
2223 _____ (brief description or identification of
2224 property)

2225 In execution of a deed of trust (name or names of grantor or grantors unless grantor or grantors request
2226 in writing that the same be omitted), dated _____, recorded in the Clerk's Office of the
2227 _____ court of _____ in Deed Book _____, page _____,
2228 _____, the undersigned trustee will offer for sale at public auction (a brief description of the
2229 property to include street number or, if none, the general location of property and place of sale) on the
2230 _____ day of _____, 20____ at _____ (ante meridian) (noon) (post meridian), the
2231 property described in such deed.

2232 Terms: (Cash) (_____)

2233 _____

2234 Trustee(s)

2235 FOR INFORMATION CONTACT:

2236 _____

2237 (A trustee or the secured party or his agent)

2238 _____

2239 Address

2240 _____

2241 Telephone number

2242 § 55.1-330. Construction of deeds requiring notice by advertisement in newspaper.

2243 A. Whenever any deed of trust to secure debts or indemnify sureties contains a provision requiring the
2244 giving of notice of sale thereunder for a specified number of days by advertisement in one or more newspapers
2245 and such advertisement is published in a newspaper published daily or in a newspaper published daily except
2246 Sunday, it shall be deemed a sufficient compliance with such provision if such notice is published in consecutive
2247 issues of such newspaper for the number of days specified, counting both the day of the first publication and
2248 the day of the last publication and intervening Sundays, whether or not such newspaper is published on Sunday.

2249 *Both the first publication and the last publication may be on Sunday. The publication shall in all other respects*
2250 *comply with the provisions of §§ 55.1-322 and 55.1-323.*

2251 *B. Whenever such deed of trust requires advertisement once a week for a specified number of weeks, sale*
2252 *may be had on the day after the last advertisement appears or any day thereafter, and all sales made in*
2253 *conformity with this section prior to January 1, 1972, and otherwise valid are hereby validated.*

2254 **§ 55.1-331. Disposition of surplus from trustee's sale after death of grantor.**

2255 *Whenever the grantor, or his successor in title, in any deed of trust by which any real property is conveyed*
2256 *in trust to secure debts or indemnify sureties dies prior to a trustee's sale held pursuant to the deed of trust and*
2257 *the deed of trust contains no definite provision for the distribution of any surplus in the event of the death of*
2258 *the grantor or his successors in title prior to the trustee's sale held pursuant to the deed of trust, or contains a*
2259 *provision that such surplus shall be paid to the grantor or his heirs or assigns or personal representative, then*
2260 *any surplus of the proceeds of the sale remaining in the possession of the trustee, after discharging the expenses*
2261 *of executing the trust, all tax liens upon the property sold, all debts and obligations secured by the deed of trust,*
2262 *and, in order of their priority, if any, the remaining subsequent debts and obligations secured by the deed, and*
2263 *any liens of record inferior to the deed of trust under which the sale is made, with lawful interest, shall be paid*
2264 *by the trustee to the personal representative of the decedent.*

2265 *Any such funds possessed by the personal representative shall constitute assets for the payment by him of*
2266 *any debts and demands against the decedent's estate remaining unsatisfied after the personal estate has been*
2267 *exhausted. Any surplus of the funds so paid to the personal representative and remaining in his possession after*
2268 *the satisfaction of all debts and demands against the estate shall be paid over by him, if the decedent died*
2269 *intestate as to the real property embraced in the deed of trust, to the heirs at law of the decedent, or their*
2270 *successors in title, and if the decedent died testate as to the real property embraced in the deed of trust, then*
2271 *such surplus shall be paid to the persons entitled to the real property under the terms of the decedent's will, or*
2272 *to their successors in title.*

2273 **§ 55.1-332. Title to real estate sold not affected by nonlisting of secured notes for taxation.**

2274 *The title to real estate sold under a deed of trust shall not be drawn in question upon the ground that the*
2275 *holder of the notes secured by such deed of trust did not list the same for taxation.*

2276 **§ 55.1-333. Validation of certain sales made under deeds of trust.**

2277 *All sales that have been made prior to January 1, 1972, under deeds of trust to secure debts and indemnify*
2278 *sureties containing a provision requiring the giving of notice of sale thereunder for a specified number of days*
2279 *by advertisement in one or more newspapers and that were made after publishing the advertisement of sale in*
2280 *a newspaper published daily or in a newspaper published daily except Sunday for the number of days specified*
2281 *in the deed of trust, counting both the day of the first publication and the day of the last publication and*
2282 *intervening Sundays, whether or not such paper was published on Sunday and whether or not such sales were*
2283 *held on the day of the last publication, provided that, in cases when the sale was held on the day of the last*
2284 *publication, the publication was in a newspaper the principal daily edition of which was delivered or publicly*
2285 *sold before the time fixed for the sale, and whether or not the first publication or the last publication, or both,*
2286 *appeared on Sunday, shall be held, and the same are hereby declared, to be valid and effective in all respects,*
2287 *if otherwise valid and effective according to the law then in force, provided, however, that nothing contained*
2288 *in this section shall be construed as affecting any final order entered prior to March 24, 1934, by any court of*
2289 *competent jurisdiction or as affecting any action now pending in any court of competent jurisdiction, and*
2290 *provided further, that nothing in this section shall be so construed as to affect intervening vested rights.*

2291 **§ 55.1-334. Validation of certain sales made under deeds of trust prior to October 1, 1977.**

2292 *All sales that were made prior to October 1, 1977, under deeds of trust to secure debts and indemnify*
2293 *sureties when the notice, advertisement, and conduct of the sale were in accordance with the law of the*
2294 *Commonwealth as it existed on June 30, 1977, are declared to be valid and effective in all respects, provided*
2295 *that nothing in this section shall be construed as affecting any final order entered prior to March 23, 1978, by*
2296 *any court of competent jurisdiction, or any action now pending in a court of competent jurisdiction, or as*
2297 *affecting intervening vested rights, and provided further that no action to vacate or set aside any such sale may*
2298 *be brought after March 23, 1978.*

2299 **§ 55.1-335. Validation of other sales under deeds of trust.**

2300 *All sales that were made prior to January 1, 1972, under deeds of trust to secure debts and indemnify*
2301 *sureties when the notice was not published once a week for four successive weeks or a specified number of*
2302 *successive weeks are declared to be valid and effective in all respects, if other reasonable advertisement of such*

2303 sale was given and such sale was otherwise valid and effective, provided that nothing herein contained shall
 2304 be construed as affecting any final order entered prior to March 1, 1944, by any court of competent jurisdiction,
 2305 or any action now pending in a court of competent jurisdiction, or as affecting intervening vested rights, and
 2306 provided further that no action may be brought after January 1, 1972, to vacate or set aside any such sale.

2307 **§ 55.1-336. Protection of assignees or transferees of debts secured by real estate; form of certificate of**
 2308 **transfer.**

2309 Whenever a debt or other obligation secured by a deed of trust, mortgage, or vendor's lien on real estate
 2310 has been assigned, the assignor or the assignee, at its option, may cause the instrument of assignment to be
 2311 recorded in the clerk's office of the circuit court where such deed of trust, mortgage, or vendor's lien is recorded,
 2312 provided that such instrument is otherwise in recordable form, or may cause a certificate of transfer signed by
 2313 the assignor to be recorded in such clerk's office, and such instrument of assignment or certificate of transfer,
 2314 upon recordation, shall operate as a notice of such assignment. The instrument of assignment or certificate of
 2315 transfer shall be indexed in the name of the assignor and in the names of the obligor or maker, and the trustees,
 2316 as applicable, all of whose names shall be set forth in such instrument or certificate. The certificate of transfer
 2317 shall conform substantially to the following:

2318 **CERTIFICATE OF TRANSFER**

2319 Place of Record:

2320 Clerk's Office of the Circuit Court of the _____ of _____, Virginia

2321 Date of [Deed of Trust/Mortgage/Vendor's Lien]: _____,

2322 Deed Book _____, Page _____

2323 Name of Obligor or Maker:

2324 _____

2325 Names(s) of Trustee(s) [if a Deed of Trust]:

2326 _____

2327 _____

2328 Name of Original Payee or Obligee:

2329 _____

2330 Original Amount Secured [if applicable]: \$ _____

2331 The undersigned, the original payee or obligee [or the subsequent assignee] of the obligation secured by
 2332 the above-mentioned [Deed of Trust/Mortgage/Vendor's Lien], hereby certifies that the obligations secured
 2333 thereby have been assigned to _____

2334 _____
 2335 [If a credit line deed of trust, the name and address to which notice may be mailed or delivered to the
 2336 Noteholder as provided by § 55.1-318 is as follows:

2337 _____

2338 _____]

2339 Given under (my/our) hand(s) as of the _____ day of _____.

2340 _____

2341 (Assignor)

2342 _____ of _____

2343 County/City of _____, to wit:

2344 Subscribed, sworn to, and acknowledged before me by _____ this _____ day of

2345 _____, 20____.

2346 My Commission Expires: _____

2347 _____

2348 Notary Public

2349 Notary Registration Number: _____

2350 For purposes of this section, the word "assigned" includes endorsed, pledged, hypothecated, or otherwise
 2351 transferred. Nothing in this section shall be deemed to invalidate any other form or notice of assignment that
 2352 may have been recorded prior to July 1, 1994. Nothing in this section shall imply that recordation of the
 2353 instrument of assignment or a certificate of transfer is necessary in order to transfer to an assignee the benefit
 2354 of the security provided by the deed of trust, mortgage, or vendor's lien.

2355 **§ 55.1-337. Required notice of foreclosure or repossession of manufactured home.**

DRAFT AGENDA FOR THE PUBLIC HEARING ON THE PROPOSED AMENDMENTS TO THE REAL ESTATE TOPICS ACT. THIS DOCUMENT IS NOT TO BE CONSTRUED AS REGULATION OR OFFICIAL BOARD POSITION.

2356 Whenever any assignee of an installment note secured by a security interest on a manufactured home
2357 determines that legal action is desirable to enforce the debt resulting in a potential foreclosure or repossession,
2358 he shall give prior notice by mail of any action to foreclose or repossess the collateral to any assignor who is
2359 liable under a recourse endorsement or by virtue of a reserve account at least 10 business days prior to the
2360 enforcement of the security interest or eviction. Assignment by way of pledge of the security interest granted by
2361 the assignor shall not be an assignment within the meaning of this section. The failure to so notify the assignor
2362 shall not affect any rights of the assignee as against the principal debtor or any party other than the assignor
2363 with recourse or a person with rights in a reserve account. Provisions of this section may not be waived by such
2364 assignor at the time of the original sale of the installment paper but only after the expiration of at least 30 days
2365 from such initial transfer. The assignee shall send such notice to the last known address of the assignor as it
2366 appears in the records of the assignee.

2367 **§ 55.1-338. Release to person dead inures to successors.**

2368 A release of a deed of trust or a conveyance of the property embraced in such deed of trust may in all cases
2369 be made to the original grantor, whether living or dead, and any release or reconveyance so made shall inure
2370 both in law and in equity to the successors in title of such grantor.

2371 **§ 55.1-339. Release of deed of trust or other lien.**

2372 A. As used in this section:

2373 "Deed of trust" means any mortgage, deed of trust, or vendor's lien.

2374 "Lien creditor" and "creditor" shall be construed as synonymous and mean the holder, payee, or obligee
2375 of a note, bond, or other evidence of debt and shall embrace the lien creditor or his successor in interest as
2376 evidenced by proper endorsement or assignment, general or restrictive, upon the note, bond, or other evidence
2377 of debt.

2378 "Payoff letter" means a written communication from the lien creditor or servicer stating, at a minimum, the
2379 amount outstanding and required to be paid to satisfy the obligation.

2380 "RESA" means Chapter 10 (§ 55.1-1000 et seq.), Real Estate Settlement Agents.

2381 "Satisfactory evidence of the payment of the obligation secured by the deed of trust" means (i) any one of
2382 (a) the original canceled check or a copy of the canceled check, showing all endorsements, payable to the lien
2383 creditor or servicer, as applicable, (b) confirmation in written or electronic form of a wire transfer to the bank
2384 account of the lien creditor or servicer, as applicable, or (c) a bank statement in written or electronic form
2385 reflecting completion of the wire transfer or negotiation of the check, as applicable, and (ii) a payoff letter or
2386 other reasonable documentary evidence that the payment was to effect satisfaction of the obligation secured or
2387 evidenced by the deed of trust.

2388 "Satisfied by payment" includes obtaining written confirmation from the lien creditor that the underlying
2389 obligation has a zero balance.

2390 "Servicer" means a person or entity that collects loan payments on behalf of a lien creditor.

2391 "Settlement agent" has the same meaning ascribed to it in § 55.1-1000, provided that a person shall not be
2392 a settlement agent unless he is registered pursuant to § 55.1-1014 and otherwise fully in compliance with the
2393 applicable provisions of RESA.

2394 "Title insurance company" has the same meaning ascribed to it in § 38.2-4601, provided that the title
2395 insurance company seeking to release a lien by the process described in subsection E issued a policy of title
2396 insurance, through a title insurance agency or agent as defined in § 38.2-4601.1, for a real estate transaction
2397 wherein the loan secured by the lien was satisfied by payment made by the title insurance agency or agent also
2398 acting as the settlement agent.

2399 B. 1. Except as provided in Article 3 (§ 55.1-346 et seq.), after full or partial payment or satisfaction has
2400 been made of a debt secured by a deed of trust, vendor's lien, or other lien, or any one or more obligations
2401 representing at least 25 percent of the total amount secured by such lien, but less than the total number of the
2402 obligations so secured, or the debt secured is evidenced by two or more separate written obligations sufficiently
2403 described in the instrument creating the lien, has been fully paid, the lien creditor shall issue a certificate of
2404 satisfaction or certificate of partial satisfaction in a form sufficient for recordation reflecting such payment and
2405 release of lien. This requirement shall apply to a credit line deed of trust prepared pursuant to § 55.1-318 only
2406 when the obligor or the settlement agent has paid the debt in full and requested that the instrument be released.

2407 If the lien creditor receives notice from a settlement agent at the address identified in its payoff statement
2408 requesting that the certificate be sent to such settlement agent, the lien creditor shall provide the certificate

2409 within 90 days after receipt of such notice to the settlement agent at the address specified in the notice received
2410 from the settlement agent.

2411 If the notice is not received from a settlement agent, the lien creditor shall deliver, within 90 days after such
2412 payment, the certificate to the appropriate clerk's office with the necessary fee for recording by certified mail,
2413 return receipt requested, or when there is written proof of receipt from the clerk's office, by hand delivery,
2414 electronic delivery via the clerk's electronic filing system, or delivery by a commercial overnight delivery
2415 service or the United States Postal Service, and a receipt obtained.

2416 If the lien creditor has already delivered the certificate to the clerk's office by the time it receives notice
2417 from the settlement agent, the lien creditor shall deliver a copy of the certificate to the settlement agent within
2418 90 days of the receipt of the notice at the address for notification set forth in the payoff statement.

2419 If the lien creditor has not, within 90 days after payment, either provided the certificate of satisfaction to
2420 the settlement agent or delivered it to the clerk's office with the necessary fee for filing, the lien creditor shall
2421 forfeit \$500 to the lien obligor. No settlement agent or attorney may take an assignment of the right to the \$500
2422 penalty or facilitate such an assignment to any third party designated by the settlement agent or attorney.
2423 Following the 90-day period, if the amount forfeited is not paid within 10 business days after written demand
2424 for payment is sent to the lien creditor by certified mail at the address for notification set forth in the payoff
2425 statement, the lien creditor shall pay any court costs and reasonable attorney fees incurred by the obligor in
2426 collecting the forfeiture.

2427 2. If the note, bond, or other evidence of debt secured by such deed of trust, vendor's lien, or other lien
2428 referred to in subdivision 1 or any interest therein has been assigned or transferred to a party other than the
2429 original lien creditor, the subsequent holder shall be subject to the same requirements as a lien creditor for
2430 failure to comply with this subsection, as set forth in subdivision 1.

2431 C. The certificate of satisfaction shall be signed by the creditor or his duly authorized agent, attorney, or
2432 attorney-in-fact or any person to whom the instrument evidencing the indebtedness has been endorsed or
2433 assigned for the purpose of effecting such release. An affidavit shall be filed or recorded with the certificate of
2434 satisfaction by the creditor, or his duly authorized agent, attorney, or attorney-in-fact, with such clerk, stating
2435 that the debt therein secured and intended to be released or discharged has been paid to such creditor or his
2436 agent, attorney, or attorney-in-fact, who was entitled and authorized to receive such debt when the debt was
2437 satisfied.

2438 D. When the certificate of satisfaction has been signed and the affidavit required by subsection C has been
2439 duly filed or recorded with the certificate of satisfaction with such clerk, the certificate of satisfaction shall
2440 operate as a release of the encumbrance as to which such payment or satisfaction is entered and, if the
2441 encumbrance is by deed of trust, as a reconveyance of the legal title as fully and effectually as if such certificate
2442 of satisfaction were a formal deed of release duly executed and recorded.

2443 E. Release of lien by settlement agent or title insurance company.

2444 A settlement agent or title insurance company may release a deed of trust in accordance with the provisions
2445 of this subsection (i) if the obligation secured by the deed of trust has been satisfied by payment made by the
2446 settlement agent and (ii) whether or not the settlement agent or title insurance company is named as a trustee
2447 under the deed of trust or otherwise has received the authority to release the lien.

2448 1. Notice to lienholder.

2449 a. After or accompanying payment in full of the obligation secured by a deed of trust, a settlement agent or
2450 title insurance company intending to release a deed of trust pursuant to this subsection shall deliver to the lien
2451 creditor by certified mail or commercial overnight delivery service or the United States Postal Service, and a
2452 receipt obtained, a notice of intent to release the deed of trust with a copy of the payoff letter and a copy of the
2453 release to be recorded as provided in this subsection.

2454 b. The notice of intent to release shall contain (i) the name of the lien creditor, the name of the servicer if
2455 loan payments on the deed of trust are collected by a servicer, or both names; (ii) the name of the settlement
2456 agent; (iii) the name of the title insurance company if the title insurance company intends to release the lien;
2457 and (iv) the date of the notice. The notice of intent to release shall conform substantially to the following form:

2458 NOTICE OF INTENT TO RELEASE

2459 Notice is hereby given to you concerning the deed of trust described on the certificate of satisfaction, a
2460 copy of which is attached to this notice, as follows:

2461 1. The settlement agent identified below has paid the obligation secured by the deed of trust described
2462 herein or obtained written confirmation from you that such obligation has a zero balance.

2463 2. The undersigned will release the deed of trust described in this notice unless, within 90 days from the
2464 date this notice is mailed by certified mail or commercial overnight delivery service or the United States Postal
2465 Service, and a receipt obtained, the undersigned has received by certified mail or commercial overnight
2466 delivery service or the United States Postal Service, and a receipt obtained, a notice stating that a release of
2467 the deed of trust has been recorded in the clerk's office or that the obligation secured by the deed of trust
2468 described herein has not been paid, or the lien creditor or servicer otherwise objects to the release of the deed
2469 of trust. Notice shall be sent to the address stated on this form.

2470 (Name of settlement agent)

2471 (Signature of settlement agent or title insurance company)

2472 (Address of settlement agent or title insurance company)

2473 (Telephone number of settlement agent or title insurance company)

2474 (Virginia RESA registration number of settlement agent at the time the obligation was paid or confirmed
2475 to have a zero balance)

2476 2. Certificate of satisfaction and affidavit of settlement agent or title insurance company.

2477 a. If, within 90 days following the day on which the settlement agent or title insurance company mailed or
2478 delivered the notice of intent to release in accordance with this subsection, the lien creditor or servicer does
2479 not send by certified mail or commercial overnight delivery service or the United States Postal Service, and a
2480 receipt obtained, to the settlement agent or title insurance company a notice stating that a release of the deed
2481 of trust has been recorded in the clerk's office or that the obligation secured by the deed of trust has not been
2482 paid in full or that the lien creditor or servicer otherwise objects to the release of the deed of trust, the settlement
2483 agent or title insurance company may execute, acknowledge, and file with the clerk of court of the jurisdiction
2484 in which the deed of trust is recorded a certificate of satisfaction, which shall include (i) the affidavit described
2485 in subdivision 2 b and (ii) a copy of the notice of intent to release that was sent to the lender, the servicer, or
2486 both. The certificate of satisfaction shall include the settlement agent's RESA registration number, issued by
2487 the Virginia State Bar or the Virginia State Corporation Commission, that was in effect at the time the settlement
2488 agent paid the obligation secured by the deed of trust or obtained written confirmation from the lien creditor
2489 that such obligation has a zero balance. The certificate of satisfaction shall note that the individual executing
2490 the certificate of satisfaction is doing so pursuant to the authority granted by this subsection. After filing or
2491 recording the certificate of satisfaction, the settlement agent or title insurance company shall mail a copy of
2492 the certificate of satisfaction to the lien creditor or servicer. The validity of a certificate of satisfaction otherwise
2493 satisfying the requirements of this subsection shall not be affected by the inaccuracy of the RESA registration
2494 number placed thereon or the failure to mail a copy of the recorded certificate of satisfaction to the lien creditor
2495 or servicer and shall nevertheless release the deed of trust described therein as provided in this subsection.

2496 b. The certificate of satisfaction used by the settlement agent or title insurance company shall include an
2497 affidavit certifying (i) that the settlement agent has satisfied the obligation secured by the deed of trust described
2498 in the certificate, (ii) that the settlement agent or title insurance company possesses satisfactory evidence of
2499 payment of the obligation secured by the deed of trust described in the certificate or written confirmation from
2500 the lien creditor that such obligation has a zero balance, (iii) that the lien of the deed of trust may be released,
2501 (iv) that the person executing the certificate is the settlement agent or the title insurance company or is duly
2502 authorized to act on behalf of the settlement agent or title insurance company, and (v) that the notice of intent
2503 to release was delivered to the lien creditor or servicer and the settlement agent or title insurance company
2504 received evidence of receipt of such notice by the lien creditor or servicer. The affidavit shall be substantially
2505 in the following form:

2506 **AFFIDAVIT OF SETTLEMENT AGENT OR TITLE INSURANCE COMPANY**

2507 The undersigned hereby certifies that, in accordance with the provisions of § 55.1-339 of the Code of
2508 Virginia of 1950, as amended and in force on the date hereof (the Code), (a) the undersigned is a settlement
2509 agent or title insurance company as defined in subsection A of § 55.1-339 of the Code or a duly authorized
2510 officer, director, member, partner, or employee of such settlement agent or title insurance company; (b) the
2511 settlement agent has satisfied the obligation secured by the deed of trust; (c) the settlement agent or title
2512 insurance company possesses satisfactory evidence of the payment of the obligation secured by the deed of trust
2513 described in the certificate recorded herewith or written confirmation from the lien creditor that such obligation
2514 has a zero balance; (d) the settlement agent or title insurance company has delivered to the lien creditor or
2515 servicer in the manner specified in subdivision E 1 of § 55.1-339 of the Code the notice of intent to release and

2516 possesses evidence of receipt of such notice by the lien creditor or servicer; and (e) the lien of the deed of trust
 2517 is hereby released.

2518 _____
 2519 (Authorized signer)

2520 3. Effect of filing.

2521 When filed or recorded with the clerk's office, a certificate of satisfaction that is executed and notarized as
 2522 provided in this subsection and accompanied by (i) the affidavit described in subdivision 2 b and (ii) a copy of
 2523 the notice of intent to release that was sent to the lender, lien creditor, or servicer shall operate as a release of
 2524 the encumbrance described therein and, if the encumbrance is by deed of trust, as a reconveyance of the legal
 2525 title as fully and effectively as if such certificate of satisfaction were a formal deed of release duly executed and
 2526 recorded.

2527 4. Effect of wrongful or erroneous certificate; damages.

2528 a. The execution and filing or recording of a wrongful or erroneous certificate of satisfaction by a settlement
 2529 agent or title insurance agent does not relieve the party obligated to repay the debt, or anyone succeeding to
 2530 or assuming the responsibility of the obligated party as to the debt, from any liability for the debt or other
 2531 obligations secured by the deed of trust that is the subject of the wrongful or erroneous certificate of satisfaction.

2532 b. A settlement agent or title insurance agent that wrongfully or erroneously executes and files or records
 2533 a certificate of satisfaction is liable to the lien creditor for actual damages sustained due to the recording of a
 2534 wrongful or erroneous certificate of satisfaction.

2535 c. The procedure authorized by this subsection for the release of a deed of trust shall constitute an optional
 2536 method of accomplishing a release of a deed of trust secured by property in the Commonwealth. The nonuse of
 2537 the procedure authorized by this subsection for the release of a deed of trust shall not give rise to any liability
 2538 or any cause of action whatsoever against a settlement agent or any title insurance company by any obligated
 2539 party or anyone succeeding to or assuming the interest of the obligated party.

2540 5. Applicability.

2541 a. The procedure authorized by this subsection for the release of a deed of trust may be used to effect the
 2542 release of a deed of trust after July 1, 2002, regardless of when the deed of trust was created, assigned, or
 2543 satisfied by payment made by the settlement agent.

2544 b. This subsection applies only to transactions involving the purchase of or lending on the security of real
 2545 estate located in the Commonwealth that is either (i) unimproved real estate with a lien to be released of \$1
 2546 million or less or (ii) real estate containing at least one but not more than four residential dwelling units.

2547 c. The procedure authorized by this subsection applies only to the full and complete release of a deed of
 2548 trust. Nothing in this subsection shall be construed to authorize the partial release of property from a deed of
 2549 trust or otherwise permit the execution or recordation of a certificate of partial satisfaction.

2550 **§ 55.1-340. Release by financial institution upon payment of debt placed with it for collection.**

2551 In any case where a note, bond, or other evidence of indebtedness placed by a creditor for collection with
 2552 a bank, trust company, savings institution, small loan company, or credit union is fully paid at such financial
 2553 institution, the financial institution, through its authorized agents, may execute all certificates, releases, and
 2554 affidavits required of a creditor by this chapter to effectuate a release. The financial institution may execute
 2555 and deliver to the clerk an affidavit to the effect that the financial institution had been acting as collecting agent
 2556 for the creditor on the debt and that the debt has been paid in full at such institution.

2557 **§ 55.1-341. Partial satisfaction.**

2558 It is lawful for any lien creditor to record a certificate of partial satisfaction of any one or more of the
 2559 separate pieces or parcels of property covered by such lien. It shall also be lawful for any such creditor to
 2560 record a certificate of partial satisfaction of any part of the real estate covered by such lien if a plat of such
 2561 part or a deed of such part is recorded in the clerk's office and a cross-reference is made in the certificate of
 2562 partial satisfaction to the book and page where the plat or deed of such part is recorded. Such certificate of
 2563 partial satisfaction may be accomplished in manner and form prescribed in this chapter for making certificates
 2564 of satisfaction, except that the creditor, or his duly authorized agent, shall make an affidavit to the clerk or in
 2565 such certificate that such creditor is at the time of making such satisfaction the legal holder of the obligation,
 2566 note, bond, or other evidence of debt, secured by such lien, and when made in conformity with the provisions
 2567 of this chapter such partial satisfaction shall be as valid and binding as a proper release deed duly executed
 2568 for the same purpose.

2569 Any and all partial marginal releases made prior to July 1, 1966, in any county or city of the
 2570 Commonwealth, in conformity with the provisions of this chapter, either of one or more separate pieces or
 2571 parcels of real estate or any part of the real estate covered by such lien, or as to one or more of the obligations
 2572 secured by any such lien, or as to all of the real estate covered by such lien instrument, are hereby validated
 2573 and declared to be binding upon all parties in interest, but this provision shall not be construed as intended to
 2574 disturb or impair any vested right.

2575 **§ 55.1-342. Permissible form for certificate of satisfaction or certificate of partial satisfaction.**

2576 Any release by a certificate of satisfaction or certificate of partial satisfaction shall be in conformity with
 2577 §§ 55.1-339, 55.1-340, and 55.1-341 and shall conform substantially with the following Certificate of
 2578 Satisfaction or Certificate of Partial Satisfaction forms:

2579 **CERTIFICATE OF SATISFACTION**

2580 Place of Record _____

2581 Date of Note/Deed of Trust _____

2582 Face Amount Secured/Face Amount of Note: _____

2583 Deed Book _____ Page _____

2584 Name(s) of Grantor(s)/Maker(s); _____

2585 Name(s) of Trustee(s) _____

2586 Face Amount of Note(s) \$ _____

2587 I/we, holder(s) of the above-mentioned note(s) secured by the above-mentioned deed of trust, do hereby
 2588 certify that the same has/have been paid in full, and the lien therein created and retained is hereby released.

2589 GIVEN UNDER MY/OUR HAND(S) THIS _____ DAY OF _____, 20____.

2590 _____

2591 _____

2592 (NOTE HOLDERS)

2593 Commonwealth of Virginia,

2594 County/City of _____ to wit:

2595 Subscribed, sworn to, and acknowledged before me by _____ this _____ day of
 2596 _____, 20____.

2597 My Commission Expires: _____

2598 _____

2599 **NOTARY PUBLIC**

2600 Notary Registration Number: _____

2601 VIRGINIA;

2602 IN THE CLERK'S OFFICE OF THE CIRCUIT COURT

2603 This certificate was presented, and with the Certificate annexed, admitted to record on _____
 2604 at _____ o'clock _____m.

2605 Clerk's fees: \$_____ have been paid.

2606 Attest: _____, Deputy Clerk

2607 **CERTIFICATE OF PARTIAL SATISFACTION**

2608 Place of Record _____

2609 Date of Deed of Trust _____

2610 Deed Book _____ Page _____

2611 Name(s) of Grantor(s) _____

2612 Name(s) of Trustee(s) _____

2613 Maker(s) of Note(s) _____

2614 Date of Note(s) _____

2615 Face Amount of Note(s) \$ _____

2616 The lien of the above-mentioned deed of trust securing the above-mentioned note is released insofar as the
 2617 same is applicable to _____ (description of property) recorded in deed book _____ at
 2618 page _____ in the clerk's office of this court. The undersigned is/are the legal holder(s) of the obligation, note,
 2619 bond, or other evidence of debt secured by said deed of trust.

2620 Given under my/our hand(s) this _____ day of _____, 20____.

2621 _____

2622 _____

DRAFT AGENCY COMMENTS FOR DISCUSSION AND ARE NOT TO BE CONSTRUED AS REGULATION OR OFFICIAL BOARD POSITION.

2623 (NOTE HOLDERS)

2624 Commonwealth of Virginia,

2625 County/City of _____ to wit:

2626 Subscribed, sworn to, and acknowledged before me by _____ this _____ day of

2627 _____, 20____.

2628 My Commission Expires: _____

2629 _____

2630 NOTARY PUBLIC

2631 Notary Registration Number: _____

2632 The clerk shall satisfy the requirements of § 17.1-228.

2633 Certificates conforming to this section prior to the amendment effective July 1, 1984, shall be deemed to be
2634 in substantial conformity to this section.

2635 **§ 55.1-343. Where certificates of satisfaction are to be indexed.**

2636 The clerk shall record a certificate of partial satisfaction or a certificate of satisfaction on the grantor
2637 index, both under the name of each grantor on the underlying deed of trust and under the name of the first-
2638 named trustee under which the deed of trust was indexed, all as identified on the certificate of satisfaction. The
2639 deed book and page number or the instrument number of the released deed of trust shall also be designated in
2640 the index. Any clerk using a separate index book or data file for grantees only shall also record in such book
2641 or file the name of each grantor on the underlying deed of trust as identified on the certificate of satisfaction.

2642 **§ 55.1-344. Releases made by court; costs and attorney fees.**

2643 A. Any person who owns or has any interest in real estate or personal property on which an encumbrance
2644 as described in § 55.1-339 exists may, after 20 days' notice to the person entitled to such encumbrance, apply
2645 to the circuit court of the county or city in which such encumbrance is recorded to have the same released or
2646 discharged. Upon proof that the encumbrance has been paid or discharged or upon a finding by the court that
2647 more than 15 years have elapsed since the maturity of the lien or encumbrance, raising a presumption of
2648 payment that is not rebutted at the hearing, such court shall order the clerk to record a certificate of satisfaction
2649 or a certificate of partial satisfaction that, when so recorded, shall operate as a release of such encumbrance.

2650 All releases made prior to June 24, 1944, by any court under this section upon such presumption of payment
2651 so arising and not rebutted shall be validated.

2652 B. If the court finds that the person entitled to such encumbrance cannot with due diligence be located, and
2653 that notice has been given such person in the manner provided by § 8.01-319 or 55.1-348, or that tender has
2654 been made of the sum due thereon but has been refused for any reason by the party to whom due, the court may
2655 in its discretion order the sum due to be paid into court, to be there held as provided by law, and to be paid
2656 upon demand to the person entitled thereto. The court shall order the same to be recorded as provided in
2657 subsection A, and such certificate of satisfaction or certificate of partial satisfaction shall operate as a release
2658 of the encumbrance.

2659 C. Upon a finding by the court that the holder of a mortgage or deed of trust that has been fully paid or
2660 discharged has unjustifiably and without good cause failed or refused to release such mortgage or deed of trust,
2661 the court may order that costs and reasonable attorney fees be paid to the petitioning party. This subsection
2662 shall not preclude a separate action by the petitioning party for actual damages sustained by reason of such
2663 failure or refusal to release the encumbrance.

2664 **§ 55.1-345. Recordation of certificate of satisfaction, etc., required when release of lien recorded.**

2665 Whenever a release of a deed of trust or other obligation is recorded in the office of the clerk of any circuit
2666 court, such clerk shall record a certificate of satisfaction or certificate of partial satisfaction, stating that such
2667 deed or other obligation is released. The fee charged by the clerk for recording such release shall be paid by
2668 the lien debtor. Such certificate shall be indexed in the name of the grantors and grantees of the instrument
2669 being released. If any clerk fails for 10 days to do anything required of him by this section, he shall be liable
2670 for any damage that any person may sustain by reason of such failure.

2671 Article 3.

2672 Satisfaction of Security Interest in Real Property.

2673 **§ 55.1-346. Applicability.**

2674 The procedure authorized by this article for the release of a security interest in real property using an
2675 automated electronic recording system may be used to effect the release of a security interest regardless of
2676 when the security interest was created, assigned, or satisfied by payment made by the settlement agent. The

2677 procedure authorized by this section for the release of a security interest shall constitute an optional method of
2678 accomplishing a release of a security interest secured by property in the Commonwealth.

2679 **§ 55.1-347. Definitions.**

2680 As used in this article, unless the context requires otherwise:

2681 "Day" means calendar day.

2682 "Document" means information that is:

2683 1. Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in
2684 perceivable form; and

2685 2. Eligible to be recorded in the land records maintained by the clerk.

2686 "Electronic," as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq.), means relating to
2687 technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

2688 "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
2689 company, association, joint venture, public corporation, government, or governmental subdivision, agency, or
2690 instrumentality or any other legal or commercial entity.

2691 "Real property" means real property that is used for residential or nonresidential purposes.

2692 "Recording data" means the date, and deed book and page number or instrument number, that indicates
2693 where a document is recorded in the land records of the clerk of the circuit court pursuant to Chapter 6 (§ 55.1-
2694 600 et seq.).

2695 "Secured creditor" means a person that holds or is the beneficiary of a security interest or that is authorized
2696 both to receive payments on behalf of a person that holds a security interest in real property and to record a
2697 satisfaction of the security instrument upon receiving full performance of the secured obligation. "Secured
2698 creditor" does not include a trustee under a security instrument. "Secured creditor" also includes "lender" as
2699 used in Chapter 10 (§ 55.1-1000 et seq.) and "lien creditor" and "servicer" as defined in § 55.1-339.

2700 "Secured obligation" means an obligation the payment or performance of which is secured by a security
2701 interest.

2702 "Security instrument" means an agreement, however denominated, that creates or provides for a security
2703 interest, whether or not it also creates or provides for a lien on personal property.

2704 "Security interest" means an interest in real property created by a security instrument, securing payment,
2705 or performance of an obligation and includes a mortgage or deed of trust.

2706 "Sign" means, with present intent to authenticate, accept, or adopt a document:

2707 1. To execute or adopt a tangible symbol; or

2708 2. To attach to or logically associate with the document an electronic sound, symbol, or process.

2709 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
2710 Islands, or any territory or insular possession subject to the jurisdiction of the United States.

2711 "Submit for recording" means to deliver, with required fees and taxes, a document sufficient to be recorded
2712 under this article to the office of the clerk of the circuit court pursuant to Chapter 6 (§ 55.1-600 et seq.).

2713 **§ 55.1-348. Document of rescission; effect; liability for wrongful recording.**

2714 A. As used in this section, "document of rescission" means a document stating that an identified satisfaction,
2715 certificate of satisfaction, or affidavit of satisfaction of a security instrument was recorded erroneously or
2716 fraudulently, the secured obligation remains unsatisfied, and the security instrument remains in force.

2717 B. If a person records a satisfaction, certificate of satisfaction, or affidavit of satisfaction of a security
2718 instrument in error or by fraud, the person may execute and record a document of rescission. Upon recording,
2719 the document rescinds an erroneously recorded satisfaction, certificate, or affidavit.

2720 C. A recorded document of rescission has no effect on the rights of a person who:

2721 1. Acquired an interest in the real property described in a security instrument after the recording of the
2722 satisfaction, certificate of satisfaction, or affidavit of satisfaction of the security instrument and before the
2723 recording of the document of rescission; and

2724 2. Would otherwise have priority over or take free of the lien created by the security instrument under the
2725 laws of the Commonwealth.

2726 D. A person, other than the clerk of the circuit court or any of his employees or other governmental official
2727 in the course of the performance of his recordation duties, who erroneously, fraudulently, or wrongfully records
2728 a document of rescission is subject to liability under § 55.1-339.

2729 **§ 55.1-349. Secured creditor to submit satisfaction for recording; liability for failure.**

2730 A. A secured creditor shall submit for recording a satisfaction of a security instrument within 90 days after
 2731 the creditor receives full payment or performance of the secured obligation in accordance with subsection B of
 2732 § 55.1-339. If a security instrument secures a line of credit or future advances, the secured obligation is fully
 2733 performed only if, in addition to full payment, the secured creditor has received a notification requesting the
 2734 creditor to terminate the line of credit or containing a statement sufficient to terminate the effectiveness of the
 2735 provision for future advances in the security instrument.

2736 B. A secured creditor who is required to submit a satisfaction of a security instrument for recording and
 2737 fails to do so by the end of the period specified in subsection A is subject to liability under § 55.1-339.

2738 **§ 55.1-350. Form and effect of satisfaction.**

2739 A. A document is sufficient to constitute a satisfaction of a security instrument if it conforms substantially
 2740 in form and content to the requirements of § 55.1-342 and it:

2741 1. Identifies the security instrument, the original parties to the security instrument, the recording data for
 2742 the security instrument, and the office in which the security instrument is recorded;

2743 2. States that the person signing the satisfaction is the secured creditor;

2744 3. Contains a legal description of the real property identified in the security instrument, but only if a legal
 2745 description is necessary for a satisfaction to be properly indexed; otherwise, the deed book and page number
 2746 or instrument number is sufficient;

2747 4. Contains language terminating the effectiveness of the security instrument; and

2748 5. Is signed by the secured creditor and acknowledged as required by law for a conveyance of an interest
 2749 in real property.

2750 B. The clerk of the circuit court shall accept for recording a satisfaction document, unless:

2751 1. An amount equal to or greater than the applicable recording fees and taxes is not tendered;

2752 2. The document is submitted by a method or in a medium not authorized by the laws of the Commonwealth;
 2753 or

2754 3. The document is not signed by the secured creditor and acknowledged as required by law for a
 2755 conveyance of an interest in real property.

2756 **§ 55.1-351. Relation to Electronic Signatures in Global and National Commerce Act.**

2757 To the extent permitted by law, this article modifies, limits, and supersedes the Electronic Signatures in
 2758 Global and National Commerce Act, 15 U.S.C. § 7001 et seq., except that nothing in this article modifies, limits,
 2759 or supersedes §§ 7001(c) and 7004 of that Act or authorizes electronic delivery of any of the notices described
 2760 in § 7003(b) of that Act.

2761 **§ 55.1-352. Uniform standards.**

2762 In consultation with the circuit court clerks, the Executive Secretary of the Supreme Court, and interested
 2763 citizens and businesses, the Virginia Information Technologies Agency shall develop standards to implement
 2764 electronic recording of real property documents. The Virginia Information Technologies Agency shall consider
 2765 standards and practices of other jurisdictions, the most recent standards promulgated by national standard-
 2766 setting bodies, such as the Property Records Industry Association, views of interested persons and other
 2767 governmental entities, and needs of localities of varying sizes, population, and resources.

2768 Article 4.

2769 Effect of Certain Expressions in Deeds.

2770 **§ 55.1-353. Effect of word "covenants."**

2771 When a deed uses the words "the said _____ covenants," such covenant shall have the same effect as
 2772 if it were expressed to be by the covenantor, for himself and his heirs, personal representatives, and assigns
 2773 and shall be deemed to be with the covenantee and his heirs, personal representatives, and assigns.

2774 **§ 55.1-354. Effect of covenant of general warranty.**

2775 A covenant by the grantor in a deed "that he will warrant generally the property hereby conveyed" shall
 2776 have the same effect as if the grantor had covenanted that he and his heirs and personal representatives will
 2777 forever warrant and defend such property unto the grantee and his heirs, personal representatives, and assigns
 2778 against the claims and demands of all persons.

2779 **§ 55.1-355. Covenant of special warranty.**

2780 A covenant by any such grantor "that he will warrant specially the property hereby conveyed" shall have
 2781 the same effect as if the grantor has covenanted that he and his heirs and personal representatives will forever
 2782 warrant and defend such property unto the grantee and his heirs, personal representatives, and assigns against
 2783 the claims and demands of the grantor and all persons claiming or to claim by, through, or under him.

2784 § 55.1-356. Words "with general warranty," "with special warranty," and "with English covenants of
2785 title" construed.

2786 The words "with general warranty" in the granting part of any deed shall be deemed to be a covenant by
2787 the grantor "that he will warrant generally the property hereby conveyed." The words "with special warranty"
2788 in the granting part of any deed shall be deemed to be a covenant by the grantor "that he will warrant specially
2789 the property hereby conveyed."

2790 The words "with English covenants of title" or words of similar import in the granting part of any deed
2791 shall be deemed to be an expression by the grantor of those covenants set out in §§ 55.1-359 through 55.1-362,
2792 and in addition thereto the covenant that he is seized in fee simple of the property conveyed.

2793 § 55.1-357. Implied warranties on new homes.

2794 A. As used in this section:

2795 "New dwelling" means a dwelling or house that has not previously been occupied for a period of more than
2796 60 days by anyone other than the vendor or the vendee or that has not been occupied by the original vendor or
2797 subsequent vendor for a cumulative period of more than 12 months, excluding dwellings constructed solely for
2798 lease. "New dwelling" does not include a condominium or condominium units created pursuant to the Virginia
2799 Condominium Act (§ 55.1-1900 et seq.).

2800 "Structural defects" means a defect or defects that reduce the stability or safety of the structure below
2801 accepted standards or that restrict the normal use of the structure.

2802 B. In every contract for the sale of a new dwelling, the vendor shall be held to warrant to the vendee that,
2803 at the time of the transfer of record title or the vendee's taking possession, whichever occurs first, the dwelling
2804 with all of its fixtures is, to the best of the actual knowledge of the vendor or his agents, sufficiently (i) free from
2805 structural defects, so as to pass without objection in the trade, and (ii) constructed in a workmanlike manner,
2806 so as to pass without objection in the trade.

2807 C. In addition, in every contract for the sale of a new dwelling, the vendor, if he is in the business of building
2808 or selling such dwellings, shall be held to warrant to the vendee that, at the time of transfer of record title or
2809 the vendee's taking possession, whichever occurs first, the dwelling together with all of its fixtures is sufficiently
2810 (i) free from structural defects, so as to pass without objection in the trade; (ii) constructed in a workmanlike
2811 manner, so as to pass without objection in the trade; and (iii) fit for habitation.

2812 D. The warranties described in subsections B and C implied in the contract for sale shall be held to survive
2813 the transfer of title. Such warranties are in addition to, and not in lieu of, any other express or implied
2814 warranties pertaining to the dwelling or its materials or fixtures. A contract for sale may waive, modify, or
2815 exclude any or all express and implied warranties and sell a new home "as is" only if the words used to waive,
2816 modify, or exclude such warranties are conspicuous, as defined by subdivision (b) (10) of § 8.1A-201, set forth
2817 on the face of such contract in capital letters that are at least two points larger than the other type in the
2818 contract and only if the words used to waive, modify, or exclude the warranties state with specificity the
2819 warranty or warranties that are being waived, modified, or excluded. If all warranties are waived or excluded,
2820 a contract shall specifically set forth in capital letters that are at least two points larger than the other type in
2821 the contract that the dwelling is being sold "as is."

2822 E. If there is a breach of warranty under this section, the vendee, or his heirs or personal representatives
2823 in case of his death, shall have a cause of action against his vendor for damages, provided, however, for any
2824 defect discovered after July 1, 2002, such vendee shall first provide the vendor, by certified mail at his last
2825 known address, or by commercial overnight delivery service or the United States Postal Service, and a receipt
2826 obtained, a written notice stating the nature of the warranty claim. Such notice also may be hand delivered to
2827 the vendor with the vendee retaining a receipt of such hand-delivered notice to the vendor or its authorized
2828 agent. After such notice, the vendor shall have a reasonable period of time, not to exceed six months, to cure
2829 the defect that is the subject of the warranty claim.

2830 F. The warranty shall extend for a period of one year from the date of transfer of record title or the vendee's
2831 taking possession, whichever occurs first, except that the warranty pursuant to clause (i) of subsection C for
2832 the foundation of new dwellings shall extend for a period of five years from the date of transfer of record title
2833 or the vendee's taking possession, whichever occurs first. Any action for its breach shall be brought within two
2834 years after the breach thereof. For all warranty claims arising on or after January 1, 2009, sending the notice
2835 required by subsection E shall toll the limitations period for six months.

2836 G. In the case of new dwellings where fire-retardant treated plywood sheathing or other roof sheathing
2837 materials are used in lieu of fire-retardant treated plywood, the vendor shall be deemed to have assigned the

2838 manufacturer's warranty, at settlement, to the vendee. The vendee shall have a direct cause of action against
2839 the manufacturer of such roof sheathing for any breach of such warranty. To the extent any such manufacturer's
2840 warranty purports to limit the right of third parties or prohibit assignment, such provision shall be
2841 unenforceable and of no effect.

2842 **§ 55.1-358. Effect of certain transfer fee covenants.**

2843 A. As used in this section, unless the context requires a different meaning:

2844 "Transfer" means assignment, conveyance, gift, inheritance, sale, or other transfer of ownership interest in
2845 real property located in the Commonwealth.

2846 "Transfer fee" means a fee or charge payable to a nongovernmental person or entity upon transfer or
2847 payable for the right to make or accept such transfer, regardless of whether the fee or charge is a fixed amount
2848 or is determined as a percentage of the value of the property, the purchase price of the property, or other
2849 consideration given for the transfer. "Transfer fee" does not include:

2850 1. Any consideration that is payable by a grantee to a grantor for the interest in real property being
2851 transferred;

2852 2. Any commission that is payable to a licensed real estate broker for a transfer under an agreement
2853 between the broker and the grantor or grantee;

2854 3. Any amount, charge, fee, or interest that is payable by a borrower to a lender under a loan secured by a
2855 deed of trust or mortgage on real property, including (i) any fee that is payable to the lender for consenting to
2856 an assumption of the loan or a transfer of the real property subject to the deed of trust or mortgage and (ii) any
2857 consideration allowed by law that is payable to the lender in connection with the loan;

2858 4. Any amount, charge, fee, reimbursement, or rent that is payable by a lessee to a lessor under a lease,
2859 including any fee that is payable to the lessor for consenting to an assignment, sublease, encumbrance, or
2860 transfer of the lease;

2861 5. Any consideration that is payable to the holder of an option to purchase an interest in real property, the
2862 holder of a right of first refusal, or the holder of a right of first offer to purchase an interest in real property for
2863 releasing, waiving, or not exercising the option or right upon the transfer of the property to a person other than
2864 the holder;

2865 6. Any assessment, charge, or fee authorized by statute, the recorded condominium instrument, or the
2866 recorded declaration to be charged by, or payable to, a common interest community as defined in § 54.1-2345
2867 or a cooperative as defined in § 55.1-2100; or

2868 7. Any amount, assessment, charge, fee, fine, or tax that is payable to or imposed by a governmental
2869 authority.

2870 "Transfer fee covenant" means a covenant or declaration that purports to affect real property and that
2871 requires or purports to require, upon a subsequent transfer of such property, the payment of a transfer fee to
2872 the declarant or other nongovernmental person or entity specified in the covenant or declaration or to the
2873 assigns or successors of such declarant or nongovernmental person or entity.

2874 B. A transfer fee covenant recorded in the Commonwealth on or after July 1, 2011, shall not run with the
2875 title to real property and is not binding on, or enforceable at law or in equity against, any subsequent owner,
2876 purchaser, or mortgagee of any interest in real property as an equitable servitude or otherwise. Any lien
2877 purporting to secure the payment of a transfer fee under a transfer fee covenant recorded in the Commonwealth
2878 on or after July 1, 2011, is void and unenforceable.

2879 **§ 55.1-359. Covenant of "right to convey."**

2880 A covenant by the grantor in a deed for land "that he has the right to convey the said land to the grantee"
2881 shall have the same effect as if the grantor had covenanted that he has good right, full power, and absolute
2882 authority to convey the land, with all the buildings thereon and the privileges and appurtenances thereto
2883 belonging, unto the grantee, in the manner in which the same is conveyed or intended so to be by the deed, and
2884 according to its true intent.

2885 **§ 55.1-360. Covenant for "quiet possession" and "free from all encumbrances."**

2886 A covenant by any such grantor "that the grantee shall have quiet possession of the said land" shall have
2887 as much effect as if he covenanted that the grantee and his heirs and assigns might, at any and all times
2888 thereafter, peaceably and quietly enter upon and have, hold, and enjoy the land conveyed by the deed, or
2889 intended so to be, with all the buildings thereon and the privileges and appurtenances thereto belonging, and
2890 receive and take the rents and profits thereof, to and for his and their use and benefit, without any eviction,
2891 interruption, suit, claim, or demand whatever. If to such covenant there be added "free from all encumbrances,"

2892 *these words shall have as much effect as the words "and that freely and absolutely acquitted, exonerated, and*
2893 *forever discharged, or otherwise by the said grantor or his heirs saved harmless and indemnified of, from, and*
2894 *against any and every charge and encumbrance whatever."*

2895 **§ 55.1-361. Covenant for "further assurances."**

2896 *A covenant by any such grantor "that he will execute such further assurances of the said lands as may be*
2897 *requisite" shall have the same effect as if he covenanted that he, the grantor, and his heirs or personal*
2898 *representative will at any time, upon any reasonable request, at the charge of the grantee and his heirs or*
2899 *assigns, do, execute, or cause to be done or executed all such further acts, deeds, and things for the better, more*
2900 *perfectly and absolutely conveying and assuring the said lands and premises thereby conveyed or intended so*
2901 *to be unto the grantee and his heirs and assigns in manner aforesaid, as by the grantee and his heirs or assigns*
2902 *and his or their attorney, shall be reasonably devised, advised, or required.*

2903 **§ 55.1-362. Covenant of "no act to encumber."**

2904 *A covenant by any such grantor "that he has done no act to encumber the said lands" shall have the same*
2905 *effect as if he covenanted that he had not done or executed, or knowingly suffered, any act, deed, or thing*
2906 *whereby the lands and premises conveyed, or intended so to be, or any part thereof, are or will be charged,*
2907 *affected, or encumbered in title, estate, or otherwise.*

2908 **§ 55.1-363. Effect of certain words of release in a deed.**

2909 *Whenever any deed uses the words: "The said grantor (or the said _____) releases to the said grantee*
2910 *(or the said _____) all his claims upon the said lands," such deed shall be construed as if it set forth that*
2911 *the grantor (or releasor) has remised, released, and forever quitclaim and by these presents does remise,*
2912 *release, and forever quitclaim to the grantee (or releasee) and his heirs and assigns all right, title, and interest*
2913 *whatsoever, both at law and in equity, in or to the lands and premises granted (or released) or intended to be*
2914 *granted (or released), so that neither he nor his personal representative, heirs, or assigns shall at any time*
2915 *thereafter have any type of claim, challenge, or demand on the lands and premises or any part thereof.*

2916 **CHAPTER 4.**

2917 **FRAUDULENT AND VOLUNTARY CONVEYANCES; WRITINGS NECESSARY TO BE RECORDED.**

2918 **§ 55.1-400. Void fraudulent acts; bona fide purchasers not affected.**

2919 *Every (i) gift, conveyance, assignment, or transfer of, or charge upon, any estate, real or personal, (ii)*
2920 *action commenced or order, judgment, or execution suffered or obtained, and (iii) bond or other writing given*
2921 *with intent to delay, hinder, or defraud creditors, purchasers, or other persons of or from what they are or may*
2922 *be lawfully entitled to shall, as to such creditors, purchasers, or other persons or their representatives or*
2923 *assigns, be void. This section shall not affect the title of a purchaser for valuable consideration, unless it*
2924 *appears that he had notice of the fraudulent intent of his immediate grantor or of the fraud rendering void the*
2925 *title of such grantor.*

2926 **§ 55.1-401. Voluntary gifts, conveyances, assignments, transfers, or charges; void as to prior creditors.**

2927 *Every gift, conveyance, assignment, transfer, or charge that is not upon consideration deemed valuable in*
2928 *law, or that is upon consideration of marriage by an insolvent transferor or by a transferor who is thereby*
2929 *rendered insolvent, shall be void as to creditors whose debts were contracted at the time such gift, conveyance,*
2930 *assignment, transfer, or charge was made but shall not, on that account merely, be void as to creditors whose*
2931 *debts have been contracted, or as to purchasers who have purchased, after such gift, conveyance, assignment,*
2932 *transfer, or charge was made. Even though it is decreed to be void as to a prior creditor, because voluntary or*
2933 *upon consideration of marriage, it shall not, for that cause, be decreed to be void as to subsequent creditors or*
2934 *purchasers.*

2935 **§ 55.1-402. Creditor's action to avoid such gifts, conveyances, assignments, transfers, or charges.**

2936 *Before obtaining a judgment for his claim, a creditor may, whether such claim is due and payable or not,*
2937 *institute any action that he may institute after obtaining such judgment to avoid a gift, conveyance, assignment,*
2938 *or transfer of, or charge upon, the estate of his debtor declared void by either § 55.1-400 or 55.1-401. Such*
2939 *creditor may, in such action, have all the relief with respect to such estate to which he would be entitled after*
2940 *obtaining a judgment for the claim for which he may be entitled to recover. A creditor availing himself of this*
2941 *section shall have a lien from the time of bringing his action on all the estate, real and personal, and a*
2942 *petitioning creditor shall also be entitled to a lien from the time of filing his petition in the court in which the*
2943 *action is brought. If the proceeds of sale are insufficient to satisfy the claims of all the creditors whose liens*
2944 *were acquired at the same time, they shall be applied proportionately to such claims, and the court may issue*
2945 *an order against the debtor for any deficiency remaining on the claim of any creditor after applying his share*

2946 of the proceeds of sale, or, if any creditor is not entitled to share in such proceeds, may issue an order against
2947 the debtor for the full amount of the creditor's claim. This section is subject to the provisions of §§ 8.01-268
2948 and 8.01-269.

2949 **§ 55.1-403. Creditor's action; attorney fees.**

2950 In any action brought by a creditor pursuant to § 55.1-400, 55.1-401, or 55.1-402, where a (i) gift; (ii)
2951 deed; (iii) conveyance, assignment, or transfer of or charge upon the estate of a debtor; (iv) action commenced
2952 or judgment or execution suffered or obtained; or (v) bond or other writing is declared void, the court shall
2953 award counsel for the creditor reasonable attorney fees against the debtor. Upon a finding of fraudulent
2954 conveyance pursuant to § 55.1-400, the court may assess sanctions, including such attorney fees, against all
2955 parties over which it has jurisdiction who, with the intent to defraud and having knowledge of the judgment,
2956 participated in the conveyance. Should there be a resulting judicial sale, any award of attorney fees shall be
2957 paid out of the proceeds of the sale, as other costs are paid, provided that the award of attorney fees does not
2958 affect a prior lien creditor not represented by the attorney.

2959 **§ 55.1-404. Authority of court to set aside.**

2960 The court may set aside a fraudulent conveyance or voluntary transfer pursuant to § 55.1-400 or 55.1-401
2961 during an action brought by a creditor to execute on a judgment, either on motion of the creditor or on its own
2962 motion, provided that all parties who have an interest in the property subject to the conveyance or transfer are
2963 given notice of the proceeding. The court, by order, may direct the clerk to issue the proper process against
2964 such parties and, upon the maturing of the case, proceed to make such orders as would have been proper if the
2965 new parties had been made parties at the commencement of the action.

2966 **§ 55.1-405. Loans and reservations of a use or property to be recorded.**

2967 When any loan of personal property is pretended to have been made to any person with whom, or with
2968 those claiming under him, possession has remained five years without demand made and pursued by due
2969 process of law on the part of the pretended lender, or when any reservation or limitation is pretended to have
2970 been made of a use or property by way of condition, reversion, remainder, or otherwise in personal property,
2971 the possession of which has so remained in another as aforesaid, the absolute property shall be taken to be with
2972 the possession and such loan, reservation, or limitation void as to creditors of, and purchasers from, the person
2973 so remaining in possession, unless such loan, reservation, or limitation is declared by will which, or a copy of
2974 which, or by deed or other writing which, is duly recorded within a period of five years in the circuit court of
2975 the county or city in which the personal property is located.

2976 **§ 55.1-406. Certain recorded contracts as valid as deeds.**

2977 Any such contract or bill of sale as is mentioned in § 11-1, if in writing and signed by the owner of the
2978 property, shall, from the time it is duly recorded, be, as against creditors and purchasers, as valid, so far as it
2979 affects real estate, as if the contract were a deed conveying the estate or interest embraced in the contract and,
2980 so far as it affects goods and chattels, as if possession had completely passed at the time of such recording,
2981 provided that, as to goods whose possession is retained by a merchant-seller, the provisions of subsection (2)
2982 of § 8.2-402 of the Uniform Commercial Code shall be controlling and provided further that, if any such
2983 contract or bill of sale as is mentioned in § 11-1 creates a security interest as defined in the Uniform
2984 Commercial Code, its validity and enforceability shall be governed by the provisions of that Code.

2985 **§ 55.1-407. Contracts, etc., void as to creditors and purchasers until recorded; priority of credit line deed**
2986 **of trust.**

2987 A. 1. Every (i) contract in writing; (ii) deed conveying any estate or term; (iii) deed of gift, or deed of trust,
2988 or mortgage conveying real estate or personal property; and (iv) bill of sale, or contract for the sale of personal
2989 property, when the possession is allowed to remain with the grantor, shall be void as to all purchasers for
2990 valuable consideration without notice not parties thereto and lien creditors, until and except from the time it
2991 is recorded in the county or city in which the property subject to such contract, deed, or bill of sale is located.
2992 The fact that any such instrument is in the form of or contains the terms of a quit-claim or release shall not
2993 prevent the grantee from being a purchaser for valuable consideration without notice, nor be of itself notice to
2994 such grantee of any unrecorded conveyance of or encumbrance upon such real estate or personal property.
2995 The mere possession of real estate shall not, of itself, be notice to purchasers for value of any interest or estate
2996 therein of the person in possession. As to personal property whose possession is retained by a merchant-seller,
2997 the provisions of subsection (2) of § 8.2-402 of the Uniform Commercial Code shall control. This section shall
2998 not apply to any security interest in personal property under the Uniform Commercial Code. Any bill of sale or
2999 contract for the sale of personal property when possession is allowed to remain with the grantor shall be

3000 deemed to be duly recorded when it is filed in the same manner as Uniform Commercial Code financing
3001 statements are filed under the criteria and in the places established by § 8.9A-501 as if the grantor were a
3002 debtor and the grantee a secured party. A recordation under the provisions of this section shall, when any real
3003 estate subject to the lien of any such contract has been annexed to or merged with an adjoining city subsequent
3004 to such docketing, be deemed to have been recorded in the proper clerk's office of such city.

3005 2. The clerk of each court in which any such instrument is by law required to be recorded shall keep a daily
3006 index of all such instruments admitted to record in his office, and, immediately upon recording such instrument,
3007 the clerk shall index the same either in the daily index or the appropriate general index of his office. All
3008 instruments indexed in the daily index shall be indexed by the clerk in the appropriate general index within 90
3009 days after recording. During the period permitted for transfer from the daily index to the general index, indexing
3010 in the daily index shall be a sufficient compliance with the requirements of this section as to indexing.

3011 3. a. In any circuit court in which any such instrument required to be recorded is not recorded on the same
3012 day as delivered, the clerk shall install a time stamp machine. The time stamp machine shall affix the current
3013 date and time of each delivery of any instrument delivered to the clerk for recording that is not immediately
3014 recorded and entered into the general or daily index.

3015 b. In the event that a time stamp machine has not been installed or is not functioning, the clerk shall
3016 designate an employee to affix the current date and time of each delivery of any instrument delivered to the
3017 clerk for recording.

3018 c. In any circuit court in which instruments required to be recorded are not recorded on the same day as
3019 delivered, for purposes of subdivision 1, the term "from the time it is recorded" shall be presumed to be the date
3020 and time affixed upon the instrument by the time stamp machine or affixed by the clerk in accordance with
3021 subdivision b unless the clerk determines that the applicable requirements for recordation of the instrument
3022 have not been satisfied.

3023 d. The provisions of subdivision 3 shall not apply to certificates of satisfaction or partial satisfaction or
3024 assignments of deeds of trust delivered to the clerk's office other than by hand.

3025 B. A credit line deed of trust, recorded pursuant to § 55.1-318, is valid and has priority over any (i) contract
3026 in writing, deed, conveyance, or other instrument conveying any such estate or term subsequently recorded or
3027 (ii) judgment subsequently docketed as to all advances made under such credit line deed of trust from the date
3028 of recordation of such credit line deed of trust, whether or not the particular advance or extension of credit has
3029 been made or unconditionally committed at the time of delivery or recordation of such contract in writing, deed,
3030 or other instrument or the docketing of such judgment. Any judgment creditor shall have the right to give the
3031 notice contemplated by § 55.1-318 and, from the day following receipt of such notice, the judgment as docketed
3032 shall have priority over all subsequent advances made pursuant to the credit line deed of trust except those that
3033 have been unconditionally and irrevocably committed prior to such date. Mechanics' liens created under Title
3034 43 shall continue to have the same priority as created by that title. Purchase money security interests in goods
3035 and fixtures shall have the same priority as provided in Part 3 of Title 8.9A (§ 8.9A-317 et seq.).

3036 **§ 55.1-408. Where to be recorded.**

3037 Notwithstanding that any writing is recorded in one county or city in which there is real estate or personal
3038 property, it nevertheless is void as to such creditors and purchasers in respect to other real estate or personal
3039 property without such recording until it is duly recorded in the county or city in which such other real estate or
3040 personal property may be located, but it shall be sufficient to record a deed releasing the lien of a deed of trust,
3041 in whole or in part, either in the county or city in which the property thereby released is located or in the county
3042 or city in which the property so released was situated at the time of the recordation of the deed of trust, and
3043 any recordation thereof so made of any such release is hereby validated.

3044 **§ 55.1-409. Recordation of instruments affecting civil aircraft of United States.**

3045 No instrument that affects the title to or interest in any civil aircraft of the United States, as defined by
3046 federal law, or any portion of such aircraft, shall be valid in respect of such aircraft or portion of such aircraft
3047 against any person other than the person by whom the instrument is made or to whom the instrument is given,
3048 his heir or devisee, and any person having actual notice of such instrument, until such instrument is recorded
3049 in the office of the Administrator of the Federal Aviation Administration of the United States, or such other
3050 office as is designated by the laws of the United States as the one in which such instruments should be filed.
3051 Every such instrument so recorded in such office shall be valid as to all persons without further recordation in
3052 any office in the Commonwealth, the provisions of any other recordation statute to the contrary

3053 notwithstanding. Any instrument for which recordation is required by the provisions of this section shall take
 3054 effect from the date of its recordation and not from the date of its execution.

3055 **§ 55.1-410. Priority of writings when admitted to record same day.**

3056 Unless otherwise provided for in this chapter, when two or more writings pertaining to the same property
 3057 are recorded in the same county or city on the same day and stamped with the identical time, the instrument
 3058 number shall determine the writing that was first recorded. The instrument that was first recorded shall have
 3059 priority with respect to the property in such county or city.

3060 **§ 55.1-411. When writings to be recorded in county, and when in city.**

3061 The provisions of this and any other chapter of the Code or of any subsequent statute, by virtue of which a
 3062 writing is to be or may be recorded in the county or city in which the property embraced in such writing is
 3063 located, shall be construed, in respect to the county, as relating only to property within the county and outside
 3064 the corporate limits of the city having a court in which writings may be lawfully recorded, and, in respect to
 3065 the city, as relating only to property within the corporate limits of such city having such a court.

3066 **§ 55.1-412. Words "creditors" and "purchasers," how construed.**

3067 The words "creditors" and "purchasers," when used in any previous section of this chapter, shall not be
 3068 restricted to the protection of creditors of and purchasers from the grantor, but shall also extend to and embrace
 3069 all creditors and purchasers who, but for the deed or writing, would have had title to the property conveyed or
 3070 a right to subject it to their debts.

3071 **§ 55.1-413. Lien of subsequent purchaser for purchase money paid before notice.**

3072 As against any person claiming under the deed or other writing that has not been recorded before payment
 3073 by a subsequent purchaser for valuable consideration of the whole or a part of his purchase money, such
 3074 subsequent purchaser, notwithstanding such deed or other writing recorded before he becomes a complete
 3075 purchaser, shall have a lien on the property purchased by him for so much of his purchase money as he may
 3076 have paid before notice of such lien.

3077 **§ 55.1-414. When purchaser not affected by record of deed or contract.**

3078 A purchaser shall not, under this chapter, be affected by the record of a deed or contract made by a person
 3079 under whom his title is not derived, nor by the record of a deed or contract made by any person under whom
 3080 the title of such purchaser is derived, if it was made by such person before he acquired the legal title of record.

3081 CHAPTER 5.

3082 COMMUTATION AND VALUATION OF CERTAIN ESTATES AND INTERESTS.

3083 **§ 55.1-500. Annuity table.**

3084 When a party as tenant for life is entitled to the annual interests on a sum of money, or is entitled to the use
 3085 of any estate, or a part thereof, and is willing to accept a gross sum in lieu thereof, or the party liable for such
 3086 interest, or affected by such claim, has the right to pay a gross sum in lieu thereof, or if the court in any legal
 3087 proceeding orders a gross sum to be paid in lieu thereof, the sum shall be estimated according to the then value
 3088 of an annuity of eight percent on the principal sum during the probable life of such person, according to the
 3089 following table, showing in Column I the present value, on the basis of eight percent interest, of an annuity of
 3090 \$1, payable at the end of every year that a person of a given age may be living, for the ages therein stated:

3091 PRESENT VALUE

Age last birthday	I life	II lives
Less than one year	12.060	11.670
1	12.291	12.124
2	12.291	12.127
3	12.286	12.120
4	12.278	12.107
5	12.267	12.091
6	12.256	12.071
7	12.242	12.049
8	12.227	12.024
9	12.211	11.996

10	12.192	11.965
11	12.171	11.930
12	12.149	11.892
13	12.125	11.852
14	12.102	11.812
15	12.078	11.773
16	12.055	11.736
17	12.032	11.701
18	12.010	11.666
19	11.988	11.632
20	11.964	11.596
21	11.939	11.559
22	11.913	11.521
23	11.886	11.480
24	11.857	11.437
25	11.824	11.389
26	11.789	11.336
27	11.751	11.278
28	11.709	11.215
29	11.664	11.148
30	11.615	11.075
31	11.564	10.998
32	11.510	10.917
33	11.452	10.831
34	11.391	10.741
35	11.326	10.645
36	11.258	10.545
37	11.186	10.440
38	11.110	10.331
39	11.031	10.217
40	10.948	10.098
41	10.861	9.975
42	10.770	9.847
43	10.675	9.714
44	10.576	9.576
45	10.473	9.434
46	10.365	9.288
47	10.254	9.138
48	10.138	8.983
49	10.018	8.824
50	9.893	8.661
51	9.764	8.493
52	9.631	8.322
53	9.493	8.147
54	9.352	7.970
55	9.207	7.790
56	9.057	7.608
57	8.904	7.423

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58	8.747	7.237
59	8.586	7.048
60	8.421	6.856
61	8.252	6.662
62	8.078	6.466
63	7.900	6.267
64	7.718	6.067
65	7.532	5.865
66	7.343	5.663
67	7.150	5.460
68	6.954	5.256
69	6.755	5.052
70	6.552	4.847
71	6.345	4.640
72	6.134	4.431
73	5.920	4.222
74	5.705	4.015
75	5.491	3.812
76	5.279	3.615
77	5.069	3.424
78	4.861	3.239
79	4.654	3.057
80	4.448	2.879
81	4.244	2.706
82	4.044	2.538
83	3.846	2.376
84	3.652	2.217
85	3.459	2.061
86	3.272	1.911
87	3.097	1.774
88	2.934	1.651
89	2.780	1.537
90	2.630	1.426
91	2.485	1.319
92	2.350	1.220
93	2.227	1.131
94	2.118	1.053
95	2.024	0.986
96	1.943	0.931
97	1.873	0.885
98	1.811	0.845
99	1.754	0.810
100	1.701	0.779
101	1.651	0.751
102	1.602	0.726
103	1.550	0.703
104	1.492	0.682
105	1.420	0.661

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3112 § 55.1-503. Rules of calculation under § 55.1-502.

3113 A. Calculate the interest at eight percent upon the sum to the income of which, or upon the value of the
3114 property to the use of which, the joint life tenants are entitled. Multiply this interest by the present value of an
3115 annuity of \$1, as shown in Column II of § 55.1-500, for the joint equal age of such joint life tenants. The joint
3116 equal age of such tenants shall be obtained as follows: Take the difference in age in years between such tenants
3117 and refer to the table in § 55.1-502 and add to the younger age the value opposite such difference, and the sum
3118 is the joint equal age; take this joint equal age and refer to the table in § 55.1-500 and find in Column II the
3119 value of an annuity of \$1 a year payable for life during such joint equal age. The product of the interest and
3120 the value of an annuity for a given joint equal age is the gross value of the joint life estate of such person
3121 therein.

3122 B. Example: Doe, age 30, and Roe, age 40, are joint tenants for life in the whole of an estate worth \$10,500:
3123 The difference in ages is 10 and, as shown by the table in § 55.1-502, the value opposite age difference 10 is
3124 seven. Seven added to 30, Doe's age, gives 37; as shown by the table in § 55.1-500, the value in Column II for
3125 an annuity of \$1 for two joint lives at joint equal age 37 is \$10.44 and no mills, and this, multiplied by \$840
3126 (the interest at eight percent on \$10,000), gives \$8,769.60 as the gross value of the joint life estate of such
3127 persons.

3128 § 55.1-504. Makehamized mortality table.

3129 When more than two parties as joint tenants for life, or three or more parties as tenants in successive estates,
3130 are entitled to the annual interest on a sum of money, or are entitled to the use of any estate, or a part thereof,
3131 and are willing to accept a gross sum in lieu thereof, or the party liable for such interest, or affected by such
3132 claim, has the right to pay a gross sum in lieu thereof, or if the court in any legal proceeding orders a gross
3133 sum to be paid in lieu thereof, the sum shall be estimated according to the then value of an annuity of eight
3134 percent on the principal sum during the probable lives of such persons. Probable lives shall be computed from
3135 the Makehamized mortality table for total population in the United States, 1969-1971, published by the Bureau
3136 of the Census of the Department of Commerce.

X	Ax	Axx	Axxx	Axxxx	Cx
0	12.060	11.670	11.305	10.958	1.000
1	12.291	12.124	11.973	11.832	1.147
2	12.291	12.127	11.979	11.843	1.315
3	12.286	12.120	11.971	11.834	1.508
4	12.278	12.107	11.956	11.816	1.730
5	12.267	12.091	11.934	11.791	1.984
6	12.256	12.071	11.909	11.760	2.275
7	12.242	12.049	11.879	11.724	2.609
8	12.227	12.024	11.846	11.684	2.992
9	12.211	11.996	11.809	11.638	3.431
10	12.192	11.965	11.766	11.587	3.935
11	12.171	11.930	11.720	11.529	4.512
12	12.149	11.892	11.668	11.466	5.175
13	12.125	11.852	11.615	11.401	5.935
14	12.102	11.812	11.562	11.336	6.806
15	12.078	11.773	11.510	11.274	7.805
16	12.055	11.736	11.462	11.215	8.951
17	12.032	11.701	11.416	11.162	10.265
18	12.010	11.666	11.373	11.111	11.772
19	11.988	11.632	11.330	11.062	13.501
20	11.964	11.596	11.286	11.011	15.483

21	11.939	11.559	11.240	10.959	17.756
22	11.913	11.521	11.193	10.905	20.362
23	11.886	11.480	11.144	10.850	23.352
24	11.857	11.437	11.091	10.789	26.780
25	11.824	11.389	11.032	10.723	30.712
26	11.789	11.336	10.968	10.649	35.221
27	11.751	11.278	10.896	10.567	40.392
28	11.709	11.215	10.818	10.478	46.321
29	11.664	11.148	10.734	10.382	53.122
30	11.615	11.075	10.645	10.279	60.921
31	11.564	10.998	10.550	10.171	69.865
32	11.510	10.917	10.450	10.056	80.122
33	11.452	10.831	10.344	9.936	91.885
34	11.391	10.741	10.233	9.809	105.375
35	11.326	10.645	10.117	9.677	120.845
36	11.258	10.545	9.995	9.539	138.586
37	11.186	10.440	9.868	9.396	158.932
38	11.110	10.331	9.735	9.247	182.266
39	11.031	10.217	9.599	9.094	209.024
40	10.948	10.098	9.457	8.936	239.712
41	10.861	9.975	9.311	8.773	274.904
42	10.770	9.847	9.159	8.605	315.263
43	10.675	9.714	9.002	8.432	361.548
44	10.576	9.576	8.841	8.256	414.627
45	10.473	9.434	8.677	8.076	475.500
46	10.365	9.288	8.508	7.893	545.309
47	10.254	9.138	8.336	7.707	625.367
48	10.138	8.983	8.160	7.517	717.178
49	10.018	8.824	7.979	7.234	822.468
50	9.893	8.661	7.796	7.129	943.217
51	9.764	8.493	7.608	6.930	1081.692
52	9.631	8.322	7.418	6.730	1240.497
53	9.493	8.147	7.226	6.529	1422.617
54	9.352	7.970	7.033	6.328	1631.475
55	9.207	7.790	6.838	6.127	1870.995
56	9.057	7.608	6.643	5.927	2145.679
57	8.904	7.423	6.447	5.727	2460.691
58	8.747	7.237	6.250	5.529	2821.950
59	8.586	7.048	6.053	5.331	3236.246
60	8.421	6.856	5.855	5.133	3711.365
61	8.252	6.662	5.656	4.936	4256.238
62	8.078	6.466	5.457	4.740	4881.105
63	7.900	6.267	5.257	4.544	5597.710
64	7.718	6.067	5.056	4.349	6419.521
65	7.532	5.865	4.857	4.157	7361.984
66	7.343	5.663	4.659	3.967	8442.811
67	7.150	5.460	4.462	3.780	9682.318
68	6.954	5.256	4.266	3.596	11103.798

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 DRAFT AGENDA

69	6.755	5.052	4.072	3.414	12733.969
70	6.552	4.847	3.879	3.234	14603.468
71	6.345	4.640	3.685	3.055	16747.432
72	6.134	4.431	3.490	2.875	19206.157
73	5.920	4.222	3.296	2.697	22025.851
74	5.705	4.015	3.106	2.523	25259.510
75	5.491	3.812	2.922	2.356	28967.909
76	5.279	3.615	2.745	2.197	33220.746
77	5.069	3.424	2.577	2.047	38097.950
78	4.861	3.239	2.415	1.905	43691.186
79	4.654	3.057	2.258	1.768	50105.577
80	4.448	2.879	2.106	1.636	57461.677
81	4.244	2.706	1.959	1.509	65897.740
82	4.044	2.538	1.818	1.389	75572.319
83	3.846	2.376	1.684	1.276	86667.243
84	3.652	2.217	1.554	1.166	99391.034
85	3.459	2.061	1.425	1.058	113982.830
86	3.272	1.911	1.302	0.955	130716.878
87	3.097	1.774	1.192	0.863	149907.684
88	2.934	1.651	1.095	0.784	171915.931
89	2.780	1.537	1.007	0.713	197155.252
90	2.630	1.426	0.922	0.645	226100.009
91	2.485	1.319	0.839	0.579	259294.204
92	2.350	1.220	0.763	0.519	297361.704
93	2.227	1.131	0.695	0.465	341017.971
94	2.118	1.053	0.636	0.419	391083.501
95	2.024	0.986	0.586	0.380	448499.252
96	1.943	0.931	0.546	0.349	514344.324
97	1.873	0.885	0.512	0.324	589856.243
98	1.811	0.845	0.484	0.302	676454.218
99	1.754	0.810	0.459	0.284	775765.815
100	1.701	0.779	0.437	0.268	889657.545
101	1.651	0.751	0.417	0.254	1020269.949
102	1.602	0.726	0.400	0.241	1170057.821
103	1.550	0.703	0.385	0.230	1341836.349
104	1.492	0.682	0.372	0.221	1538834.028
105	1.420	0.661	0.359	0.212	1764753.329
106	1.322	0.637	0.348	0.205	2023840.295
107	1.178	0.602	0.335	0.197	2320964.336
108	0.955	0.535	0.312	0.188	2661709.752
109	0.595	0.383	0.246	0.158	3052480.684

3137 Example: Three persons, ages 30, 40, and 45, are joint tenants for life in the whole of an estate worth
3138 \$10,500: the equivalent equal age, w, of these three persons is given by the following formula:

$$C^{30} + C^{40} + C^{45}$$

$$C^w = \frac{\quad}{3} = 258.711 \text{ where}$$

3139 C^{30} , C^{40} , and C^{45} are found in column 6 of the above table.

3140 *A linear interpolation between $x = 40$ and $x = 41$ in the above table would yield the value of $x = 40.540$,*
 3141 *which would be the equivalent equal age of the persons involved.*

3142 *Finally, a linear interpolation between $x = 40$ and $x = 41$ would yield the value of $A = 9.378$*
 3143 *40.540:40.540:40.540.*

3144 *This figure multiplied by \$840 (the interest at eight percent on \$10,500) gives \$7,877.52 as the gross value*
 3145 *of the joint life estate of such persons.*

3146 **§ 55.1-505. Commutation in case of persons under disability.**

3147 *In any case in which, under the laws of the Commonwealth, a provision is made for commutation in money*
 3148 *of a life estate when all the parties interested are under no disability, such provision shall also apply when any*
 3149 *of the parties interested are under disability. Where any of the parties interested are under disability, the court*
 3150 *may, upon application of the guardian, conservator, committee, or trustee, if any, and, if not, by a guardian ad*
 3151 *litem appointed by the clerk or judge of said court, of any such person, on behalf of his ward, and upon hearing*
 3152 *evidence satisfactory to such court or judge, enter an order authorizing such guardian, conservator, committee,*
 3153 *trustee, or guardian ad litem to consent on behalf of such person under disability to such commutation. Such*
 3154 *consent shall be as valid and effective as if the person on whose behalf it was given were sui juris and had given*
 3155 *such consent. All judicial orders and decrees entered prior to July 1, 1960, authorizing any such commutation*
 3156 *where persons under disability were interested, are hereby validated and confirmed, provided that nothing in*
 3157 *this section shall be construed as intended to impair any vested right.*

3158 **§ 55.1-506. Commutation of certain life estates.**

3159 *Whenever a party as tenant for life, or in any other manner, has a life interest in an estate that has been*
 3160 *sold under an action for partition or has been reduced to money, stocks, bonds, or notes, susceptible of division*
 3161 *and when the total cost of holding such money, stocks, bonds, or notes intact amounts to more than eight percent*
 3162 *of the gross annual income, and when the party owning such life estate is willing to accept a lump sum in lieu*
 3163 *of such annual income, upon the application of such person entitled to such annual income to any court of*
 3164 *record having jurisdiction over the subject matter, the court may order that such party or parties having charge*
 3165 *of such money, stocks, bonds, or notes shall pay to the party having the right to receive such annual income a*
 3166 *lump sum in accordance with § 55.1-500. This section shall not affect any spendthrift trust.*

SUBTITLE II.

REAL ESTATE SETTLEMENTS AND RECORDATION.

CHAPTER 6.

RECORDATION OF DOCUMENTS.

Article 1.

General Provisions.

3173 **§ 55.1-600. When and where writings recorded.**

3174 *Except when it is otherwise provided, the circuit court of any county or city, or the clerk of any such court,*
 3175 *or his duly qualified deputy, in his office, shall record any such writing as to any person whose name is signed*
 3176 *thereto with an original signature, when it shall have been acknowledged by him, or proved by two witnesses*
 3177 *as to him in such court, or before such clerk, or his duly qualified deputy, in his office, or the manner prescribed*
 3178 *in Articles 2 (§ 55.1-612 et seq.), 3 (§ 55.1-616 et seq.), and 4 (§ 55.1-624 et seq.). When such writing is signed*
 3179 *by a person acting on behalf of another, or in any representative capacity, the signature of such representative*
 3180 *may be acknowledged or proved in the same manner.*

3181 **§ 55.1-601. Recording and indexing of certain documents showing changes of names.**

3182 *A duly authenticated copy of a marriage license with the certificate of the person celebrating the marriage*
 3183 *or a duly authenticated copy of a final order of divorce showing a change of name of a woman shall be entitled*
 3184 *to be recorded in the clerk's office in which deeds are recorded of the county or city in which any land, or an*
 3185 *interest in any land, that is owned by such woman lies and shall be indexed by such clerk in the grantor and*
 3186 *grantee indices in his office.*

3187 **§ 55.1-602. Presumption that recorded writings are in proper form.**

3188 *A writing that is not properly notarized in accordance with the laws of the Commonwealth shall not*
 3189 *invalidate the underlying document; however, any such writing shall not be in proper form for recordation. All*
 3190 *recorded writings shall be presumed to be in proper form for recording after having been recorded, and*
 3191 *conclusively presumed to be in proper form for recording after having been recorded for a period of three*
 3192 *years, except in cases of fraud.*

3193 **§ 55.1-603. Deed of real estate investment trust.**

3194 Every deed that is to be recorded conveying property to or from a trust qualifying as a real estate investment
3195 trust shall include the complete address of the principal office of the trust. Failure to comply with the provisions
3196 of this section shall not invalidate any such deed.

3197 **§ 55.1-604. When clerk may refuse document to be recorded.**

3198 A clerk may refuse any document for recording in which the name of the person under which the document
3199 is to be indexed does not legibly appear or is not otherwise furnished.

3200 **§ 55.1-605. Power of attorney; where recorded.**

3201 A power of attorney may be recorded in any county or city.

3202 **§ 55.1-606. Standards for writings to be docketed or recorded.**

3203 Except as provided in Article 4.1 (§ 17.1-258.2 et seq.) of Title 17.1, all writings that are to be recorded or
3204 docketed in the clerk's office of courts of record shall be an original or first generation printed form, or legible
3205 copy thereof, pen and ink or typed ribbon copy, and shall meet the standards for instruments as adopted under
3206 §§ 17.1-227 and 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.).

3207 If a writing that does not conform to the requirements of this section or the standards for instruments
3208 adopted under § 17.1-227 and under § 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.) is accepted
3209 for recordation, it shall be deemed validly recorded and the clerk shall have no liability for accepting such a
3210 writing that does not meet the enumerated criteria in all the particulars.

3211 **§ 55.1-607. When original of writing once recorded is lost, how copy recorded elsewhere.**

3212 If it is proper for any writing that has been recorded in a court of any county or city to be recorded in the
3213 court of another county or city and such writing, before being so recorded in such other court, is lost or mislaid,
3214 on affidavit of this fact, such court or the clerk of such court may record a copy of such writing from the records
3215 of another court, certified by its clerk, and the copy so recorded shall have the same effect as if the original had
3216 been recorded at the time the copy was recorded.

3217 **§ 55.1-608. Certifications of recordation upon copies of certain instruments and subsequent recordation
3218 in other county or city.**

3219 Whenever a mortgage or deed of trust instrument upon real or personal property located in more than one
3220 county or city is recorded in one such county or city, the party by whom it is so presented may deliver to the
3221 clerk of such court any number of executed and acknowledged copies of such instrument. The clerk shall fix to
3222 each such copy his certificate of recordation, certifying thereby the payment of the recordation tax levied by
3223 the Commonwealth, and shall return to the party presenting all such instruments all such copies except one,
3224 which shall be retained by the clerk for recordation in his office. Such certificate shall be conclusive evidence
3225 of the payment of the recordation tax indicated thereby, and the clerk in any other recording office in any other
3226 county or city shall accept for recordation in his office any such copy so certified.

3227 **§ 55.1-609. Correcting errors in deeds, deeds of trust, and mortgages; affidavit.**

3228 A. As used in this section, unless the context requires a different meaning:

3229 "Attorney" means any person licensed as an attorney in Virginia by the Virginia State Bar.

3230 "Corrective affidavit" means an affidavit of an attorney correcting an obvious description error.

3231 "Obvious description error" means an error in a real property parcel description contained in a recorded
3232 deed, deed of trust, or mortgage where (i) such parcel is identified and shown as a separate parcel on a recorded
3233 subdivision plat; (ii) such error is apparent by reference to other information on the face of such deed, deed of
3234 trust, or mortgage or on an attachment to such deed, deed of trust, or mortgage or by reference to other
3235 instruments in the chain of title for the property conveyed thereby; and (iii) such deed, deed of trust, or mortgage
3236 recites elsewhere the parcel's correct address or tax map identification number. An "obvious description error"
3237 includes (a) an error transcribing courses and distances, including the omission of one or more lines of courses
3238 and distances or the omission of angles and compass directions; (b) an error incorporating an incorrect
3239 recorded plat or a deed reference; (c) an error in a lot number or designation; or (d) an omitted exhibit
3240 supplying the legal description of the real property thereby conveyed. An "obvious description error" does not
3241 include (1) missing or improper signatures or acknowledgments or (2) any designation of the type of tenancy
3242 by which the property is owned or whether or not a right of survivorship exists.

3243 "Recorded subdivision plat" means a plat that has been prepared by a land surveyor licensed pursuant to
3244 Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 and recorded in the clerk's office of the circuit court for
3245 the jurisdiction where the property is located.

3246 "Title insurance company" has the same meaning as set forth in § 38.2-4601, provided that the title
3247 insurance company issued a policy of title insurance for the transaction in which the deed, deed of trust, or
3248 mortgage needing correction was recorded.

3249 B. Obvious description errors in a recorded deed, deed of trust, or mortgage purporting to convey or
3250 transfer an interest in real property may be corrected by recording an affidavit in the land records of the circuit
3251 court for the jurisdiction where the property is located or where the deed, deed of trust, or mortgage needing
3252 correction was recorded. No correction of an obvious description error shall be inconsistent with the
3253 description of the property in any recorded subdivision plat.

3254 C. Prior to recording a corrective affidavit, the attorney seeking to record the affidavit shall deliver a copy
3255 of the affidavit to all parties to the deed, deed of trust, or mortgage, including the current owner of the property;
3256 to the attorney who prepared the deed, deed of trust, or mortgage, if known and if possible; and to the title
3257 insurance company, if known, and give notice of the intent to record the affidavit and of each party's right to
3258 object to the affidavit. For an affidavit to correct an obvious description error in a deed as described in clause
3259 (a) of the definition of "obvious description error" in subsection A, notice and a copy of the affidavit shall also
3260 be provided to any owner of property adjoining a line to be corrected. The notice and a copy of the affidavit
3261 shall be delivered by personal service, sent by certified mail, return receipt requested, or delivered by a
3262 commercial overnight delivery service or the United States Postal Service, and a receipt obtained, to the last
3263 known address of each party to the deed, deed of trust, or mortgage to be corrected that (i) is contained in the
3264 land book maintained pursuant to § 58.1-3301 by the jurisdiction where the property is located and where the
3265 deed, deed of trust, or mortgage needing correction was recorded; (ii) is contained in the deed, deed of trust,
3266 or mortgage needing correction; (iii) has been provided to the attorney as a forwarding address; or (iv) has
3267 been established with reasonable certainty by other means, and to all other persons and entities to whom notice
3268 is required to be given. The notice and a copy of the affidavit shall be sent to the property address for the real
3269 property conveyed by the deed, deed of trust, or mortgage needing correction. If a locality is a party to the
3270 deed, deed of trust, or mortgage, the notice and a copy of the affidavit required by this subsection shall be sent
3271 to the county, city, or town attorney for the locality, if any, and if there is no such attorney, then to the chief
3272 executive for the locality. For the purposes of this section, the term "party" includes any locality that is a
3273 signatory. If the Commonwealth is a party to the deed, deed of trust, or mortgage, the notice and a copy of the
3274 affidavit required by this subsection shall be sent to the Attorney General and to the director, chief executive
3275 officer, or head of the state agency or chairman of the board of the state entity in possession or that had
3276 possession of the property.

3277 D. If, within 30 days after personal service or receiving confirmation of delivery of the notice and a copy
3278 of the affidavit (i) to all parties to the deed, deed of trust, or mortgage, including the current owner of the
3279 property; (ii) to the attorney who prepared the deed, deed of trust, or mortgage, if known and if possible; (iii)
3280 to the title insurance company, if known; and (iv) to the adjoining property owners, if necessary, pursuant to
3281 subsection C, no written objection is received from any party disputing the facts recited in the affidavit or
3282 objecting to its recordation, the corrective affidavit may be recorded by the attorney, and all parties to the deed,
3283 deed of trust, or mortgage shall be bound by the terms of the affidavit. The corrective affidavit shall contain (a)
3284 a statement that no objection was received from any party within the period and (b) a copy of the notice sent to
3285 the parties. The notice shall contain the attorney's Virginia State Bar number. The corrective affidavit shall be
3286 notarized.

3287 E. A corrective affidavit that is recorded pursuant to this section operates as a correction of the deed, deed
3288 of trust, or mortgage and relates back to the date of the original recordation of the deed, deed of trust, or
3289 mortgage as if the deed, deed of trust, or mortgage was correct when first recorded. A title insurance company,
3290 upon request, shall issue an endorsement to reflect the corrections made by the corrective affidavit and shall
3291 deliver a copy of the endorsement to all parties to the policy who can be found.

3292 F. The clerk shall record the corrective affidavit in the deed book and, notwithstanding their designation
3293 in the deed, deed of trust, or mortgage needing correction, index the affidavit in the names of the parties to the
3294 deed, deed of trust, or mortgage as grantors and grantees as set forth in the affidavit. The costs associated with
3295 the recording of a corrective affidavit pursuant to this section shall be paid by the party that records the
3296 corrective affidavit. An affidavit recorded in compliance with this section shall be prima facie evidence of the
3297 facts stated in such affidavit. Any person who wrongfully or erroneously records a corrective affidavit is liable
3298 for actual damages sustained by any party due to such recordation, including reasonable attorney fees and
3299 costs.

3300 G. The remedies under this section are not exclusive and do not abrogate any right or remedy under the
3301 laws of the Commonwealth other than this section.

3302 H. An affidavit under this section may be made in the following form, or to the same effect:

3303 Corrective Affidavit

3304 This Affidavit, prepared pursuant to Virginia Code § 55.1-609, shall be indexed in the names of
3305 _____ (grantor) and _____ (grantee), whose addresses are _____. The
3306 undersigned affiant, being first duly sworn, deposes and states as follows:

3307 1. That the affiant is a Virginia attorney.

3308 2. That the deed, deed of trust, or mortgage needing correction was made in connection with a real estate
3309 transaction in which _____ purchased real estate from _____, as shown in a deed
3310 recorded in the Clerk's Office of the Circuit Court of _____, in Deed Book _____, Page _____, or
3311 as Instrument Number _____; or in which real estate was encumbered, as shown in a deed recorded in the
3312 Clerk's Office of the Circuit Court of _____, in Deed Book _____, Page _____, or as Instrument
3313 Number _____.

3314 3. That the property description in the aforementioned deed, deed of trust, or mortgage contains an obvious
3315 description error.

3316 4. That the property description containing the obvious description error reads:

3317 _____
3318 _____.

3319 5. That the correct property description should read:

3320 _____
3321 _____.

3322 6. That this affidavit is given pursuant to § 55.1-609 of the Code of Virginia to correct the property
3323 description in the aforementioned deed, deed of trust, or mortgage and such description shall be as stated in
3324 paragraph 5 above upon recordation of this affidavit in the Circuit Court of _____.

3325 7. That notice of the intent to record this corrective affidavit and a copy of this affidavit was delivered to
3326 all parties to the deed, deed of trust, or mortgage being corrected pursuant to § 55.1-609 of the Code of Virginia
3327 and that no objection to the recordation of this affidavit was received within the applicable period of time as
3328 set forth in § 55.1-609 of the Code of Virginia.

3329 _____
3330 (Name of attorney)

3331 _____
3332 (Signature of attorney)

3333 _____
3334 (Address of attorney)

3335 _____
3336 (Telephone number of attorney)

3337 _____
3338 (Bar number of attorney)

3339 The foregoing affidavit was acknowledged before me

3340 This _____ day of _____, 20____, by

3341 _____
3342 Notary Public

3343 My Commission expires _____.

3344 Notary Registration Number: _____.

3345 I. Notice under this section may be made in the following form, or to the same effect:

3346 Notice of Intent to Correct an Obvious Description Error

3347 Notice is hereby given to you concerning the deed, deed of trust, or mortgage described in the corrective
3348 affidavit, a copy of which is attached to this notice, as follows:

3349 1. The attorney identified below has discovered or has been advised of an obvious description error in the
3350 deed, deed of trust, or mortgage recorded as part of your real estate settlement. The error is described in the
3351 attached affidavit.

DRAFT AGENDA
Matters contained in this agenda are proposed topics for discussion and are not to be construed as regulation or official Board position.

3352 2. The undersigned will record an affidavit to correct such error unless the undersigned receives a written
 3353 objection disputing the facts recited in the affidavit or objecting to the recordation of the affidavit. Your
 3354 objections must be sent within 30 days of receipt of this notice to the following address:

3355 _____
 3356 (Address)

3357 _____
 3358 (Name of attorney)

3359 _____
 3360 (Signature of attorney)

3361 _____
 3362 (Address of attorney)

3363 _____
 3364 (Telephone number of attorney)

3365 _____
 3366 (Bar number of attorney)

3367 **§ 55.1-610. Recordation of copy of lost deed previously recorded in what is now West Virginia.**

3368 In any case when any deed was duly recorded before the formation of the state of West Virginia in any
 3369 county or city now within the limits of West Virginia and such deed, after diligent search, cannot be found, upon
 3370 affidavit of that fact by any party in interest, his agent, or his attorney, any court of the Commonwealth in
 3371 which, or the clerk's office of which, the original might be recorded, or the clerk of any such court, may record
 3372 a copy of such deed from the records of the court of West Virginia, or the clerk's office of such court in which
 3373 such deed is recorded, duly certified by the clerk of such court, under the seal of the court, and the recordation
 3374 of such copy shall have the same effect as the recordation of the original.

3375 **§ 55.1-611. Continuing in force acts establishing Torrens system.**

3376 The act entitled "An act to provide for the settlement, registration, transfer, and assurance of titles to land,
 3377 and to establish courts of land registration, with jurisdiction for such purposes, and to make uniform the laws
 3378 of the State enacting the same," approved February 24, 1916, as amended by an act approved March 20, 1916,
 3379 and last amended by Chapter 227 of the Acts of 1948, approved March 13, 1948, is continued in force.

3380 Article 2.

3381 Acknowledgments Generally.

3382 **§ 55.1-612. Acknowledgment within the United States or its dependencies.**

3383 A circuit court of any county or city, or the clerk of any such court, shall record any writing as is described
 3384 in § 55.1-600 as to any person whose name is signed to such writing, except that acknowledgment of contracts
 3385 for the sale of real property shall require the seller or grantor of such real property to acknowledge his
 3386 signature as provided in this section, except for contracts recorded after the death of the seller pursuant to §
 3387 64.2-523.

3388 1. Upon the certificate of such clerk or his deputy, a notary public, a commissioner in chancery, or a clerk
 3389 of any court of record within the United States or in Puerto Rico or any territory or other dependency or
 3390 possession of the United States that such writing had been acknowledged before him by such person. Such
 3391 certificate shall be written upon or attached to such writing and shall be substantially to the following effect:

3392 I, _____, clerk (or deputy clerk or a commissioner in chancery) of the _____ court,
 3393 (or a notary public) for the county (or city) aforesaid, in the state (or territory or district) of _____,
 3394 do certify that E.F., or E.F. and G.H., and so forth, whose name (or names) is (or are) signed to the writing
 3395 above (or hereto attached) bearing date on the _____ day of _____, has (or have) acknowledged
 3396 the same before me in my county (or city) aforesaid.

3397 Given under my hand this _____ day of _____.

3398 2. Upon the certificate of acknowledgment of such person before any commissioner appointed by the
 3399 Governor, within the United States, so written or attached, substantially to the following effect:

3400 State (or territory or district) of _____:

3401 I, _____, a commissioner appointed by the Governor of the Commonwealth of Virginia, for
 3402 such state (or territory or district) of _____, do certify that E.F. (or E.F. and G.H., and so forth)
 3403 whose name (or names) is (or are) signed to the writing above (or hereto attached) bearing date on the
 3404 _____ day of _____ has (or have) acknowledged the same before me in my state (or territory or
 3405 district) aforesaid.

3406 Given under my hand this _____ day of _____.

3407 3. Or upon the certificate of such clerk or his deputy, a notary public, a commissioner in chancery, or a
 3408 clerk of any court of record within the United States or in Puerto Rico or any territory or other possession or
 3409 dependency of the United States, or of a commissioner appointed by the Governor, within the United States,
 3410 that such writing was proved as to such person, before him, by two subscribing witnesses thereto. Such
 3411 certificate shall be written upon or attached to such writing and shall be substantially to the following effect:

3412 State (or territory or district) of _____; county (or city) of _____; I,
 3413 _____, clerk (or deputy clerk or a commissioner in chancery) of the _____ court, (or
 3414 a notary public) for the county (or city) aforesaid, in the state (or territory or district) of _____ (or
 3415 a commissioner appointed by the Governor of the Commonwealth of Virginia for such state (or territory or
 3416 district) of _____), do certify that the execution of the writing above (or hereto attached) bearing
 3417 date on the _____ day of _____, by A.B. (or A.B. and C.D., and so forth), whose name (or names)
 3418 is (or are) signed thereto, was proved before me in my county (or city or state, territory, or district) aforesaid,
 3419 by the evidence on oath of E.F. and G.H., subscribing witnesses to such writing.

3420 Given under my hand this _____ day of _____.

3421 When authority is given in § 55.1-600 or in this section to the clerk of a court in or outside of the
 3422 Commonwealth, but within the United States, such authority may be exercised by his duly qualified deputy.

3423 **§ 55.1-613. Acknowledgments outside of the United States and its dependencies.**

3424 A circuit court of any county or city, or the clerk of such court, shall also record any writing as is described
 3425 in § 55.1-600 as to any person whose name is signed thereto upon the certificate under the official seal of any
 3426 ambassador, minister plenipotentiary, minister resident, charge d'affaires, consul-general, consul, vice-consul,
 3427 or commercial agent appointed by the government of the United States to any foreign country, or of the proper
 3428 officer of any court of record of such country or of the mayor or other chief magistrate of any city, town, or
 3429 corporation therein, that such writing was acknowledged by such person or proved as to him by two witnesses
 3430 before any person having such appointment or before such court, mayor, or chief magistrate.

3431 **§ 55.1-614. Acknowledgments by persons subject to Uniform Code of Military Justice; validation of**
 3432 **certain acknowledgments.**

3433 A circuit court of any county or city, or the clerk of such court, shall also record any writing as is described
 3434 in § 55.1-600 as to any person whose name is signed thereto and who at the time of such acknowledgment:

- 3435 1. Was a member of any of the Armed Forces of the United States, wherever they may have been;
- 3436 2. Was employed by, or accompanying such armed forces outside the United States and outside the Canal
 3437 Zone, Puerto Rico, Guam, and the Virgin Islands; or
- 3438 3. Was subject to the Uniform Code of Military Justice of the United States outside of the United States,
 3439 upon the certificate of any person authorized to take acknowledgments under 10 U.S.C. § 936(a), as amended.

3440 Such certification shall be in substantially the same form as required by § 55.1-615.

3441 Any acknowledgment taken before July 1, 1995, that is in substantial conformity with this section is hereby
 3442 ratified, validated, and confirmed.

3443 **§ 55.1-615. Acknowledgments taken before commissioned officers in military service.**

3444 A circuit court of any county or city, or clerk of such court, shall also record any writing as is described in
 3445 § 55.1-600 as to any person whose name is signed thereto who at the time of such acknowledgment was in
 3446 active service in the Armed Forces of the United States, or as to the consort of such person, upon the certificate
 3447 of any commissioned officer of the army, navy, marine corps, air force, coast guard, any state national guard
 3448 that is federally recognized, or other branch of the service of which such person is a member, that such writing
 3449 had been acknowledged before him by such person. Such certificate shall be written upon or attached to such
 3450 writing and shall be substantially to the following effect:

3451 In the army (or navy, etc.) of the United States.

3452 I, _____, a commissioned officer of the army (or navy, marine corps, air force, coast guard, or
 3453 other branch of service) of the United States with the rank of lieutenant (or ensign or other appropriate rank)
 3454 whose home address is _____, do certify that E.F. (or E.F. and G.H., and so forth), whose name
 3455 (or names) is (or are) signed to the writing above (or hereto attached), bearing date on the _____ day of
 3456 _____, and who, or whose consort, is a private (corporal, seaman, captain, or other grade or rank) in
 3457 the army (or navy, etc.) of the United States, and whose home address is _____, has (or have)
 3458 acknowledged the same before me.

3459 Given under my hand this _____ day of _____.

3460 Such acknowledgment may be taken at any place where the officer taking the acknowledgment and the
 3461 person whose name is signed to the writing may be. Such commissioned officer may take the acknowledgment
 3462 of any person in any branch of the Armed Forces of the United States or the consort of such person.

3463 Every acknowledgment executed prior to July 1, 1995, in substantial compliance with the provisions of this
 3464 section is hereby validated, ratified, and confirmed, notwithstanding any error or omission with respect to any
 3465 address, grade, or rank.

3466 Article 3.

3467 Uniform Recognition of Acknowledgments Act.

3468 § 55.1-616. "Notarial acts" defined; who may perform notarial acts outside the Commonwealth for use
 3469 in the Commonwealth.

3470 A. For the purposes of this article, "notarial acts" means acts that the laws and regulations of the
 3471 Commonwealth authorize notaries public of the Commonwealth to perform, including the administering of
 3472 oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting
 3473 documents.

3474 B. Notarial acts may be performed outside the Commonwealth for use in the Commonwealth with the same
 3475 effect as if performed by a notary public of the Commonwealth by the following persons authorized pursuant to
 3476 the laws and regulations of other governments in addition to any other person authorized by the laws and
 3477 regulations of the Commonwealth:

3478 1. A notary public authorized to perform notarial acts in the place in which the notarial act is performed;
 3479 2. A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed;
 3480 3. An officer of the foreign service of the United States, a consular agent, or any other person authorized
 3481 by regulation of the U.S. Department of State to perform notarial acts in the place in which the notarial act is
 3482 performed;

3483 4. A commissioned officer in active service with the Armed Forces of the United States and any other person
 3484 authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for one of
 3485 the following or his dependents: a merchant seaman of the United States, a member of the Armed Forces of the
 3486 United States, or any other person serving with or accompanying a member of the Armed Forces of the United
 3487 States; or

3488 5. Any other person authorized to perform notarial acts in the place in which the notarial act is performed.

3489 § 55.1-617. Proof of authority of person performing notarial act.

3490 A. If the notarial act is performed by any of the persons described in subdivisions B 1 through 4 of § 55.1-
 3491 616 other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the
 3492 signature, rank, or title and serial number, if any, of the person are sufficient proof of the authority of a holder
 3493 of that rank or title to perform the notarial act. Further proof of his authority is not required.

3494 B. If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to
 3495 perform the notarial act, there is sufficient proof of the authority of that person to act if:

3496 1. Either a foreign service officer of the United States resident in the country in which the notarial act is
 3497 performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that
 3498 a person holding that office is authorized to perform the notarial act;

3499 2. The official seal of the person performing the notarial act is affixed to the document; or

3500 3. The title and indication of authority to perform notarial acts of the person appears either in a digest of
 3501 foreign law or in a list customarily used as a source of such information.

3502 C. If the notarial act is performed by a person other than one described in subsections A and B, there is
 3503 sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the
 3504 notarial act is performed certifies to the official character of that person and to his authority to perform the
 3505 notarial act.

3506 D. The signature and title of the person performing the notarial act are prima facie evidence that he is a
 3507 person with the designated title and that the signature is genuine.

3508 § 55.1-618. What person taking acknowledgment shall certify.

3509 The person taking an acknowledgment shall certify that:

3510 1. The person acknowledging appeared before him and acknowledged he executed the instrument; and

3511 2. The person acknowledging was known to the person taking the acknowledgment or that the person taking
 3512 the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and
 3513 who executed the instrument.

3514 **§ 55.1-619. When form of certificate of acknowledgment accepted.**

3515 *The form of a certificate of acknowledgment used by a person whose authority is recognized under § 55.1-*

3516 *616 shall be accepted in the Commonwealth if:*

- 3517 1. *The certificate is in a form prescribed by the laws or regulations of the Commonwealth;*
- 3518 2. *The certificate is in a form prescribed by the laws or regulations applicable in the place in which the*
- 3519 *acknowledgment is taken; or*
- 3520 3. *The certificate contains the words "acknowledged before me" or their substantial equivalent.*

3521 **§ 55.1-620. Meaning of "acknowledged before me."**

3522 *For the purposes of this article, "acknowledged before me" means:*

- 3523 1. *That the person acknowledging appeared before the person taking the acknowledgment;*
- 3524 2. *That the person acknowledging acknowledged he executed the instrument;*
- 3525 3. *That, in the case of:*
- 3526 a. *A natural person acknowledging, he executed the instrument for the purposes stated in the instrument;*
- 3527 b. *A corporation, the officer or agent acknowledged he held the position or title set forth in the instrument*
- 3528 *and certificate, he signed the instrument on behalf of the corporation by proper authority, and the instrument*
- 3529 *was the act of the corporation for the purpose stated in the instrument;*
- 3530 c. *A partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership*
- 3531 *by proper authority and he executed the instrument as the act of the partnership for the purposes stated in the*
- 3532 *instrument;*
- 3533 d. *A person acknowledging as principal by an attorney-in-fact, he executed the instrument by proper*
- 3534 *authority as the act of the principal for the purposes stated in the instrument; or*
- 3535 e. *A person acknowledging as a public officer, trustee, administrator, guardian, conservator, or other*
- 3536 *representative, he signed the instrument by proper authority and he executed the instrument in the capacity and*
- 3537 *for the purposes stated in the instrument; and*
- 3538 4. *That the person taking the acknowledgment either knew or had satisfactory evidence that the person*
- 3539 *acknowledging was the person named in the instrument or certificate.*

3540 **§ 55.1-621. Statutory short forms of acknowledgment.**

3541 *The forms of acknowledgment set forth in this section may be used and are sufficient for their respective*

3542 *purposes under any law of the Commonwealth. The following forms shall be known as "Statutory Short Forms*

3543 *of Acknowledgment" and may be referred to by that name. The authorization of the forms in this section does*

3544 *not preclude the use of other forms.*

- 3545 1. *For an individual acting in his own right:*

3546 *State of _____*

3547 *County or city of _____*

3548 *The foregoing instrument was acknowledged before me this (date) by (name of person acknowledged).*

3549 *(Signature of Person Taking Acknowledgment)*

3550 *(Title or Rank)*

3551 *(Serial Number, if any)*

- 3552 2. *For a corporation:*

3553 *State of _____*

3554 *County or city of _____*

3555 *The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of*

3556 *officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on*

3557 *behalf of the corporation.*

3558 *(Signature of Person Taking Acknowledgment)*

3559 *(Title or Rank)*

3560 *(Serial Number, if any)*

- 3561 3. *For a partnership:*

3562 *State of _____*

3563 *County or city of _____*

3564 *The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or*

3565 *agent), partner (or agent) on behalf of (name of partnership), a partnership.*

3566 *(Signature of Person Taking Acknowledgment)*

3567 *(Title or Rank)*

3568 (Serial Number, if any)

3569 4. For an individual acting as principal by an attorney-in-fact:

3570 State of _____

3571 County or city of _____

3572 The foregoing instrument was acknowledged before me this (date) by (name of attorney-in-fact) as attorney-
3573 in-fact on behalf of (name of principal).

3574 (Signature of Person Taking Acknowledgment)

3575 (Title or Rank)

3576 (Serial Number, if any)

3577 5. By any public officer, trustee, or personal representative:

3578 State of _____

3579 County or city of _____

3580 The foregoing instrument was acknowledged before me this (date) by (name and title of position).

3581 (Signature of Person Taking Acknowledgment)

3582 (Title or Rank)

3583 (Serial Number, if any)

3584 **§ 55.1-622. Application of article; article cumulative.**

3585 A notarial act performed prior to June 26, 1970, is not affected by this article. This article provides an
3586 additional method of proving notarial acts. Nothing in this article diminishes or invalidates the recognition
3587 accorded to notarial acts by other laws or regulations of the Commonwealth.

3588 **§ 55.1-623. Uniform interpretation.**

3589 This article shall be so interpreted as to make uniform the laws of those states that enact it.

3590 Article 4.

3591 Deeds and Acknowledgments of Corporations.

3592 **§ 55.1-624. Deeds of corporations; how to be executed and acknowledged.**

3593 All deeds made by corporations shall be signed in the name of the corporation by the president or acting
3594 president, or any vice-president, or by such other person as may be authorized to do so by the board of directors
3595 of such corporation, and, if such deed is to be recorded, the person signing the name of the corporation shall
3596 acknowledge such authority in the manner provided by § 55.1-625.

3597 **§ 55.1-625. Acknowledgments on behalf of corporations and others.**

3598 When any writing purports to have been signed on behalf or by authority of any person or corporation, or
3599 in any representative capacity whatsoever, the certificate of the acknowledgment by the person so signing the
3600 writing shall be sufficient for the purposes of this and §§ 55.1-600, 55.1-612, 55.1-613, and 55.1-615, and for
3601 the recordation of such writing as to the person or corporation on whose behalf it is signed, or as to the
3602 representative character of the person so signing the writing, as the case may be, without expressing that such
3603 acknowledgment was on behalf or by authority of such other person or corporation or was in a representative
3604 capacity. In the case of a writing signed on behalf or by authority of any person or corporation or in any
3605 representative capacity, a certificate to the following effect shall be sufficient:

3606 State (or territory or district) of _____, county (or city) of _____: I,

3607 _____, a _____ (here insert the official title of the person certifying the

3608 acknowledgment) in and for the state (or territory or district) and county (or city) aforesaid, do certify that

3609 _____ (here insert the name or names of the persons signing the writing on behalf of the person or

3610 corporation, or the name of the person signing the writing in a representative capacity), whose name (or names)

3611 is (or are) signed to the writing above, bearing date on the _____ day of _____, has (or have)

3612 acknowledged the same before me in my county (or city) aforesaid. Given under my hand this _____ day

3613 of _____.

3614 **§ 55.1-626. Corporate acknowledgment taken before officer or stockholder.**

3615 Any notary or other officer duly authorized to take acknowledgments may take the acknowledgment to any
3616 deed or other writing executed by a company or to a company or for the benefit of a company, although he may
3617 be a stockholder, an officer, or both, in such company, provided that he is not otherwise interested in the
3618 property conveyed or disposed of by such deed or other writing, and nothing herein shall be construed to
3619 authorize any officer to take an acknowledgment to any deed or other writing executed by such company by
3620 and through him as an officer or stockholder of such company, or to him for the benefit of such company.

3621 Article 5.

3622 *Validating Certain Acts, Deeds, and Acknowledgments.*

3623 **§ 55.1-627. Acts of notaries public, etc., who have held certain other offices.**

3624 *All certificates of acknowledgment to deeds and other writings, taken and certified by notaries public and*
3625 *commissioners in chancery, and all depositions taken, accounts and reports made, and decrees executed by any*
3626 *notary public, commissioner in chancery, or commissioner of accounts, who, since January 1, 1989, may have*
3627 *held the office of county treasurer, sheriff, attorney for the Commonwealth, county clerk, commissioner of the*
3628 *revenue, superintendent of the poor, county surveyor, or supervisor shall be held and are hereby declared valid*
3629 *and effective in all respects if otherwise valid and effective according to the law then in force.*

3630 **§ 55.1-628. Validation of acknowledgments when seal not affixed.**

3631 *When a certificate of acknowledgment was made prior to July 1, 1995, to any instrument in writing required*
3632 *by this chapter to be acknowledged and the notary or other official whether of this or some other state taking*
3633 *such acknowledgment failed to affix his official seal to such certificate of acknowledgment when a seal was*
3634 *necessary, the certificate of acknowledgment shall be as valid for all purposes as if such seal had been affixed,*
3635 *and the deed shall be, and shall since such date have been, notice to all persons as effectually as if such seal*
3636 *had been affixed, provided that such acknowledgment was in other respects sufficient.*

3637 **§ 55.1-629. Acknowledgment taken by trustee in deed of trust.**

3638 *All certificates of acknowledgment to deeds of trust made and certified prior to March 23, 1936, by persons*
3639 *being trustees in such deeds shall be held and are hereby declared valid and effective in all respects if otherwise*
3640 *valid according to the law then in force, and each such deed of trust that has been recorded in any clerk's office*
3641 *in the Commonwealth upon such a certificate shall be held to be duly and regularly recorded if such recordation*
3642 *is otherwise valid according to the law then in force.*

3643 *Nothing in this section shall affect or diminish the rights or remedies of any person who intervened after*
3644 *the recordation of any such deed of trust but prior to March 23, 1936.*

3645 **§ 55.1-630. Acknowledgment taken by trustee in deed of trust; later date.**

3646 *Any certificate of acknowledgment of any deed of trust, taken and certified prior to July 1, 1995, by a person*
3647 *named as trustee therein who was, at the time of taking the acknowledgment, an officer authorized by law to*
3648 *take acknowledgments of deeds, is declared to be as valid and of the same force and effect as if such person*
3649 *had not been a trustee in the deed of trust. Subject to the provisions of § 55.1-602, however, this section shall*
3650 *not affect any right or remedy of any third party that accrued after the recordation of the deed of trust and*
3651 *before July 1, 1995.*

3652 **§ 55.1-631. Certain acknowledgments taken and certified before July 1, 1995.**

3653 *All certificates of acknowledgments to deeds and other writings taken and certified prior to July 1, 1995,*
3654 *by commissioners of deeds of states other than the Commonwealth, appointed or commissioned by the governor*
3655 *of such state, and by notaries public appointed or commissioned by the Governor of the Commonwealth, or*
3656 *appointed or commissioned under the laws of any state other than the Commonwealth, or any other officer*
3657 *authorized under this chapter to take and certify acknowledgments of deeds and other writings, that omit the*
3658 *citation of the date of the deed or certificate where it is clear from the content of the entire certificate and the*
3659 *instrument that has been acknowledged that the identity of the instrument or the certificate is the same, or if it*
3660 *can reasonably be inferred from the certificate of the person recording the instrument or other writing that the*
3661 *certificate refers to the same instrument, shall be held and are hereby declared valid and effective in all respects*
3662 *if otherwise valid according to the law then in force, or otherwise appear valid upon their face, and all such*
3663 *deeds and other writings that have been recorded in any clerk's office in the Commonwealth upon such*
3664 *certificates shall be held to be duly and regularly recorded if such recordation is otherwise valid according to*
3665 *the law then in force.*

3666 **§ 55.1-632. Acknowledgments taken by certain justices of the peace, mayors, etc.**

3667 *All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by*
3668 *justices of the peace, mayors of cities or towns, police justices, and civil and police justices who by virtue of*
3669 *their offices had the powers and authority of justices of the peace, when such justices of the peace, mayors,*
3670 *police justices, or civil and police justices are designated in the certificates of acknowledgments as mayors,*
3671 *police justices, or civil and police justices shall be held and are hereby declared valid and effective in all*
3672 *respects if otherwise valid according to the law then in force.*

3673 **§ 55.1-633. Acknowledgments taken by officers after expiration of terms.**

3674 *All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by*
3675 *commissioners of deeds of states other than the Commonwealth, appointed or commissioned by the governor*

3676 of such state, and by notaries public appointed or commissioned by the Governor of the Commonwealth, or
3677 appointed or commissioned under the laws of any state other than the Commonwealth, or any other officer
3678 authorized under this chapter to take and certify acknowledgments to deeds and other writings who took and
3679 certified such acknowledgments after their term of office had expired, shall be held and are hereby declared
3680 valid and effective in all respects if otherwise valid according to the law then in force or appear to be valid
3681 upon their face, and all such deeds and other writings that have been recorded in any clerk's office in the
3682 Commonwealth upon such certificates shall be held to be duly and regularly recorded if such recordation is
3683 otherwise valid according to the law then in force.

3684 **§ 55.1-634. Acknowledgments taken by notaries in service during World War I.**

3685 All certificates of acknowledgment to deeds and other writings taken and certified in the Commonwealth
3686 prior to June 18, 1920, by notaries public who served in the army, navy, or marine corps of the United States
3687 during World War I shall be held and are hereby declared valid and effective in all respects if otherwise valid
3688 according to the law then in force.

3689 **§ 55.1-635. Acknowledgments before foreign officials who failed to affix seals.**

3690 All certificates of acknowledgment to deeds and other writings made and certified prior to July 1, 1995,
3691 before officials in any foreign country authorized by law to take and certify such acknowledgments, to which
3692 such officials failed to affix their official seals, shall be held and are hereby declared valid and effective in all
3693 respects if otherwise valid according to the law then in force.

3694 **§ 55.1-636. Acknowledgments taken by notaries in foreign countries.**

3695 All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by
3696 notaries public residing in foreign countries shall be held and are hereby declared valid and effective in all
3697 respects if otherwise valid according to the law then in force.

3698 **§ 55.1-637. Acknowledgments taken by officer who was spouse of grantee.**

3699 Any certificate of acknowledgment to a deed or other writings taken prior to July 1, 1995, by a notary
3700 public or other officer duly authorized to take acknowledgments who at the time of taking such acknowledgment
3701 was the spouse of the grantee in the deed or other instrument shall be held and is hereby declared valid and
3702 effective in all respects if otherwise valid according to the law then in force. All acknowledgments of
3703 conveyances to a fiduciary taken before an officer who is the husband or wife of such officer and who has no
3704 beneficial or monetary interest other than possible commissions or legal fees shall be conclusively presumed
3705 valid.

3706 **§ 55.1-638. Acknowledgment when notary certifies erroneously as to expiration of commission.**

3707 All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by
3708 a notary public appointed or commissioned by the Governor, or appointed or commissioned under the laws of
3709 any state other than the Commonwealth, who mistakenly or by error certified that his commission had expired
3710 at the time he made such certificate, when in fact his commission had not at that time expired, shall be held and
3711 are hereby declared valid and effective in all respects if otherwise valid according to the law of the
3712 Commonwealth then in force, and the date and life of the notary's commission may be proved aliunde his
3713 certificate in any proceeding in which the capacity or authority of such notary is or shall be questioned, and
3714 all such deeds and other writings that have been recorded in any clerk's office in the Commonwealth upon such
3715 certificates shall be held to be duly and regularly recorded if such recordation is otherwise valid according to
3716 the law then in force.

3717 **§ 55.1-639. Acknowledgments before officer of city or county consolidating, etc., prior to expiration date
3718 of commission.**

3719 All certificates of acknowledgment to deeds and other writings taken and certified by a notary public or
3720 other officer originally duly authorized to take acknowledgments in any city or county that consolidated with
3721 other political subdivisions or became a city, as the case may be, prior to the normal expiration date of the
3722 commission of such notary public or other officer are hereby declared to be valid to the same extent they would
3723 have been valid as if such notary public or other officer had been commissioned for such consolidated political
3724 subdivision or city to which any such county was transformed.

3725 **§ 55.1-640. Acknowledgments taken before notary whose commission has expired.**

3726 All certificates of acknowledgment to deeds and other writings taken and certified prior to March 22, 1930,
3727 by notaries public appointed or commissioned by the Governor who took and certified such acknowledgments
3728 after their term of office had expired shall be held and are hereby declared valid and effective in all respects if
3729 otherwise valid according to the law then in force, and all such deeds and other writings that have been

3730 recorded in any clerk's office in the Commonwealth upon such certificates shall be held to be duly and regularly
3731 recorded if such recordation is otherwise valid according to the law then in force.

3732 **§ 55.1-641. Acknowledgments taken before notary whose commission has expired; later date;**
3733 **intervening vested rights saved.**

3734 All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by
3735 notaries public appointed or commissioned by the Governor who took and certified such acknowledgments
3736 after their term of office had expired shall be held and are hereby declared valid and effective in all respects if
3737 otherwise valid according to the law then in force, and all such deeds and other writings that have been
3738 recorded in any clerk's office in the Commonwealth upon such certificates shall be held to be duly and regularly
3739 recorded if such recordation is otherwise valid according to the law then in force; however, nothing in this
3740 section shall be so construed as to affect any intervening vested rights.

3741 **§ 55.1-642. Acknowledgments taken before notary who was appointed but failed to qualify; vested rights**
3742 **saved.**

3743 All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by
3744 a person who was appointed as a notary public by the Governor but who failed to qualify as provided by law
3745 shall be held and are hereby declared valid and effective in all respects if otherwise valid, and all such deeds
3746 and other writings that have been recorded in any clerk's office in the Commonwealth upon such certificates
3747 shall be held to be duly and regularly recorded if such recordation is otherwise valid according to law; however,
3748 nothing in this section shall be so construed as to affect any intervening vested rights.

3749 **§ 55.1-643. Acknowledgments taken before a notary at large who failed to cite the jurisdiction in which**
3750 **the acknowledgment was taken; vested rights saved.**

3751 All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by
3752 a person who was appointed a notary public for the Commonwealth at large by the Governor but who failed to
3753 include in such certificates of acknowledgment the county or city in which the notarial act was performed shall
3754 be held and are hereby declared valid and effective in all respects if otherwise valid, and all such deeds and
3755 other writings that have been recorded in any clerk's office in the Commonwealth upon such certificates shall
3756 be held to be duly and regularly recorded if such recordation is otherwise valid according to law; however,
3757 nothing in this section shall be so construed as to affect any intervening vested rights.

3758 **§ 55.1-644. Deeds defectively executed by corporation.**

3759 Any deed of conveyance of real estate executed in the Commonwealth prior to July 1, 1995, by a corporation
3760 of the Commonwealth, when the certificate of acknowledgment of such deed fails to state the representative
3761 capacity of the party signing such deed for the corporation, shall be held and is hereby declared a valid and
3762 effective conveyance in every respect if otherwise valid according to the law in force at the time the deed was
3763 executed if such corporation, since making such conveyance, has been dissolved or otherwise gone out of
3764 existence.

3765 **§ 55.1-645. Deeds to which corporate seal not affixed or not attested.**

3766 Any deed of conveyance of real estate executed within or outside of the Commonwealth by a corporation
3767 of the Commonwealth or any other state to which deed the seal of the corporation was not affixed, or to which
3768 the seal was affixed but was not attested to by the secretary or by some other authorized officer of the
3769 corporation, shall be held to be valid and is hereby declared a valid and effective conveyance in every respect
3770 if otherwise valid according to the law then in force.

3771 **§ 55.1-646. Acknowledgments of corporations taken by officers or stockholders.**

3772 No acknowledgment heretofore taken to any deed or any writing executed by a company, or for the benefit
3773 of a company, shall be held to be invalid by reason of the acknowledgment having been taken by a notary or
3774 other officer duly authorized to take acknowledgments who, at the time of taking the acknowledgment, was a
3775 stockholder, an officer, or both, in the company that executed the deed or writing, or for the benefit of which
3776 the deed or writing was executed, but who was not otherwise interested in the property conveyed or disposed
3777 of by such deed or writing, and such deed or other writing, and the recordation of such deed or other writing,
3778 shall be valid in all respects as if this section had been in force when it was executed.

3779 **§ 55.1-647. Recordation certificate not signed by clerk.**

3780 A. All deeds, orders of probate, fiduciary accounts, and all other papers and writings received prior to July
3781 1, 1995, by any clerk of any court of the Commonwealth and transcribed, or purported to be transcribed, in the
3782 proper book in such clerk's office provided by law for the transcribing and recordation of such deeds, orders
3783 of probate, fiduciary accounts, or other papers and writings, the certificate of receipt and of recordation of

3784 which had not received the attesting signature of such clerk on the date aforesaid, and which had not on such
 3785 date been verified as required by law, shall prima facie be, and be deemed to be, as truly received, recorded,
 3786 and verified as if the same had been so attested by the signature of such clerk.

3787 B. Every clerk of any court of the Commonwealth in whose office any such deed, order of probate, fiduciary
 3788 account, or other paper or writing as is mentioned in subsection A has been transcribed upon the proper book
 3789 in such office, provided by law therefor, and which transcription has not received the attesting signature of the
 3790 clerk who recorded the same, upon production before such clerk of the original of such deed, order of probate,
 3791 fiduciary account, or paper or writing shall verify the accuracy of such transcription by a careful examination
 3792 and comparison of such transcription with the original paper so recorded, and thereupon the clerk shall attest
 3793 such transcription by signing thereto the name of the clerk who received the original paper for record and his
 3794 own name as follows:

3795 "Testé _____, former clerk per
 3796 _____, his successor."

3797 C. For such service the clerk shall receive a fee of 25 cents (\$0.25), to be paid by the person for whose
 3798 benefit the service was performed, and the record, so certified and verified, shall have the same effect as if it
 3799 had been properly certified and verified by the clerk who received the same and who should have so certified
 3800 and verified the same.

3801 D. This section shall have a retroactive effect.

3802 **§ 55.1-648. Recordation certificate not signed by clerk; when clerk has died.**

3803 Any deed or other instrument or writing recorded before July 1, 1995, upon the proper deed book in the
 3804 clerk's office of the circuit court of any county or any court of record of any city, when the clerk of such court
 3805 failed to sign the certificate of recordation thereof and afterwards died, and any will or other instrument or
 3806 writing recorded before July 1, 1995, upon the proper will book in any such clerk's office, when such clerk
 3807 failed to sign the certificate of probate and recordation thereof and afterwards died, shall be as valid and of
 3808 the same force and effect as if such certificate of recordation or certificate of probate and recordation had been
 3809 signed by such clerk at the time such deed, will, or other instrument or writing was so recorded.

3810 Article 6.

3811 United States Judgments; Bankruptcy.

3812 **§ 55.1-649. Recordation of judgments affecting title to land.**

3813 The clerk of the court of any county or city in which there is any partition of land under any order, or any
 3814 recovery of land under judgment, shall transmit to the clerk of the court of each county or city in whose office
 3815 deeds to such land or any part thereof are recorded a copy of such order or judgment, and of such partition or
 3816 assignment, and of the order confirming the same, along with such description of the land as may appear in the
 3817 papers of the cause. The clerk of the court of such county or city shall record the same in his deed book and
 3818 index it in the name of the person who had the land before and also in the name of the person who became
 3819 entitled under such partition, assignment, or recovery.

3820 **§ 55.1-650. Judgments of United States courts affecting realty.**

3821 A copy of any judgment or order of any United States court affecting the title to, boundary or possession
 3822 of, or any interest in and to any real estate lying wholly or partly within the Commonwealth, when duly certified
 3823 by the proper officer of any such court, may be filed with the clerk of the court in whose office deeds are
 3824 recorded of the county or city in which the real estate so affected, or any part of such real estate, is situated,
 3825 and when so filed shall be recorded by such clerk in the current deed book in his office and indexed in the
 3826 names of the persons whose interests appear to be affected thereby, upon the payment of the same fee prescribed
 3827 by law to be paid for the recordation of similar judgments or orders of state courts.

3828 **§ 55.1-651. Orders in bankruptcy.**

3829 Certified copies of orders of adjudication of bankruptcy made pursuant to the acts of Congress relating to
 3830 bankruptcy, certified copies of orders of sale, orders confirming sales, and such other orders entered in
 3831 bankruptcy proceedings as any party in interest may wish to have recorded in the appropriate clerk's office, or
 3832 such orders as the referee or the judge having jurisdiction directs to be recorded, may be filed with the clerk of
 3833 the court authorized to record deeds for the county or city in which any real estate owned by the bankrupt is
 3834 situated. Such orders shall be recorded in the deed books and indexed in the name of the bankrupt. For each
 3835 such recordation, the clerk shall be paid a fee as prescribed in subdivision A 2 of § 17.1-275.

3836 **§ 55.1-652. Certificates of commencement of case in bankruptcy.**

3837 Certificates of commencement of case signed by clerks of bankruptcy courts or clerks of United States
 3838 district courts, issued pursuant to the acts of Congress relating to bankruptcy, may be filed with the clerk of the
 3839 court authorized to record deeds for the county or city in which the property of the debtor, for which such
 3840 certificate has been issued, is located. Such certificate shall be recorded in the deed books and properly indexed
 3841 in the name of the trustee in bankruptcy in the grantee index and the debtor in the grantor index. For such
 3842 recordation, the clerk shall receive a fee as prescribed in subdivision A 2 of § 17.1-275.

3843 Article 7.

3844 Uniform Federal Lien Registration Act.

3845 **§ 55.1-653. Where notices and certificates affecting liens to be filed.**

3846 A. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens shall be
 3847 filed in accordance with this article.

3848 B. Notices of liens upon real property for obligations payable to the United States and certificates and
 3849 notices affecting the liens, including certificates of redemption, shall be filed in the office of the clerk of the
 3850 circuit court of the county or city in which the real property subject to the lien is situated.

3851 C. Notices of liens upon personal property, whether tangible or intangible, for obligations payable to the
 3852 United States and certificates and notices affecting the liens shall be filed as follows:

3853 1. If the person against whose interest the lien applies is a corporation or a partnership whose principal
 3854 executive office is in the Commonwealth, as these entities are defined in the internal revenue laws of the United
 3855 States, in the office of the clerk of the State Corporation Commission.

3856 2. In all other cases, in the office of the clerk of the circuit court of the county or city (i) where the person
 3857 against whose interest the lien applies resides or (ii) in the case of a trust or a decedent's estate, having
 3858 jurisdiction over the qualification of the trustee or probate of the will, at the time of filing of the notice of lien.

3859 **§ 55.1-654. Certification of notices and certificates.**

3860 Certification of notices of tax liens, certificates, or other notices affecting federal liens by the Secretary of
 3861 the Treasury of the United States or his delegate or by any official or entity of the United States responsible for
 3862 filing or certifying notice of any lien other than a tax lien entitles them to be filed, and no other attestation,
 3863 certification, or acknowledgment is necessary.

3864 **§ 55.1-655. Duties of filing officers.**

3865 A. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate
 3866 described in subsection B is presented to the filing officer and:

3867 1. He is the clerk of the State Corporation Commission, he shall cause the notice to be marked, held, and
 3868 indexed in accordance with the provisions of § 8.9A-519 as if the notice were a financing statement as defined
 3869 in § 8.9A-102; or

3870 2. He is any other officer described in § 55.1-653, he shall endorse thereon his identification and the date
 3871 and time of receipt and file it alphabetically or enter it in an alphabetical index showing the name and address
 3872 of the person named in the notice, the date and time of receipt, the serial number of the district director in the
 3873 case of tax liens, and the total amount appearing on the notice of lien, and he shall index and record the same
 3874 where judgments are indexed and recorded.

3875 B. If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the
 3876 clerk of the State Corporation Commission for filing, he shall:

3877 1. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were
 3878 a termination statement within the meaning of § 8.9A-513, except that the notice of lien to which the certificate
 3879 relates shall not be removed from the files; and

3880 2. Cause a certificate of discharge or subordination to be held, marked, and indexed as if the certificate
 3881 were a release of collateral within the meaning of § 8.9A-512.

3882 C. If a refiled notice of federal lien referred to in subsection A or any of the certificates or notices referred
 3883 to in subsection B is presented for filing to any other filing officer specified in § 55.1-653, he shall permanently
 3884 attach the refiled notice or the certificate to the original notice of lien and shall enter the refiled notice or the
 3885 certificate with the date of filing in any alphabetical lien index on the line where the original notice of lien is
 3886 entered.

3887 D. Upon request of any person, the filing officer shall issue his certificate showing whether there is on file,
 3888 on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this
 3889 article, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of
 3890 each notice or certificate. The fee for a certificate is \$1. Upon request, the filing officer shall furnish a copy of

3891 any notice of federal tax lien or notice or certificate affecting a federal lien for a fee of 50 cents (\$0.50) per
3892 page.

3893 **§ 55.1-656. Fees of filing officers other than clerk of State Corporation Commission.**

3894 The fee to be paid to any officer other than the clerk of the State Corporation Commission for filing and
3895 indexing each notice of lien or certificate or notice affecting the lien or providing a copy of such notice or
3896 certificate of such notice is \$5.

3897 The officer shall bill the district directors of internal revenue or other appropriate federal officials on a
3898 monthly basis for fees for documents filed by them.

3899 **§ 55.1-657. Fees of clerk of State Corporation Commission.**

3900 Notwithstanding any other provisions of this article, the fees for filing, indexing, searching, or amending
3901 or for certificates of discharge or subordination or any other fee that may be chargeable by the clerk of the
3902 State Corporation Commission shall be the same as those permitted to be charged according to the schedule of
3903 fees maintained by the clerk of the State Corporation Commission.

3904 **§ 55.1-658. Construction of article.**

3905 This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the
3906 law of those states that enact it.

3907 **§ 55.1-659. Certificates and notices affecting liens filed on or before July 1, 1970.**

3908 If a notice of lien was filed on or before July 1, 1970, any certificate or notice affecting the lien shall be
3909 filed in the same office.

3910 **§ 55.1-660. No action to be brought against the State Corporation Commission or its staff.**

3911 No action shall be brought against the State Corporation Commission or any member of the staff of the
3912 State Corporation Commission claiming damage for alleged errors or omissions in the performance of the
3913 duties imposed by this article on the State Corporation Commission.

3914 Article 8.

3915 Uniform Real Property Electronic Recording Act.

3916 **§ 55.1-661. Definitions.**

3917 As used in this article, unless the context requires a different meaning:

3918 "Clerk" means a clerk of the circuit court.

3919 "Document" means information that is:

3920 1. Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in
3921 perceivable form; and

3922 2. Eligible to be recorded in the land records maintained by the clerk.

3923 "Electronic," as defined in Uniform Electronic Transactions Act (§ 59.1-479 et seq.), means relating to
3924 technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

3925 "Electronic document" means a document received by the clerk in electronic form.

3926 "Electronic notarization" means an official act by a notary public in accordance with the Virginia Notary
3927 Act (§ 47.1-1 et seq.) and § 55.1-618 with respect to an electronic document.

3928 "Electronic signature," as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq.), means
3929 an electronic sound, symbol, or process attached to or logically associated with a record and executed or
3930 adopted by a person with the intent to sign the record.

3931 "eRecording System" is the automated electronic recording system implemented by the clerk for the
3932 recordation of electronic documents among the land records maintained by the clerk.

3933 "Filer" means an individual, corporation, business trust, estate, trust, partnership, limited liability
3934 company, association, joint venture, public body, public corporation, government, or governmental
3935 subdivision, agency, or instrumentality, or any other legal or commercial entity that files an electronic
3936 document among the land records maintained by the clerk.

3937 "Land records document" means any writing authorized by law to be recorded, whether made on paper or
3938 in electronic format, that the clerk records affecting title to real property.

3939 **§ 55.1-662. Validity of electronically filed and recorded land records.**

3940 A. If a law requires, as a condition for recording, that a land records document be an original, be on paper
3941 or another tangible medium, or be in writing, an electronic land records document satisfying this article
3942 satisfies the law.

3943 B. If a law requires, as a condition for recording, that a land records document be signed, an electronic
3944 signature satisfies the law.

3945 C. A requirement that a land records document or a signature associated with a land records document be
 3946 notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic notarization of
 3947 the person authorized to perform that act, and all other information required to be included, is attached to or
 3948 logically associated with the land records document or signature. A physical or electronic image of a stamp,
 3949 impression, or seal of the notary is not required to accompany an electronic signature.

3950 **§ 55.1-663. Recording of electronic documents among the land records.**

3951 A. A clerk of a circuit court who implements an eRecording System shall do so in compliance with standards
 3952 established by the Virginia Information Technologies Agency.

3953 B. A clerk of a circuit court may receive, index, store, archive, and transmit electronic land records.

3954 C. A clerk of a circuit court may provide for access to, and for search and retrieval of, land records by
 3955 electronic means.

3956 D. A clerk of a circuit court who accepts electronic documents for recording among the land records shall
 3957 continue to accept paper land records and shall place entries for both types of land records in the same indices.

3958 E. A clerk of a circuit court may convert paper records accepted for recording into electronic form. The
 3959 clerk of circuit court may convert into electronic form land records documents recorded before the clerk of
 3960 circuit court began to record electronic records.

3961 F. Any fee or tax that a clerk of circuit court is authorized to collect may be collected electronically.

3962 **§ 55.1-664. Uniform standards.**

3963 In consultation with the circuit court clerks, the Executive Secretary of the Supreme Court, and interested
 3964 citizens and businesses, the Virginia Information Technologies Agency shall develop standards to implement
 3965 electronic recording of real property documents. The Virginia Information Technologies Agency shall consider
 3966 standards and practices of other jurisdictions, the most recent standards promulgated by national standard-
 3967 setting bodies, such as the Real Property Records Industry Association, the views of interested persons and
 3968 other governmental entities, and the needs of localities of varying sizes, population, and resources.

3969 **§ 55.1-665. Uniformity of application and construction.**

3970 In applying and construing this article, consideration shall be given to the need to promote uniformity of
 3971 the law with respect to its subject matter among states that enact it.

3972 **§ 55.1-666. Relation to Electronic Signatures in Global and National Commerce Act.**

3973 To the extent allowed by law, this article modifies, limits, and supersedes the federal Electronic Signatures
 3974 in Global and National Commerce Act (15 U.S.C. § 7001, et seq.) but does not modify, limit, or supersede §
 3975 101(c) of that Act (15 U.S.C. § 7001(c)) or § 104 of that Act (15 U.S.C. § 7004), or authorize electronic delivery
 3976 of any of the notices described in § 103(b) of that Act (15 U.S.C. § 7003(b)).

3977 CHAPTER 7.

3978 VIRGINIA RESIDENTIAL PROPERTY DISCLOSURE ACT.

3979 **§ 55.1-700. Definitions.**

3980 As used in this chapter, unless the context requires a different meaning:

3981 "Electronic delivery," for purposes of delivery of the disclosures required by this chapter, means sending
 3982 the required disclosures via the Internet, provided that the sender retains sufficient proof of the electronic
 3983 delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile,
 3984 or a certificate of service prepared by the sender confirming the electronic delivery.

3985 "Notification" means a statement of the availability of any disclosures required by this chapter on the Real
 3986 Estate Board's website or delivery of any such disclosures to the purchaser.

3987 "Ratification" means the full execution of a real estate purchase contract by all parties.

3988 "Real estate contract" means a contract for the sale, exchange, or lease with the option to buy of residential
 3989 real estate subject to this chapter.

3990 **§ 55.1-701. Applicability.**

3991 The provisions of this chapter apply only with respect to transfers by sale, exchange, installment land sales
 3992 contract, or lease with option to buy of residential real property consisting of not less than one nor more than
 3993 four dwelling units, whether or not the transaction is with the assistance of a licensed real estate broker or
 3994 salesperson.

3995 **§ 55.1-702. Exemptions.**

3996 A. The following are specifically excluded from the provisions of this chapter:

3997 1. Transfers pursuant to court order including transfers ordered by a court in administration of an estate,
 3998 transfers pursuant to a writ of execution, transfers by foreclosure sale or by a deed in lieu of a foreclosure,

3999 transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a judgment for
 4000 specific performance. Also, transfers by an assignment for the benefit of creditors pursuant to Chapter 18.1 (§
 4001 8.01-525.1 *et seq.*) of Title 8.01 and transfers pursuant to escheats pursuant to Chapter 24 (§ 55.1-2400 *et*
 4002 *seq.*).

4003 2. Transfers to a beneficiary of a deed of trust pursuant to a foreclosure sale or by a deed in lieu of
 4004 foreclosure, or transfers by a beneficiary under a deed of trust who has acquired the real property at a sale
 4005 conducted pursuant to a foreclosure sale under a deed of trust or has acquired the real property by a deed in
 4006 lieu of foreclosure.

4007 3. Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship,
 4008 conservatorship, or trust.

4009 4. Transfers from one or more co-owners solely to one or more other co-owners.

4010 5. Transfers made solely to any combination of a spouse or one or more persons in the lineal line of
 4011 consanguinity of one or more of the transferors.

4012 6. Transfers between spouses resulting from a decree of divorce or a property settlement stipulation
 4013 pursuant to the provisions of Title 20.

4014 7. Transfers made by virtue of the record owner's failure to pay any federal, state, or local taxes.

4015 8. Transfers to or from any governmental entity or public or quasi-public housing authority or agency.

4016 9. Transfers involving the first sale of a dwelling, provided that this exemption shall not apply to the
 4017 disclosures required by § 55.1-704.

4018 B. Notwithstanding the provisions of subdivision A 9, the builder of a new dwelling shall disclose in writing
 4019 to the purchaser all known material defects that would constitute a violation of any applicable building code.
 4020 In addition, for property that is located wholly or partially in any locality comprising Planning District 15, the
 4021 builder or owner, if the builder is not the owner of the property, shall disclose in writing whether the builder
 4022 or owner has any knowledge of (i) whether mining operations have previously been conducted on the property
 4023 or (ii) the presence of abandoned mines, shafts, or pits, if any. The disclosures required by this subsection shall
 4024 be made by a builder or owner (a) when selling a completed dwelling, before ratification of the real estate
 4025 purchase contract or (b) when selling a dwelling before or during its construction, after issuance of a certificate
 4026 of occupancy. Such disclosure shall not abrogate any warranty or any other contractual obligations the builder
 4027 or owner may have to the purchaser. The disclosure required by this subsection may be made on the disclosure
 4028 form described in § 55.1-703. If no defects are known by the builder to exist, no written disclosure is required
 4029 by this subsection.

4030 **§ 55.1-703. Required disclosures for buyer to beware; buyer to exercise necessary due diligence.**

4031 A. The owner of the residential real property shall furnish to a purchaser a residential property disclosure
 4032 statement for the buyer to beware of certain matters that may affect the buyer's decision to purchase such real
 4033 property. Such statement shall be provided by the Real Estate Board on its website.

4034 B. The residential property disclosure statement provided by the Real Estate Board on its website shall
 4035 include the following:

4036 1. The owner makes no representations or warranties as to the condition of the real property or any
 4037 improvements thereon, or with regard to any covenants and restrictions as may be recorded among the land
 4038 records affecting the real property or any improvements thereon, and purchasers are advised to exercise
 4039 whatever due diligence a particular purchaser deems necessary, including obtaining a home inspection, as
 4040 defined in § 54.1-500, in accordance with terms and conditions as may be contained in the real estate purchase
 4041 contract, but in any event prior to settlement pursuant to such contract;

4042 2. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to
 4043 the subject parcel, including zoning classification or permitted uses of adjacent parcels, and purchasers are
 4044 advised to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent
 4045 parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but
 4046 in any event prior to settlement pursuant to such contract;

4047 3. The owner makes no representations to any matters that pertain to whether the provisions of any historic
 4048 district ordinance affect the property, and purchasers are advised to exercise whatever due diligence a
 4049 particular purchaser deems necessary with respect to any historic district designated by the locality pursuant
 4050 to § 15.2-2306, including review of (i) any local ordinance creating such district, (ii) any official map adopted
 4051 by the locality depicting historic districts, and (iii) any materials available from the locality that explain (a)
 4052 any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the local historic

4053 *district and (b) the necessity of any local review board or governing body approvals prior to doing any work*
4054 *on a property located in a local historic district, in accordance with terms and conditions as may be contained*
4055 *in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;*

4056 4. *The owner makes no representations with respect to whether the property contains any resource*
4057 *protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ 62.1-*
4058 *44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74, and*
4059 *purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine*
4060 *whether the provisions of any such ordinance affect the property, including review of any official map adopted*
4061 *by the locality depicting resource protection areas, in accordance with terms and conditions as may be*
4062 *contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;*

4063 5. *The owner makes no representations with respect to information on any sexual offenders registered under*
4064 *Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, and purchasers are advised to exercise whatever due diligence*
4065 *they deem necessary with respect to such information, in accordance with terms and conditions as may be*
4066 *contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;*

4067 6. *The owner makes no representations with respect to whether the property is within a dam break*
4068 *inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they*
4069 *deem necessary with respect to whether the property resides within a dam break inundation zone, including a*
4070 *review of any map adopted by the locality depicting dam break inundation zones;*

4071 7. *The owner makes no representations with respect to the presence of any stormwater detention facilities*
4072 *located on the property, or any maintenance agreement for such facilities, and purchasers are advised to*
4073 *exercise whatever due diligence they deem necessary to determine the presence of any stormwater detention*
4074 *facilities on the property, or any maintenance agreement for such facilities, in accordance with terms and*
4075 *conditions as may be contained in the real estate purchase contract, but in any event prior to settlement*
4076 *pursuant to such contract;*

4077 8. *The owner makes no representations with respect to the presence of any wastewater system, including*
4078 *the type or size of the wastewater system or associated maintenance responsibilities related to the wastewater*
4079 *system, located on the property, and purchasers are advised to exercise whatever due diligence they deem*
4080 *necessary to determine the presence of any wastewater system on the property and the costs associated with*
4081 *maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to*
4082 *the pump-out of septic tanks, in accordance with terms and conditions as may be contained in the real estate*
4083 *purchase contract, but in any event prior to settlement pursuant to such contract;*

4084 9. *The owner makes no representations with respect to any right to install or use solar energy collection*
4085 *devices on the property;*

4086 10. *The owner makes no representations with respect to whether the property is located in one or more*
4087 *special flood hazard areas, and purchasers are advised to exercise whatever due diligence they deem necessary,*
4088 *including (i) obtaining a flood certification or mortgage lender determination of whether the property is located*
4089 *in one or more special flood hazard areas, (ii) reviewing any map depicting special flood hazard areas, and*
4090 *(iii) determining whether flood insurance is required, in accordance with terms and conditions as may be*
4091 *contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;*

4092 11. *The owner makes no representations with respect to whether the property is subject to one or more*
4093 *conservation or other easements, and purchasers are advised to exercise whatever due diligence a particular*
4094 *purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate*
4095 *purchase contract, but in any event prior to settlement pursuant to such contract; and*

4096 12. *The owner makes no representations with respect to whether the property is subject to a community*
4097 *development authority approved by a local governing body pursuant to Article 6 (§ 15.2-5152 et seq.) of*
4098 *Chapter 51 of Title 15.2, and purchasers are advised to exercise whatever due diligence a particular purchaser*
4099 *deems necessary in accordance with terms and conditions as may be contained in the real estate purchase*
4100 *contract, including determining whether a copy of the resolution or ordinance has been recorded in the land*
4101 *records of the circuit court for the locality in which the community development authority district is located for*
4102 *each tax parcel included in the district pursuant to § 15.2-5157, but in any event prior to settlement pursuant*
4103 *to such contract.*

4104 C. *The residential property disclosure statement shall be delivered in accordance with § 55.1-709.*

4105 **§ 55.1-704. Required disclosures pertaining to a military air installation.**

4106 *The owner of residential real property located in any locality in which a military air installation is located*
4107 *shall disclose to the purchaser whether the subject parcel is located in a noise zone or accident potential zone,*
4108 *or both, if so designated on the official zoning map by the locality in which the property is located. Such*
4109 *disclosure shall be provided to the purchaser on a form provided by the Real Estate Board on its website. Such*
4110 *disclosure shall state the specific noise zone or accident potential zone, or both, in which the property is located*
4111 *according to the official zoning map.*

4112 **§ 55.1-705. Required disclosures; defective drywall.**

4113 *Notwithstanding the exemptions in § 55.1-702, if the owner of a residential dwelling unit has actual*
4114 *knowledge of the existence of defective drywall in such dwelling unit, the owner shall provide to a prospective*
4115 *purchaser a written disclosure that the property has defective drywall. Such disclosure shall be provided to the*
4116 *purchaser on a form provided by the Real Estate Board on its website and otherwise in accordance with this*
4117 *chapter. For purposes of this section, "defective drywall" means all defective drywall as defined in § 36-156.1.*

4118 **§ 55.1-706. Required disclosures; pending building or zoning violations.**

4119 *Notwithstanding the exemptions in § 55.1-702, if the owner of a residential dwelling unit has actual*
4120 *knowledge of any pending enforcement actions pursuant to the Uniform Statewide Building Code (§ 36-97 et*
4121 *seq.) that affect the safe, decent, sanitary living conditions of the property of which the owner has been notified*
4122 *in writing by the locality, or any pending violation of the local zoning ordinance that the violator has not abated*
4123 *or remedied under the zoning ordinance, within a time period set out in the written notice of violation from the*
4124 *locality or established by a court of competent jurisdiction, the owner shall provide to a prospective purchaser*
4125 *a written disclosure that so states. Such disclosure shall be provided to the purchaser on a form provided by*
4126 *the Real Estate Board on its website and otherwise in accordance with this chapter.*

4127 **§ 55.1-707. Permissive disclosure; tourism activity zone.**

4128 *An owner of residential property located partially or wholly within a designated tourism activity zone*
4129 *established pursuant to § 15.2-982 may disclose in writing to any prospective purchaser or lessee of the*
4130 *property that the subject property is located within a tourism activity zone, with a description of potential*
4131 *impacts associated with the parcel's location in a tourism activity zone, including impacts caused by special*
4132 *events, parades, temporary street closures, and indoor and outdoor entertainment activities.*

4133 **§ 55.1-708. Required disclosures; property previously used to manufacture methamphetamine.**

4134 *Notwithstanding the exemptions in § 55.1-702, if the owner of a residential dwelling unit has actual*
4135 *knowledge that such residential property was previously used to manufacture methamphetamine and has not*
4136 *been cleaned up in accordance with the guidelines established pursuant to § 32.1-11.7 and the applicable*
4137 *licensing provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, the owner shall provide to a prospective*
4138 *purchaser a written disclosure that so states. Such disclosure shall be provided to the purchaser on a form*
4139 *provided by the Real Estate Board on its website and otherwise in accordance with this chapter.*

4140 **§ 55.1-709. Time for disclosure; termination of contract.**

4141 *A. The owner of residential real property subject to this chapter shall provide notification to the purchaser*
4142 *of any disclosures required by this chapter prior to the ratification of a real estate purchase contract or*
4143 *otherwise be subject to the provisions of subsection B. The disclosures required by this chapter shall be*
4144 *provided by the Real Estate Board on its website.*

4145 *B. If the disclosures required by this chapter are delivered to the purchaser after ratification of the real*
4146 *estate purchase contract, the purchaser's sole remedy shall be to terminate the real estate purchase contract*
4147 *upon or prior to the earliest of (i) three days after delivery of the disclosure statement in person or by electronic*
4148 *delivery; (ii) five days after the postmark if the disclosure statement is deposited in the United States mail,*
4149 *postage prepaid, and properly addressed to the purchaser; (iii) settlement upon purchase of the property; (iv)*
4150 *occupancy of the property by the purchaser; (v) the purchaser's making written application to a lender for a*
4151 *mortgage loan where such application contains a disclosure that the right of termination shall end upon the*
4152 *application for the mortgage loan; or (vi) the execution by the purchaser after receiving the disclosure*
4153 *statement required by this chapter of a written waiver of the purchaser's right of termination under this chapter*
4154 *contained in a writing separate from the real estate purchase contract. In order to terminate a real estate*
4155 *purchase contract when permitted by this chapter, the purchaser must, within the times required by this chapter,*
4156 *give written notice to the owner by one of the following methods:*

4157 *1. Hand delivery;*

4158 *2. United States mail, postage prepaid, provided that the sender retains sufficient proof of mailing, which*
4159 *may be a certificate of service prepared by the sender confirming such mailing;*

4160 3. *Electronic delivery; or*

4161 4. *Overnight delivery using a commercial service or the United States Postal Service.*

4162 *If the purchaser terminates a real estate purchase contract in compliance with this chapter, the termination*
4163 *shall be without penalty to the purchaser, and any deposit shall be promptly returned to the purchaser.*

4164 C. *Notwithstanding the provisions of subsection B of § 55.1-713, no purchaser of residential real property*
4165 *located in a noise zone designated on the official zoning map of the locality as having a day-night average*
4166 *sound level of less than 65 decibels shall have the right to terminate a real estate purchase contract pursuant*
4167 *to this section for failure of the property owner to timely provide any disclosure required by this chapter.*

4168 **§ 55.1-710. Owner liability.**

4169 A. *Except with respect to the disclosures required by § 55.1-704, the owner shall not be liable for any error,*
4170 *inaccuracy, or omission of any information delivered pursuant to this chapter if (i) the error, inaccuracy, or*
4171 *omission was not within the actual knowledge of the owner or was based on information provided by public*
4172 *agencies or by other persons providing information that is required to be disclosed pursuant to this chapter, or*
4173 *the owner reasonably believed the information to be correct, and (ii) the owner was not grossly negligent in*
4174 *obtaining the information from a third party and transmitting it. The owner shall not be liable for any error,*
4175 *inaccuracy, or omission of any information required to be disclosed by § 55.1-704 if the error, inaccuracy, or*
4176 *omission was the result of information provided by an officer or employee of the locality in which the property*
4177 *is located.*

4178 B. *The delivery by a public agency or other person, as described in subsection C, of any information*
4179 *required to be disclosed by this chapter to a prospective purchaser shall be deemed to comply with the*
4180 *requirements of this chapter and shall relieve the owner of any further duty under this chapter with respect to*
4181 *that item of information.*

4182 C. *The delivery by the owner of a report or opinion prepared by a licensed engineer, land surveyor,*
4183 *geologist, wood-destroying insect control expert, contractor, or home inspection expert, dealing with matters*
4184 *within the scope of the professional's license or expertise, shall satisfy the requirements of this chapter if the*
4185 *information is provided to the prospective purchaser pursuant to a request for such information, whether*
4186 *written or oral. In responding to such a request, an expert may indicate, in writing, an understanding that the*
4187 *information provided will be used in fulfilling the requirements of this chapter and, if so, shall indicate the*
4188 *required disclosures, or portions of such required disclosures, to which the information being furnished is*
4189 *applicable. Where such a statement is furnished, the expert shall not be responsible for any items of information,*
4190 *or portions of items of information, other than those expressly set forth in the statement.*

4191 **§ 55.1-711. Change in circumstances.**

4192 *If information disclosed in accordance with this chapter is subsequently rendered or discovered to be*
4193 *inaccurate as a result of any act, occurrence, information received, circumstance, or agreement subsequent to*
4194 *the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of*
4195 *this chapter. However, at or before settlement, the owner shall be required to disclose any material change in*
4196 *the disclosures made relative to the property. If, at the time the disclosures are required to be made, an item of*
4197 *information required to be disclosed is unknown or not available to the owner, the owner may state that the*
4198 *information is unknown or may use an approximation of the information, provided that the approximation is*
4199 *clearly identified as such, is reasonable, is based on the actual knowledge of the owner, and is not used for the*
4200 *purpose of circumventing or evading this chapter.*

4201 **§ 55.1-712. Duties of real estate licensees.**

4202 *A real estate licensee representing an owner of residential real property as the listing broker has a duty to*
4203 *inform each such owner represented by that licensee of the owner's rights and obligations under this chapter.*
4204 *A real estate licensee representing a purchaser of residential real property or, if the purchaser is not*
4205 *represented by a licensee, the real estate licensee representing an owner of residential real estate and dealing*
4206 *with the purchaser has a duty to inform each such purchaser of the purchaser's rights and obligations under*
4207 *this chapter. Provided that a real estate licensee performs those duties, the licensee shall have no further duties*
4208 *to the parties to a residential real estate transaction under this chapter and shall not be liable to any party to*
4209 *a residential real estate transaction for a violation of this chapter or for any failure to disclose any information*
4210 *regarding any real property subject to this chapter.*

4211 **§ 55.1-713. Actions under this chapter.**

4212 A. Notwithstanding any other provision of this chapter or any other statute or regulation, no cause of action
 4213 shall arise against an owner or a real estate licensee for failure to disclose that the real property was the site
 4214 of:

4215 1. An act or occurrence that had no effect on the physical structure of the real property, its physical
 4216 environment, or the improvements located thereon; or

4217 2. A homicide, felony, or suicide.

4218 B. The purchaser's remedies for failure of an owner to comply with the provisions of this chapter are as
 4219 follows:

4220 1. If the owner fails to provide any of the applicable disclosures required by this chapter, the contract may
 4221 be terminated subject to the provisions of subsection B of § 55.1-709.

4222 2. In the event that the owner fails to provide any of the applicable disclosures required by this chapter, or
 4223 the owner misrepresents, willfully or otherwise, the information required in such disclosure, except as result of
 4224 information provided by an officer or employee of the locality in which the property is located, the purchaser
 4225 may maintain an action to recover his actual damages suffered as the result of such violation. Notwithstanding
 4226 the provisions of this subdivision, no purchaser of residential real property located in a noise zone designated
 4227 on the official zoning map of the locality as having a day-night average sound level of less than 65 decibels
 4228 shall have a right to maintain an action for damages pursuant to this section.

4229 C. Any action brought under this section shall be commenced within one year of the date the purchaser
 4230 received the applicable disclosures required by this chapter. If the disclosures required by this chapter were
 4231 not delivered to the purchaser, an action shall be commenced within one year of the date of settlement, if by
 4232 sale, or occupancy, if by lease with an option to purchase.

4233 Nothing contained in this chapter shall prevent a purchaser from pursuing any remedies at law or equity
 4234 otherwise available against an owner in the event of an owner's intentional or willful misrepresentation of the
 4235 condition of the subject property.

4236 **§ 55.1-714. Real Estate Board to develop form; when effective.**

4237 An owner shall be required to make disclosures required by this chapter for real property subject to a real
 4238 estate purchase contract that is fully executed by all parties. The Real Estate Board shall develop the form for
 4239 signature by the parties advising the purchaser to review the residential property disclosure statement on the
 4240 Board's website in accordance with § 54.1-2105.1. The Board may at any time amend the residential property
 4241 disclosure statement and the form for signature by the parties as the Board deems necessary and appropriate.

4242 CHAPTER 8.

4243 EXCHANGE FACILITATORS ACT.

4244 **§ 55.1-800. Definitions.**

4245 As used in this chapter, unless the context requires a different meaning:

4246 "Affiliated with" means that a person directly, or indirectly through one or more intermediaries, controls,
 4247 or is controlled by, or is under common control with, the other specified person.

4248 "Change in control" means any transfer within 12 months of more than 50 percent of the assets or
 4249 ownership interests, direct or indirect, of the exchange facilitator.

4250 "Commingle" means to mix together exchange funds with operating and other nonexchange funds
 4251 belonging to or under control of the exchange facilitator in such a manner that a client's exchange funds cannot
 4252 be distinguished from operating or other nonexchange funds belonging to or under control of the exchange
 4253 facilitator.

4254 "Deposit account" means a demand, time, savings, passbook, money market, certificate of deposit, or
 4255 similar account maintained with a financial institution.

4256 "Exchange Accommodation Titleholder" or "EAT" has the same meaning ascribed thereto in IRS Revenue
 4257 Procedure 2000-37.

4258 "Exchange client" means the taxpayer with whom the exchange facilitator enters into an agreement
 4259 described in subdivision 1 of the definition of "exchange facilitator."

4260 "Exchange facilitator" means a person that:

4261 1. For a fee facilitates an exchange of like-kind property by entering into an agreement with a taxpayer:

4262 a. By which the exchange facilitator acquires from such taxpayer the contractual rights to sell such
 4263 taxpayer's relinquished property located in the Commonwealth and transfer a replacement property to such
 4264 taxpayer as a qualified intermediary as that term is defined under Treasury Regulation § 1.1031(k)-1(g)(4);

4265 *b. To take title to a property located in the Commonwealth as an Exchange Accommodation Titleholder;*
 4266 *or*

4267 *c. To act as a qualified trustee or qualified escrow holder as those terms are defined under Treasury*
 4268 *Regulation § 1.1031(k)-1(g)(3), except as otherwise provided in this definition; or*

4269 *2. Maintains an office in the Commonwealth for the purpose of soliciting business as an exchange*
 4270 *facilitator.*

4271 *"Exchange facilitator" does not include (i) the taxpayer or disqualified person as that term is defined under*
 4272 *Treasury Regulation § 1.1031(k)-1(k) seeking to qualify for the nonrecognition provisions of Internal Revenue*
 4273 *Code § 1031; (ii) any financial institution or any title insurance company, underwritten title company, or*
 4274 *escrow company that is merely acting as a depository for exchange funds or that is acting solely as a qualified*
 4275 *escrow holder or qualified trustee as those terms are defined under Treasury Regulation § 1.1031(k)-1(g)(3),*
 4276 *and is not otherwise facilitating exchanges; (iii) a person who advertises for and teaches seminars or classes*
 4277 *or otherwise gives presentations to attorneys, accountants, real estate professionals, tax professionals, or other*
 4278 *professionals where the primary purpose is to teach the professionals about tax deferred exchanges or train*
 4279 *them to act as exchange facilitators; or (iv) an entity that is wholly owned by an exchange facilitator or that is*
 4280 *wholly owned by the same person as the exchange facilitator and is used by such entity to facilitate exchanges*
 4281 *or to take title to property in the Commonwealth as an EAT.*

4282 *"Exchange funds" means the funds received by the exchange facilitator from or on behalf of the exchange*
 4283 *client for the purpose of facilitating an exchange of like-kind property.*

4284 *"Fee" means, for purposes of subdivision 1 of the definition of "exchange facilitator," compensation of any*
 4285 *nature, direct or indirect, monetary or in-kind, that is received by a person or a related person as described in*
 4286 *Internal Revenue Code § 267(b) or 707(b) for any services relating to or incidental to the exchange of like-kind*
 4287 *property under Internal Revenue Code § 1031.*

4288 *"Financial institution" means any bank, credit union, savings and loan association, savings bank, or trust*
 4289 *company chartered under the laws of the Commonwealth or the United States whose accounts are insured by*
 4290 *the full faith and credit of the United States of America, the Federal Deposit Insurance Corporation, the*
 4291 *National Credit Union Share Insurance Fund, or other similar or successor programs and any direct or indirect*
 4292 *subsidiary of such bank, credit union, savings and loan association, savings bank, or trust company.*

4293 *"Person" means, in addition to the singular, persons, groups of persons, cooperative associations, limited*
 4294 *liability companies, firms, partnerships, corporations, or other legal entities and includes the agents and*
 4295 *employees of any such person.*

4296 *"Transferee" means the party or parties to whom the ownership or control of the exchange facilitator has*
 4297 *been transferred.*

4298 **§ 55.1-801. Change in control.**

4299 *An exchange facilitator shall notify all existing exchange clients whose relinquished property is located in*
 4300 *the Commonwealth, or whose replacement property held under a Qualified Exchange Accommodation*
 4301 *Agreement is located in the Commonwealth, of any change in control of the exchange facilitator. Such*
 4302 *notification shall be made to the exchange facilitator's clients within 10 business days following the effective*
 4303 *date of such change in control either by facsimile or email transmission, or by first-class mail, and by posting*
 4304 *such notice of change in control on the exchange facilitator's website, if any, for a period ending not sooner*
 4305 *than 90 days after the change in control. Such notification shall set forth the name, address, and other contact*
 4306 *information of the transferees. Notwithstanding the above, if the exchange facilitator is a publicly traded*
 4307 *company and remains a publicly traded company after a change in control, the publicly traded company shall*
 4308 *not be required to notify its existing clients of such change in control.*

4309 **§ 55.1-802. Separately identified accounts, or qualified escrows or qualified trusts.**

4310 *A. An exchange facilitator at all times shall:*

4311 *1. Deposit the exchange funds in a deposit account that is a separately identified account, as defined in*
 4312 *Treasury Regulation § 1.468B-6(c)(ii), and provide that any withdrawals from such separately identified*
 4313 *account require the written authorization of the exchange client and written acknowledgment of the exchange*
 4314 *facilitator. Authorization for withdrawals may be delivered by any commercially reasonable means, including*
 4315 *(i) the exchange client's delivery to the exchange facilitator of the exchange client's authorization to disburse*
 4316 *exchange funds and the exchange facilitator's delivery to the financial institution of the exchange facilitator's*
 4317 *authorization to disburse exchange funds or (ii) delivery to the financial institution of both the exchange client's*
 4318 *and the exchange facilitator's authorizations to disburse exchange funds; or*

4319 2. Deposit the exchange funds in a deposit account that is a qualified escrow or qualified trust as those
4320 terms are defined under Treasury Regulation § 1.1031(k)-1(g)(3).

4321 B. The deposit account shall be with a financial institution, and the interest earned on such account shall
4322 accrue to the parties as provided in a written agreement between the exchange facilitator and the exchange
4323 client. However, the exchange client may expressly direct the exchange facilitator in writing to invest the
4324 exchange proceeds in an investment of the exchange client's choice, provided that the exchange facilitator
4325 provides written acknowledgment back to the exchange client that includes a confirmation of how the exchange
4326 proceeds will be invested.

4327 **§ 55.1-803. Errors and omissions insurance; cash or letters of credit.**

4328 A. An exchange facilitator at all times shall:

4329 1. Maintain a policy of errors and omissions insurance in an amount not less than \$250,000 executed by
4330 an insurer authorized to do business in the Commonwealth; or

4331 2. Deposit an amount of cash or provide irrevocable letters of credit equivalent to the sum of not less than
4332 \$250,000.

4333 B. The exchange facilitator may maintain errors and omissions insurance, cash, or irrevocable letters of
4334 credit in excess of the amounts required in this section.

4335 **§ 55.1-804. Accounting for moneys and property.**

4336 A. Every exchange facilitator shall hold all property related to the exchange client, including the exchange
4337 funds, other property, and other consideration or instruments received by the exchange facilitator, on behalf of
4338 the client, except funds received as the exchange facilitator's compensation. Exchange funds shall be held in
4339 accordance with the requirements of § 55.1-802.

4340 B. An exchange facilitator shall not:

4341 1. Commingle exchange funds with the operating accounts of the exchange facilitator; or

4342 2. Lend or otherwise transfer exchange funds to any person or entity affiliated with or related (as described
4343 in Internal Revenue Code § 267(b) or 707(b)) to the exchange facilitator, except that this subsection shall not
4344 apply to a transfer or loan made to a financial institution that is the parent of or related to the exchange
4345 facilitator or to a transfer from an exchange facilitator to an EAT as required under the exchange contract.

4346 C. Exchange funds are not subject to execution or attachment on any claim against the exchange facilitator.
4347 An exchange facilitator shall not keep or cause to be kept any money in any financial institution under any
4348 name designating the money as belonging to an exchange client of the exchange facilitator unless the money
4349 equitably belongs to the exchange client and was actually entrusted to the exchange facilitator by the exchange
4350 client.

4351 **§ 55.1-805. Prohibited acts.**

4352 A. A person who engages in the business of an exchange facilitator is prohibited from:

4353 1. Making any material misrepresentations concerning any exchange facilitator transaction that are
4354 intended to mislead another;

4355 2. Pursuing a continued course of misrepresentation or making false statements through advertising or
4356 otherwise;

4357 3. Failing, within a reasonable time, to account for any moneys or property belonging to others that may
4358 be in the possession or under the control of the exchange facilitator;

4359 4. Engaging in any conduct constituting fraudulent or dishonest dealings;

4360 5. Committing any crime involving fraud, misrepresentation, deceit, embezzlement, misappropriation of
4361 funds, robbery, or other theft of property;

4362 6. Materially failing to fulfill its contractual duties to the exchange client to deliver property or funds to the
4363 exchange client unless such failure is due to circumstances beyond the control of the exchange facilitator; or

4364 7. Materially violating any of the provisions of this chapter.

4365 B. A person who is an owner, officer, director, or employee of an exchange facilitator is prohibited from
4366 committing any crime involving fraud, misrepresentation, deceit, embezzlement, misappropriation of funds,
4367 robbery, or other theft of property; however, the commission of such crime by an officer, director, or employee
4368 of an exchange facilitator shall not be considered a violation of this chapter if the employment or appointment
4369 of such officer, director, or employee has been terminated and no clients of the exchange facilitator were
4370 harmed or full restitution has been made to all harmed clients within a reasonable period of time.

4371 **§ 55.1-806. Penalty; attorney fees.**

4372 A. In any action brought under this chapter, if a court finds that a person has willfully engaged in an act
 4373 or practice in violation of this chapter, the Attorney General, the attorney for the Commonwealth, or the
 4374 attorney for the locality may recover for the Literary Fund, upon petition to the court, a civil penalty of not
 4375 more than \$2,500 per violation. For purposes of this section, prima facie evidence of a willful violation may be
 4376 shown when the Attorney General, the attorney for the Commonwealth, or the attorney for the locality notifies
 4377 the alleged violator by certified mail that an act or practice is a violation of this chapter and the alleged violator,
 4378 after receipt of the notice, continues to engage in the act or practice.

4379 B. In any action brought under this chapter, the Attorney General, the attorney for the Commonwealth, or
 4380 the attorney for the locality may recover costs and reasonable expenses incurred by the state or local agency
 4381 in investigating and preparing the case, and attorney fees.

4382 CHAPTER 9.

4383 REAL ESTATE SETTLEMENTS.

4384 § 55.1-900. Definitions.

4385 As used in this chapter, unless the context requires a different meaning:

4386 "Disbursement of loan funds" means the delivery of the loan funds by the lender to the settlement agent in
 4387 one or more of the following forms:

4388 1. Cash;

4389 2. Wired funds;

4390 3. Certified check;

4391 4. Checks issued by the Commonwealth or a political subdivision of the Commonwealth;

4392 5. Cashier's check, or teller's check with equivalent funds availability in conformity with the federal
 4393 Expedited Funds Availability Act (12 U.S.C. § 4001 et seq.);

4394 6. Checks issued by a financial institution, the accounts of which are insured by an agency of the federal
 4395 or state government, which checks are drawn on a financial institution located within the Fifth Federal Reserve
 4396 District, the accounts of which are insured by an agency of the federal or state government;

4397 7. Drafts issued by a state chartered or federally chartered credit union;

4398 8. Checks issued by an insurance company licensed and regulated by the State Corporation Commission,
 4399 which checks are drawn on a financial institution located within the Fifth Federal Reserve District, the accounts
 4400 of which are insured by an agency of the federal government; or

4401 9. Checks issued by a state or federal savings and loan association or savings bank operating in the
 4402 Commonwealth, which checks are drawn on the Federal Home Loan Bank of Atlanta.

4403 "Disbursement of settlement proceeds" means the payment of all proceeds of the transaction by the
 4404 settlement agent to the persons entitled to such proceeds.

4405 "Lender" means any person regularly engaged in making loans secured by mortgages or deeds of trust on
 4406 real estate.

4407 "Loan closing" means the time agreed upon by the borrower and lender, when the execution of the loan
 4408 documents by the borrower occurs.

4409 "Loan documents" means the note evidencing the debt due the lender, the deed of trust, or the mortgage
 4410 securing the debt due the lender and any other documents required by the lender to be executed by the borrower
 4411 as a part of the transaction.

4412 "Loan funds" means the gross or net proceeds of the loan to be disbursed by the lender at loan closing.

4413 "Settlement" means the time when the settlement agent has received the duly executed deed, loan funds,
 4414 loan documents, and other documents and funds required to carry out the terms of the contract between the
 4415 parties and the settlement agent reasonably determines that prerecording conditions of such contracts have
 4416 been satisfied. A determination by a settlement agent that prerecording conditions have been satisfied shall
 4417 not control the rights and obligations of the parties under the contract, including whether settlement has
 4418 occurred under the terms and conditions of the contract. "Parties," as used in this definition, means the seller,
 4419 purchaser, borrower, lender, and settlement agent.

4420 "Settlement agent" means the person responsible for conducting the settlement and disbursement of the
 4421 settlement proceeds and includes any individual, corporation, partnership, or other entity conducting the
 4422 settlement and disbursement of loan proceeds.

4423 "Settlement service provider" means any person providing settlement services, as that term is defined under
 4424 the federal Real Estate Settlement Procedures Act (12 U.S.C. § 2601 et seq.).

4425 "Thing of value" means any payment, advance, funds, loan, service, or other consideration.

4426 **§ 55.1-901. Applicability; effect of noncompliance.**

4427 A. This chapter applies only to transactions involving loans that (i) are made by lenders and (ii) will be
4428 secured by first deeds of trust or mortgages on real estate containing not more than four residential dwelling
4429 units.

4430 B. Failure to comply with the provisions of this chapter shall not affect the validity or enforceability of any
4431 loan documents.

4432 **§ 55.1-902. Duty of lender.**

4433 The lender shall, at or before loan closing, cause disbursement of loan funds to the settlement agent. In the
4434 case of a refinancing or any other loan where a right of rescission applies, the lender shall, within one business
4435 day after the expiration of the rescission period required under the federal Truth in Lending Act (15 U.S.C. §
4436 1601 et seq.), cause disbursement of loan funds to the settlement agent. The lender shall not be entitled to
4437 receive or charge any interest on the loan until disbursement of loan funds and loan closing has occurred.

4438 **§ 55.1-903. Duty of settlement agent.**

4439 The settlement agent shall cause recordation of the deed, the deed of trust, or the mortgage or other
4440 documents required to be recorded and shall cause disbursement of settlement proceeds within two business
4441 days of settlement. A settlement agent may not disburse any or all loan funds or other funds coming into its
4442 possession prior to the recordation of any instrument except (i) funds received that are overpayments to be
4443 returned to the provider of such funds, (ii) funds necessary to effect the recordation of instruments, or (iii) funds
4444 that the provider has by separate written instrument directed to be disbursed prior to recordation of any
4445 instrument. Additionally, in any transaction involving the purchase or sale of an interest in residential real
4446 property, the settlement agent shall provide notification to the purchaser of the availability of owner's title
4447 insurance as required under § 38.2-4616.

4448 **§ 55.1-904. Prohibition against payment or receipt of settlement services kickbacks, rebates,
4449 commissions, and other payments; penalty.**

4450 A. No person selling real property, or performing services as a real estate agent, attorney, lay settlement
4451 agent, or lender incident to any real estate settlement or sale, shall pay or receive, directly or indirectly, any
4452 kickback, rebate, commission, thing of value, or other payment pursuant to any agreement or understanding,
4453 oral or otherwise, that business incident to services required to complete a settlement be referred to any person.

4454 B. Nothing in this section shall be construed to prohibit:

4455 1. Expenditures for bona fide advertising and marketing promotions otherwise permissible under the
4456 provisions of the federal Real Estate Settlement Procedures Act (12 U.S.C. § 2601 et seq.);

4457 2. The provision of educational materials or classes, if such materials or classes are provided to a group
4458 of persons or entities pursuant to a bona fide marketing or educational effort;

4459 3. The payment to any person of a bona fide salary or compensation or other payment for services actually
4460 performed for the business of the settlement service provider; or

4461 4. An employer's payment to its own bona fide employees for referrals of mortgage loan or insurance
4462 business. An employer's payment to its own employees for the referral of insurance business shall be subject to
4463 the requirements of subdivision B 8 of § 38.2-1821.1.

4464 C. No person shall be in violation of this section solely by reason of ownership in a settlement service
4465 provider, where such person receives returns on investments arising from the ownership interest, provided that
4466 such person discloses in writing to the consumer an ownership interest in those settlement services, including
4467 such person's ownership percentage in the settlement service provider pursuant to the requirements of § 55.1-
4468 905.

4469 D. Any person who knowingly and willfully violates this section is guilty of a Class 3 misdemeanor. Any
4470 criminal charge brought under this section shall be by indictment pursuant to Chapter 14 (§ 19.2-216 et seq.)
4471 of Title 19.2.

4472 **§ 55.1-905. Disclosure of affiliated business by settlement service providers.**

4473 Any person making a referral to an affiliated settlement service provider shall disclose the affiliation in
4474 accordance with the federal Real Estate Settlement Procedures Act (12 U.S.C. § 2601 et seq.). Such disclosure
4475 shall be provided regardless of the amount of the person's actual ownership interest in the affiliated provider.
4476 However, if the person's ownership interest is one percent or less of the capital stock of a corporation or entity
4477 with a class of securities registered under the federal Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.),
4478 the disclosure shall not be required. If the person's ownership interest is greater than one percent, then the
4479 disclosure shall include the percentage of ownership, or, if the person making the referral owns more than 50

4480 percent of the affiliated business, the disclosure shall state that the settlement service provider is a subsidiary
 4481 of the person making the referral.

4482 **§ 55.1-906. Disclosure of charges for appraisal or valuation using automated or other valuation**
 4483 **mechanism.**

4484 Any lender providing a loan secured by a first deed of trust or mortgage on real estate containing not more
 4485 than four residential dwelling units shall disclose on the settlement statement or closing disclosure, as those
 4486 terms are defined in § 55.1-1000, any fee charged to the borrower for an appraisal, as that term is defined in
 4487 § 54.1-2009, and any fee charged to the borrower for a valuation or opinion of value of the property prepared
 4488 using an automated or other mechanism prepared by a person who is not licensed as an appraiser under
 4489 Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1.

4490 **§ 55.1-907. Penalty.**

4491 Any persons suffering losses due to the failure of the lender or the settlement agent to cause disbursement
 4492 as required by this chapter shall be entitled to recover, in addition to other actual damages, double the amount
 4493 of any interest collected in violation of § 55.1-902 plus reasonable attorney fees incurred in the collection of
 4494 such damages and interest.

4495 CHAPTER 10.

4496 REAL ESTATE SETTLEMENT AGENTS.

4497 **§ 55.1-1000. Definitions.**

4498 As used in this chapter, unless the context requires a different meaning:

4499 "Association" means the National Association of Insurance Commissioners.

4500 "Closing disclosure" means the combined mortgage loan disclosure statement of final loan terms and
 4501 closing costs prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA) (12 U.S.C. § 2601
 4502 et seq.) and Consumer Financial Protection Bureau Regulation X (12 C.F.R. Part 1024) and Regulation Z (12
 4503 C.F.R. Part 1026).

4504 "Commission" means the State Corporation Commission.

4505 "Escrow" means written instruments, money, or other items deposited by a party with a settlement agent
 4506 for delivery to other persons upon the performance of specified conditions or the happening of a certain event.

4507 "Escrow, closing, or settlement services" means the administrative and clerical services required to carry
 4508 out the terms of contracts affecting real estate. These services include placing orders for title insurance,
 4509 receiving and issuing receipts for money received from the parties, ordering loan checks and payoffs, ordering
 4510 surveys and inspections, preparing settlement statements or closing disclosures, determining that all closing
 4511 documents conform to the parties' contract requirements, setting the closing appointment, following up with
 4512 the parties to ensure that the transaction progresses to closing, ascertaining that the lenders' instructions have
 4513 been satisfied, conducting a closing conference at which the documents are executed, receiving and disbursing
 4514 funds, completing form documents and instruments selected by and in accordance with instructions of the
 4515 parties to the transaction, handling or arranging for the recording of documents, sending recorded documents
 4516 to the lender, sending the recorded deed and the title policy to the buyer, and reporting federal income tax
 4517 information for the real estate sale to the Internal Revenue Service.

4518 "Lay real estate settlement agent" means a person who (i) is not licensed as an attorney under Chapter 39
 4519 (§ 54.1-3900 et seq.) of Title 54.1; (ii) is not a party to the real estate transaction; (iii) provides escrow, closing,
 4520 or settlement services in connection with a transaction related to any real estate in the Commonwealth; and
 4521 (iv) is listed as the settlement agent on the settlement statement or closing disclosure for such transaction.

4522 "Licensing authority" means the (i) Commission acting pursuant to this chapter, Title 6.2, Title 12.1, or
 4523 Title 38.2; (ii) the Virginia State Bar acting pursuant to this chapter or Chapter 39 (§ 54.1-3900 et seq.) of Title
 4524 54.1; or (iii) the Virginia Real Estate Board acting pursuant to this chapter or Chapter 21 (§ 54.1-2100 et seq.)
 4525 of Title 54.1.

4526 "Party to the real estate transaction" means, with respect to that real estate transaction, a lender, seller,
 4527 purchaser, or borrower and, with respect to a corporate purchaser, any entity that is a subsidiary of or under
 4528 common ownership with that corporate purchaser.

4529 "Settlement agent" means a person, other than a party to the real estate transaction, that provides escrow,
 4530 closing, or settlement services in connection with a transaction related to real estate in the Commonwealth and
 4531 that is listed as the settlement agent on the settlement statement or closing disclosure for such transaction. Any
 4532 person, other than a party to the transaction, who conducts the settlement conference and receives or handles
 4533 money shall be deemed a "settlement agent" subject to the applicable requirements of this chapter.

4534 "Settlement statement" means the statement of receipts and disbursements for a transaction related to real
4535 estate, including a statement prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA) (12
4536 U.S.C. § 2601 et seq.), as amended, and the regulations thereunder.

4537 **§ 55.1-1001. Limitation on applicability of chapter.**

4538 Nothing in this chapter shall be construed to prevent a person licensed under Chapter 21 (§ 54.1-2100 et
4539 seq.) of Title 54.1, or such licensee's employees or independent contractors, from performing escrow, closing,
4540 or settlement services to facilitate the settlement of a transaction in which the licensee is involved without
4541 complying with the provisions of this chapter, so long as the licensee, the licensee's employees, or independent
4542 contractors are not named as the settlement agent on the settlement statement or closing disclosure and the
4543 licensee is otherwise not prohibited from performing such services by law or regulation.

4544 **§ 55.1-1002. Scope of chapter; lay real estate settlement agents.**

4545 A. Except as provided in subsection B, this chapter applies only to transactions involving the purchase of
4546 or lending on the security of real estate located in the Commonwealth containing not more than four residential
4547 dwelling units.

4548 B. Notwithstanding any rule of court or other provision of this chapter to the contrary:

4549 1. A lay real estate settlement agent may provide escrow, closing, and settlement services for any real
4550 property located within the Commonwealth, and receive compensation for such services, provided that he is
4551 registered pursuant to and is in compliance with the provisions of this chapter with the exception of subsection
4552 A; and

4553 2. A party to a real estate transaction involving the purchase of or lending on the security of real estate
4554 located in the Commonwealth containing more than four residential dwelling units shall have the same
4555 authority as a party to a real estate transaction as is provided pursuant to subsection B of § 55.1-1003.

4556 **§ 55.1-1003. Persons who may act as a settlement agent.**

4557 A. A person shall not act in the capacity of a settlement agent, and a lender, seller, purchaser or borrower
4558 may not contract with any person to act in the capacity of a settlement agent, with respect to real estate
4559 settlements in the Commonwealth unless the person has not been convicted of a felony, unless such person has
4560 had his civil rights restored by the Governor or been granted a writ of actual innocence, and is either:

4561 1. Licensed as an attorney under Chapter 39 (§ 54.1-3900 et seq.) of Title 54.1;

4562 2. Licensed as a title insurance company under Title 38.2;

4563 3. Licensed as a title insurance agent under Title 38.2 and is appointed by a title insurance company
4564 licensed in the Commonwealth pursuant to Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

4565 4. Licensed as a real estate broker under Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;

4566 5. A financial institution authorized to do business in the Commonwealth under any of the provisions of
4567 Title 6.2 or under federal law; or

4568 6. A subsidiary or affiliate of a financial institution described in subdivision 5.

4569 Any person described in subdivisions 1 through 6 not acting in the capacity of a settlement agent shall not
4570 be subject to the provisions of this chapter.

4571 B. Notwithstanding any rule of court to the contrary, a settlement agent operating in compliance with the
4572 requirements of this chapter or a party to the real estate transaction may provide escrow, closing, or settlement
4573 services and receive compensation for such services.

4574 **§ 55.1-1004. Duties of settlement agents.**

4575 A. A settlement agent shall exercise reasonable care and comply with all applicable requirements of this
4576 chapter and its licensing authority regarding licensing, financial responsibility, errors and omissions or
4577 malpractice insurance policies, fidelity bonds, employee dishonesty insurance policies, audits, escrow account
4578 analyses, and record retention.

4579 B. A settlement agent who is not (i) a person described in subdivision A 5 of § 55.1-1003 or (ii) a title
4580 insurance company as defined in § 38.2-4601 shall maintain the following to the satisfaction of the appropriate
4581 licensing authority:

4582 1. An errors and omissions or malpractice insurance policy providing a minimum of \$250,000 in coverage;

4583 2. A blanket fidelity bond or employee dishonesty insurance policy covering persons employed by the
4584 settlement agent providing a minimum of \$100,000 in coverage. When the settlement agent has no employees
4585 except the owners, partners, shareholders, or members, the settlement agent may apply to the appropriate
4586 licensing authority for a waiver of this fidelity bond or employee dishonesty requirement; and

4587 3. A surety bond of not less than \$200,000.

4588 C. A settlement agent, other than an attorney or a title insurance company if such company's financial
4589 statements are audited annually by an independent certified public accountant, shall, at its expense, have an
4590 audit of its escrow accounts conducted by an independent certified public accountant at least once each
4591 consecutive 12-month period. The appropriate licensing authority shall require the settlement agent to provide
4592 a copy of its audit report to the licensing authority no later than 60 days after the date on which the audit is
4593 completed. A settlement agent that is a licensed title insurance agent under Title 38.2 shall also provide a copy
4594 of the audit report to each title insurance company that it represents. In lieu of such annual audit, a settlement
4595 agent that is licensed as a title insurance agent under Title 38.2 shall allow each title insurance company for
4596 which it has an appointment to conduct an analysis of its escrow accounts in accordance with regulations
4597 adopted by the Commission or guidelines issued by the Bureau of Insurance of the Commission, as appropriate,
4598 at least once each consecutive 12-month period, and each title insurance company conducting such analysis
4599 shall submit a copy of its analysis report to the appropriate licensing authority no later than 60 days after the
4600 date on which the analysis is completed. With the consent of the title insurance agent, a title insurance company
4601 may share the results of its analysis with other title insurance companies that will accept the same in lieu of
4602 conducting a separate analysis. A title insurance company shall retain a copy of the analysis or audit report,
4603 as applicable, for each title insurance agent it has appointed and such reports and other records of the
4604 insurance company's activities as a settlement agent shall be made available to the appropriate licensing
4605 authority when examinations are conducted pursuant to provisions in Title 38.2.

4606 **§ 55.1-1005. Persons prohibited from assisting or being employed by settlement agents.**

4607 A. A person who has been convicted of a felony involving fraud, deceit, or misrepresentation shall not assist
4608 a settlement agent in the performance of escrow, closing, or settlement services involving the receipt or
4609 disbursement of funds from real estate settlements in the Commonwealth.

4610 B. A settlement agent shall not employ a person who has been convicted of a felony involving fraud, deceit,
4611 or misrepresentation in an administrative or clerical capacity that involves the receipt or disbursement of funds
4612 from real estate settlements in the Commonwealth.

4613 **§ 55.1-1006. Choice of settlement agent.**

4614 A purchaser or borrower in a transaction related to real estate in the Commonwealth shall have the right
4615 to select the settlement agent to provide escrow, closing, or settlement services in connection with the
4616 transaction. The seller in such a transaction may not require the use of a particular settlement agent as a
4617 condition of the sale of the property.

4618 **§ 55.1-1007. Disclosure.**

4619 All contracts involving the purchase of real estate containing not more than four residential dwelling units
4620 shall include in at least 10-point boldface type the following language:

4621 "Choice of Settlement Agent: Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1 of the Code of Virginia provides
4622 that the purchaser or borrower has the right to select the settlement agent to handle the closing of this
4623 transaction. The settlement agent's role in closing this transaction involves the coordination of numerous
4624 administrative and clerical functions relating to the collection of documents and the collection and
4625 disbursement of funds required to carry out the terms of the contract between the parties. If part of the purchase
4626 price is financed, the lender for the purchaser will instruct the settlement agent as to the signing and recording
4627 of loan documents and the disbursement of loan proceeds. No settlement agent can provide legal advice to any
4628 party to the transaction except a settlement agent who is engaged in the private practice of law in Virginia and
4629 who has been retained or engaged by a party to the transaction for the purpose of providing legal services to
4630 that party.

4631 "Variation by agreement: The provisions of Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1 of the Code of
4632 Virginia may not be varied by agreement, and rights conferred by this chapter may not be waived. The seller
4633 may not require the use of a particular settlement agent as a condition of the sale of the property.

4634 "Escrow, closing, and settlement services guidelines: The Virginia State Bar issues guidelines to help
4635 settlement agents avoid and prevent the unauthorized practice of law in connection with furnishing escrow,
4636 settlement, or closing services. As a party to a real estate transaction, the purchaser or borrower is entitled to
4637 receive a copy of these guidelines from his settlement agent, upon request, in accordance with the provisions
4638 of Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1 of the Code of Virginia."

4639 **§ 55.1-1008. Conditions for providing escrow, closing, or settlement services and for maintaining escrow**
4640 **accounts.**

4641 A. All funds deposited with the settlement agent in connection with an escrow, settlement, or closing shall
4642 be handled in a fiduciary capacity and submitted for collection to or deposited in a separate fiduciary trust
4643 account or accounts in a financial institution authorized to do business in the Commonwealth no later than the
4644 close of the second business day, in accordance with the following requirements:

4645 1. The funds shall be the property of the person entitled to them under the provisions of the escrow,
4646 settlement, or closing agreement and shall be segregated for each depository by escrow, settlement, or closing
4647 in the records of the settlement agent in a manner that permits the funds to be identified on an individual basis;
4648 and

4649 2. The funds shall be applied only in accordance with the terms of the individual instructions or agreements
4650 under which the funds were accepted.

4651 B. Funds held in an escrow account shall be disbursed only pursuant to a written instruction or agreement
4652 specifying how and to whom such funds may be disbursed. Funds payable to persons other than the settlement
4653 agent shall be disbursed in accordance with § 55.1-903, except:

4654 1. Title insurance premiums payable to title insurers under § 38.2-1813 or to title insurance agents. Such
4655 title insurance premiums payable to title insurers and agents may be (i) held in the settlement agent's settlement
4656 escrow account, identified and itemized by file name or file number, as a file with a balance; (ii) disbursed in
4657 the form of a check drawn upon the settlement escrow account payable to the title insurer or agent but
4658 maintained within the settlement file of the settlement agent; or (iii) transferred within two business days into
4659 a separate title insurance premium escrow account, which account shall be identified as such and be separate
4660 from the business or personal funds of the settlement agent. These transferred title insurance premium funds
4661 shall be itemized and identified within the separate title insurance premium escrow account. All title insurance
4662 premiums payable to title insurers by title insurance agents serving as settlement agents shall be paid in the
4663 ordinary course of business as required by subsection A of § 38.2-1813; and

4664 2. Escrows held by the settlement agent pursuant to written instruction or agreement. A settlement statement
4665 or closing disclosure that has been signed by the seller and the purchaser or borrower shall be deemed sufficient
4666 to satisfy the requirement of this subsection.

4667 C. A settlement agent may not retain any interest received on funds deposited in connection with any
4668 escrow, settlement, or closing. An attorney settlement agent shall maintain escrow accounts in accordance with
4669 applicable rules of the Virginia State Bar and the Supreme Court of Virginia.

4670 D. Nothing in this chapter shall be deemed to prohibit the recording of documents prior to the time funds
4671 are available for disbursement with respect to a transaction, provided that all parties consent to such
4672 recordation.

4673 E. All settlement statements or closing disclosures for transactions related to real estate governed by this
4674 chapter shall be in writing and identify, by name and business address, the settlement agent.

4675 F. Nothing in this section is intended to amend, alter, or supersede other sections of this chapter, or the
4676 laws of the Commonwealth or the United States, regarding the duties and obligations of the settlement agent in
4677 maintaining escrow accounts.

4678 **§ 55.1-1009. Falsifying settlement statements prohibited.**

4679 No settlement agent shall intentionally make any materially false or misleading statement or entry on a
4680 settlement statement or closing disclosure. An estimate of charges made in good faith by a settlement agent,
4681 and indicated as such on the settlement statement or closing disclosure, shall not be deemed to be a violation
4682 of this section.

4683 **§ 55.1-1010. Separate charge for reporting transactions limited.**

4684 No settlement agent shall charge any party to a real estate transaction, as a separate item on a settlement
4685 statement or closing disclosure, a sum exceeding \$10 for complying with any requirement imposed on the
4686 settlement agent by § 58.1-316 or 58.1-317.

4687 **§ 55.1-1011. Record retention requirements.**

4688 The settlement agent shall maintain sufficient records of its affairs so that the appropriate licensing
4689 authority may adequately ensure that the settlement agent is in compliance with all provisions of this chapter.
4690 The settlement agent shall retain records pertaining to each settlement handled for a minimum of five years
4691 after the settlement is completed. The appropriate licensing authority may prescribe the specific record entries
4692 and documents to be kept.

4693 **§ 55.1-1012. Regulations and orders.**

4694 Except as provided in § 55.1-1014, the appropriate licensing authority may issue summonses, subpoenas,
4695 rules, regulations, and orders, including educational requirements, consistent with and necessary to carry out
4696 the provisions of this chapter.

4697 **§ 55.1-1013. Accounting by title insurance companies.**

4698 A title insurance company domiciled in the Commonwealth or acting in the capacity of a settlement agent
4699 pursuant to this chapter shall account for funds held and income derived from escrow, closing, or settlement
4700 services in accordance with the applicable instructions of, and the accounting practices and procedures
4701 manuals adopted by, the Association when filing the annual statements and reports required under Chapter 13
4702 (§ 38.2-1300 et seq.) of Title 38.2.

4703 **§ 55.1-1014. Settlement agent registration requirements and compliance with unauthorized practice of**
4704 **law guidelines; civil penalty.**

4705 A. Every settlement agent subject to the provisions of this chapter shall be registered as such with the
4706 appropriate licensing authority. In conjunction therewith, settlement agents shall furnish (i) their names,
4707 business addresses, and telephone numbers and (ii) such other information as may be required. Each such
4708 registration (a) shall be accompanied by a nonrefundable fee not to exceed \$100 and (b) shall be renewed at
4709 least biennially thereafter. When the registration of a settlement agent is renewed, the appropriate licensing
4710 authority shall notify the registrant of the provisions of § 17.1-223.

4711 B. The Virginia State Bar, in consultation with the Commission and the Virginia Real Estate Board, shall
4712 adopt regulations establishing guidelines for settlement agents designed to assist them in avoiding and
4713 preventing the unauthorized practice of law in conjunction with providing escrow, closing, and settlement
4714 services. Such guidelines shall be furnished by the appropriate licensing authority to (i) each settlement agent
4715 at the time of registration and any renewal thereof, (ii) state and federal agencies that regulate financial
4716 institutions, and (iii) members of the general public upon request. Such guidelines shall also be furnished by
4717 settlement agents to any party to a real estate transaction in which such agents are providing escrow, closing,
4718 or settlement services, upon request.

4719 C. The Virginia State Bar shall receive complaints concerning settlement agent or financial institution
4720 noncompliance with the guidelines established pursuant to subsection B and shall (i) investigate such
4721 complaints to the extent they concern the unauthorized practice of law or any other matter within its jurisdiction
4722 and (ii) refer all other matters or allegations to the appropriate licensing authority. The willful failure of any
4723 settlement agent to comply with the guidelines shall be considered a violation of this chapter, and such agent
4724 shall be subject to a civil penalty not exceeding \$5,000 for each such failure as the Virginia State Bar may
4725 determine.

4726 **§ 55.1-1015. Penalties and liabilities.**

4727 A. If the appropriate licensing authority determines that the settlement agent licensed by it or any of its
4728 other licensees has violated this chapter, or any regulation or order adopted thereunder, after notice and
4729 opportunity to be heard, the appropriate licensing authority may do one or more of the following:

- 4730 1. Impose a civil penalty not exceeding \$5,000 for each violation;
- 4731 2. Revoke or suspend the applicable licenses;
- 4732 3. Issue a restraining order requiring such person to cease and desist from engaging in such act or practice;

4733 or

- 4734 4. Require restitution to be made by the person violating this chapter in the amount of any actual, direct
4735 financial loss.

4736 B. The appropriate licensing authority may terminate administratively the registration of any settlement
4737 agent if the settlement agent (i) no longer holds a license, (ii) fails to renew its registration, or (iii) fails to
4738 comply with the financial responsibility requirements set forth in § 55.1-1004.

4739 C. In addition to the authority given in subsection A, and pursuant to § 12.1-13, the Commission, after
4740 determining that any person who does not hold a license from the appropriate licensing authority has violated
4741 this chapter or any regulation or order adopted thereunder, may do one or more of the following:

- 4742 1. Impose a civil penalty not exceeding \$5,000 for each violation;
- 4743 2. Issue a temporary or permanent injunction, or restraining order requiring such person to cease and
4744 desist from engaging in such act or practice; or
- 4745 3. Require restitution to be made by the person violating this chapter in the amount of any actual, direct
4746 financial loss.

4747 *D. Nothing in this section shall affect the right of the appropriate licensing authority to impose any other*
 4748 *penalties provided by law or regulation. Notwithstanding any provision contained in this section to the*
 4749 *contrary, as to that portion of any complaint by a party to the real estate transaction arising under this chapter*
 4750 *or any regulation or order adopted thereunder relating to the unauthorized practice of law, the Virginia State*
 4751 *Bar, after complying with applicable law and regulation relating to unauthorized practice of law complaints*
 4752 *and concluding the activity was not authorized by statute or regulation, may refer that portion of such complaint*
 4753 *to the Attorney General or an attorney for the Commonwealth. The Attorney General or attorney for the*
 4754 *Commonwealth may, in addition to any other powers conferred on him by law, seek the issuance of a temporary*
 4755 *or permanent injunction or restraining order against any person so violating this chapter or any regulation or*
 4756 *order adopted thereunder.*

4757 *E. A final order of the licensing authority imposing a civil penalty or ordering restitution may be recorded,*
 4758 *enforced, and satisfied as orders of a circuit court upon certification of such order by the licensing authority.*

4759 **§ 55.1-1016. Confidentiality of information obtained by the Commission.**

4760 *A. Any documents, materials, or other information in the control or possession of the Commission that are*
 4761 *furnished by a title insurance company or title insurance agent or an employee thereof acting on behalf of the*
 4762 *title insurance company or title insurance agent, or obtained by the Commission in an investigation pursuant*
 4763 *to this chapter, shall be confidential by law and privileged, shall not be subject to inspection or review by the*
 4764 *general public, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence*
 4765 *in any private civil action. The Commission is authorized to use the documents, materials, or other information*
 4766 *in the furtherance of any regulatory or legal action brought as a part of the Commission's duties.*

4767 *B. Neither the Commission nor any person who received documents, materials, or other information while*
 4768 *acting under the authority of the Commission shall be permitted or required to testify in any private civil action*
 4769 *concerning any confidential documents, materials, or information subject to subsection A.*

4770 *C. In order to assist in the performance of the Commission's duties under this chapter, the Commission:*

4771 *1. May share documents, material, or other information, including the confidential and privileged*
 4772 *documents, materials, or information subject to subsection A, with other state, federal, and international*
 4773 *regulatory agencies, with the Association and its affiliates and subsidiaries, and with local, state, federal, and*
 4774 *international law-enforcement authorities, provided that the recipient agrees to maintain the confidentiality*
 4775 *and privileged status of the document, material, or other information; and*

4776 *2. May receive documents, materials, or information, including otherwise confidential and privileged*
 4777 *documents, materials, or information, from the Association or its affiliates or subsidiaries and from regulatory*
 4778 *and law-enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or*
 4779 *privileged any document, material, or information received with notice or the understanding that it is*
 4780 *confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or*
 4781 *information.*

4782 *D. No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or*
 4783 *information shall occur as a result of disclosure to the Commission under this section or as a result of sharing*
 4784 *as authorized in subsection C.*

4785 *E. Nothing in this chapter shall prohibit the Commission from releasing final, adjudicated actions,*
 4786 *including for-cause terminations that are open to public inspection pursuant to Chapter 4 (§ 12.1-18 et seq.) of*
 4787 *Title 12.1, to a database or other clearinghouse service maintained by the Association or its affiliates or*
 4788 *subsidiaries.*

4789 **CHAPTER 11.**

4790 **COMMERCIAL REAL ESTATE BROKER'S LIEN ACT.**

4791 **§ 55.1-1100. Definitions.**

4792 *As used in this chapter, unless the context requires a different meaning:*

4793 *"Commercial real estate" means any real estate other than (i) real estate containing one to four residential*
 4794 *units or (ii) real estate classified for assessment purposes under the provisions of Article 4 (§ 58.1-3230 et seq.)*
 4795 *of Chapter 32 of Title 58.1. Commercial real estate does not include single-family residential units, including*
 4796 *condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit-by-unit basis even*
 4797 *though these units may be part of a larger building or parcel of real estate containing more than four residential*
 4798 *units.*

4799 *"Principal broker" means the same as that term is defined in regulations promulgated by the Real Estate*
 4800 *Board.*

4801 **§ 55.1-1101. Broker's lien.**

4802 A. Any principal broker who, either himself or through the principal broker's or associated broker's
 4803 employees or independent contractors, has provided licensed services that result in the procuring of a tenant
 4804 of commercial real estate upon the terms provided for in a written agreement signed by the owner of such
 4805 commercial real estate, or that are otherwise acceptable to the owner as evidenced by a written agreement
 4806 signed by the owner, shall have a lien, in the amount of the compensation agreed upon by and between the
 4807 principal broker and the owner, upon rent paid by the tenant of the commercial real estate or by the successors
 4808 or assigns of such tenant. The amount of the lien shall not exceed the lesser of (i) the amount of the rent to be
 4809 paid during the term of the lease or (ii) the amount of the rent to be paid during the first 20 years of such lease.

4810 B. The lien provided by this chapter shall not attach or be perfected until a memorandum of such lien signed
 4811 under oath by the broker and meeting the requirements of this subsection has been recorded in the clerk's office
 4812 of the circuit court of the county or city where the commercial real estate is located, from which date the lien
 4813 shall have priority over all liens recorded subsequent thereto. The memorandum of lien shall state the name of
 4814 the claimant, the name of the owner of the commercial real estate, a description of the commercial real estate,
 4815 the name and address of the person against whom the broker's claim for compensation is made, the name and
 4816 address of the tenant paying the rent against which the lien is being claimed, the amount for which the lien is
 4817 being claimed, and the real estate license number of the principal broker claiming the lien. The lien provided
 4818 by this chapter and the right to rents secured by such lien shall be subordinate to all liens, deeds of trust,
 4819 mortgages, or assignments of the leases, rents, or profits recorded prior to the time the memorandum of lien is
 4820 recorded and shall not affect a purchaser for valuable consideration without constructive or actual notice of
 4821 the recorded lien.

4822 However, a purchaser acquiring fee simple title to commercial real estate and having actual knowledge of
 4823 terms of a lease agreement that provide for the payment of brokerage fees due and payable to a real estate
 4824 broker shall be liable for payment of such brokerage fees, unless otherwise agreed to in writing by the parties
 4825 at or before the time of sale regardless of whether the real estate broker has perfected the lien in accordance
 4826 with this chapter. The term "purchaser" does not include a trustee under or a beneficiary of a deed of trust, a
 4827 mortgagee under a mortgage, a secured party or any other assignee under an assignment as security, or
 4828 successors, assigns, transferees, or purchasers from such persons or entities.

4829 C. Nothing in this section shall be construed to prevent a subsequent purchaser of commercial real estate
 4830 subject to a lien under this chapter from establishing an escrow fund at settlement sufficient to satisfy the lien
 4831 that may otherwise affect transferability of title.

4832 SUBTITLE III.

4833 RENTAL CONVEYANCES.

4834 CHAPTER 12.

4835 VIRGINIA RESIDENTIAL LANDLORD AND TENANT ACT.

4836 Article I.

4837 General Provisions.

4838 **§ 55.1-1200. Definitions.**

4839 As used in this chapter, unless the context requires a different meaning:

4840 "Action" means any recoupment, counterclaim, setoff, or other civil action and any other proceeding in
 4841 which rights are determined, including actions for possession, rent, unlawful detainer, unlawful entry, and
 4842 distress for rent.

4843 "Application deposit" means any refundable deposit of money, however denominated, including all money
 4844 intended to be used as a security deposit under a rental agreement, or property, that is paid by a tenant to a
 4845 landlord for the purpose of being considered as a tenant for a dwelling unit.

4846 "Application fee" means any nonrefundable fee that is paid by a tenant to a landlord or managing agent
 4847 for the purpose of being considered as a tenant for a dwelling unit.

4848 "Assignment" means the transfer by any tenant of all interests created by a rental agreement.

4849 "Authorized occupant" means a person entitled to occupy a dwelling unit with the consent of the landlord,
 4850 but who has not signed the rental agreement and therefore does not have the financial obligations as a tenant
 4851 under the rental agreement.

4852 "Building or housing code" means any law, ordinance, or governmental regulation concerning fitness for
 4853 habitation or the construction, maintenance, operation, occupancy, use, or appearance of any structure or that

4854 part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household
4855 or by two or more persons who maintain a common household.

4856 "Commencement date of rental agreement" means the date upon which the tenant is entitled to occupy the
4857 dwelling unit as a tenant.

4858 "Community land trust" means a community housing development organization whose (i) corporate
4859 membership is open to any adult resident or organization of a particular geographic area specified in the
4860 bylaws of the organization and (ii) board of directors includes a majority of members who are elected by the
4861 corporate membership and are composed of tenants, corporate members who are not tenants, and any other
4862 category of persons specified in the bylaws of the organization and that:

4863 1. Is not sponsored by a for-profit organization;

4864 2. Acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

4865 3. Transfers ownership of any structural improvements located on such leased parcels to the tenant; and

4866 4. Retains a preemptive option to purchase any such structural improvement at a price determined by
4867 formula that is designed to ensure that the improvement remains affordable to low-income and moderate-
4868 income families in perpetuity.

4869 "Dwelling unit" means a structure or part of a structure that is used as a home or residence by one or more
4870 persons who maintain a household, including a manufactured home, as defined in § 55.1-1300.

4871 "Effective date of rental agreement" means the date on which the rental agreement is signed by the landlord
4872 and the tenant obligating each party to the terms and conditions of the rental agreement.

4873 "Essential service" includes heat, running water, hot water, electricity, and gas.

4874 "Facility" means something that is built, constructed, installed, or established to perform some particular
4875 function.

4876 "Good faith" means honesty in fact in the conduct of the transaction concerned.

4877 "Guest or invitee" means a person, other than the tenant or an authorized occupant, who has the permission
4878 of the tenant to visit but not to occupy the premises.

4879 "Interior of the dwelling unit" means the inside of the dwelling unit, consisting of interior walls, floor, and
4880 ceiling, that enclose the dwelling unit as conditioned space from the outside air.

4881 "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which such dwelling
4882 unit is a part. "Landlord" also includes a managing agent of the premises who fails to disclose the name of such
4883 owner, lessor, or sublessor. Such managing agent shall be subject to the provisions of § 16.1-88.03. "Landlord"
4884 does not include a community land trust.

4885 "Managing agent" means a person authorized by the landlord to act on behalf of the landlord under an
4886 agreement.

4887 "Mold remediation in accordance with professional standards" means mold remediation of that portion of
4888 the dwelling unit or premises affected by mold, or any personal property of the tenant affected by mold,
4889 performed consistent with guidance documents published by the U.S. Environmental Protection Agency, the
4890 U.S. Department of Housing and Urban Development, or the American Conference of Governmental Industrial
4891 Hygienists (Bioaerosols: Assessment and Control); Standard and Reference Guides of the Institute of
4892 Inspection, Cleaning and Restoration Certification (IICRC) for Professional Water Damage Restoration and
4893 Professional Mold Remediation; or any protocol for mold remediation prepared by an industrial hygienist
4894 consistent with such guidance documents.

4895 "Multifamily dwelling unit" means more than one single-family dwelling unit located in a building.
4896 However, nothing in this definition shall be construed to apply to any nonresidential space in such building.

4897 "Natural person," wherever the chapter refers to an owner as a "natural person," includes co-owners who
4898 are natural persons, either as tenants in common, joint tenants, tenants in partnership, tenants by the entirety,
4899 trustees or beneficiaries of a trust, general partnerships, limited liability partnerships, registered limited
4900 liability partnerships or limited liability companies, or any other lawful combination of natural persons
4901 permitted by law.

4902 "Notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining
4903 sufficient proof of having given such notice in the form of a certificate of service confirming such mailing
4904 prepared by the sender. However, a person shall be deemed to have notice of a fact if he has actual knowledge
4905 of it, he has received a verbal notice of it, or, from all of the facts and circumstances known to him at the time
4906 in question, he has reason to know it exists. A person "notifies" or "gives" a notice or notification to another by
4907 taking steps reasonably calculated to inform another person, whether or not the other person actually comes

4908 to know of it. If notice is given that is not in writing, the person giving the notice has the burden of proof to
4909 show that the notice was given to the recipient of the notice.

4910 "Organization" means a corporation, government, governmental subdivision or agency, business trust,
4911 estate, trust, partnership, or association; two or more persons having a joint or common interest; any
4912 combination thereof; and any other legal or commercial entity.

4913 "Owner" means one or more persons or entities, jointly or severally, including a mortgagee in possession,
4914 in whom is vested:

4915 1. All or part of the legal title to the property; or

4916 2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

4917 "Person" means any individual, group of individuals, corporation, partnership, business trust, association,
4918 or other legal entity, or any combination thereof.

4919 "Premises" means a dwelling unit and the structure of which it is a part, facilities and appurtenances
4920 contained therein, and grounds, areas, and facilities held out for the use of tenants generally or whose use is
4921 promised to the tenant.

4922 "Processing fee for payment of rent with bad check" means the processing fee specified in the rental
4923 agreement, not to exceed \$50, assessed by a landlord against a tenant for payment of rent with a check drawn
4924 by the tenant on which payment has been refused by the payor bank because the drawer had no account or
4925 insufficient funds.

4926 "Readily accessible" means areas within the interior of the dwelling unit available for observation at the
4927 time of the move-in inspection that do not require removal of materials, personal property, equipment, or
4928 similar items.

4929 "Rent" means all money, other than a security deposit, owed or paid to the landlord under the rental
4930 agreement, including prepaid rent paid more than one month in advance of the rent due date.

4931 "Rental agreement" or "lease agreement" means all agreements, written or oral, and valid rules and
4932 regulations adopted under § 55.1-1228 embodying the terms and conditions concerning the use and occupancy
4933 of a dwelling unit and premises.

4934 "Rental application" means the written application or similar document used by a landlord to determine if
4935 a prospective tenant is qualified to become a tenant of a dwelling unit.

4936 "Residential tenancy" means a tenancy that is based on a rental agreement between a landlord and a tenant
4937 for a dwelling unit.

4938 "Roomer" means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a
4939 structure where one or more major facilities are used in common by occupants of the dwelling unit and other
4940 dwelling units. "Major facility" in the case of a bathroom means a toilet and either a bath or shower and in the
4941 case of a kitchen means a refrigerator, stove, or sink.

4942 "Security deposit" means any refundable deposit of money that is furnished by a tenant to a landlord to
4943 secure the performance of the terms and conditions of a rental agreement, as a security for damages to the
4944 leased premises, or as a pet deposit. However, such money shall be deemed an application deposit until the
4945 commencement date of the rental agreement. "Security deposit" does not include a damage insurance policy or
4946 renter's insurance policy, as those terms are defined in § 55.1-1206, purchased by a landlord to provide
4947 coverage for a tenant.

4948 "Single-family residence" means a structure, other than a multi-family residential structure, maintained
4949 and used as a single dwelling unit, condominium unit, or any other dwelling unit that has direct access to a
4950 street or thoroughfare and does not share heating facilities, hot water equipment, or any other essential facility
4951 or essential service with any other dwelling unit.

4952 "Sublease" means the transfer by any tenant of any but not all interests created by a rental agreement.

4953 "Tenant" means a person entitled only under the terms of a rental agreement to occupy a dwelling unit to
4954 the exclusion of others and includes a roomer. "Tenant" does not include (i) an authorized occupant, (ii) a guest
4955 or invitee, or (iii) any person who guarantees or cosigns the payment of the financial obligations of a rental
4956 agreement but has no right to occupy a dwelling unit.

4957 "Tenant records" means all information, including financial, maintenance, and other records about a
4958 tenant or prospective tenant, whether such information is in written or electronic form or any other medium.

4959 "Utility" means electricity, natural gas, or water and sewer provided by a public service corporation or
4960 such other person providing utility services as permitted under § 56-1.2. If the rental agreement so provides, a

4961 landlord may use submetering equipment or energy allocation equipment as defined in § 56-245.2 or a ratio
4962 utility billing system as defined in § 55.1-1212.

4963 "Visible evidence of mold" means the existence of mold in the dwelling unit that is visible to the naked eye
4964 by the landlord or tenant in areas within the interior of the dwelling unit readily accessible at the time of the
4965 move-in inspection.

4966 "Written notice" means notice given in accordance with § 55.1-1202, including any representation of
4967 words, letters, symbols, numbers, or figures, whether (i) printed in or inscribed on a tangible medium or (ii)
4968 stored in an electronic form or any other medium, retrievable in a perceivable form, and regardless of whether
4969 an electronic signature authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.) is affixed.

4970 **§ 55.1-1201. Applicability of chapter; local authority.**

4971 A. This chapter shall apply to all jurisdictions in the Commonwealth and may not be waived or otherwise
4972 modified, in whole or in part, by the governing body of any locality or its boards or commissions or other
4973 instrumentalities or by the courts of the Commonwealth. Occupancy in a public housing unit or other housing
4974 unit that is a dwelling unit is subject to this chapter; however, if the provisions of this chapter are inconsistent
4975 with the regulations of the U.S. Department of Housing and Urban Development, such regulations shall control.

4976 B. The provisions of this chapter shall apply to occupancy in all single-family and multifamily dwelling
4977 units and multifamily dwelling units located in the Commonwealth.

4978 C. The following tenancies and occupancies are not residential tenancies under this chapter:

4979 1. Residence at a public or private institution, if incidental to detention or the provision of medical,
4980 geriatric, educational, counseling, religious, or similar services;

4981 2. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for
4982 the benefit of the organization;

4983 3. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

4984 4. Occupancy in a campground as defined in § 35.1-1;

4985 5. Occupancy by a tenant who pays no rent pursuant to a rental agreement;

4986 6. Occupancy by an employee of a landlord whose right to occupancy in a multifamily dwelling unit is
4987 conditioned upon employment in and about the premises or a former employee whose occupancy continues less
4988 than 60 days; or

4989 7. Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant
4990 is the purchaser or a person who succeeds to his interest.

4991 D. The following provisions apply to occupancy in a hotel, motel, extended stay facility, etc.:

4992 1. A guest who is an occupant of a hotel, motel, extended stay facility, vacation residential facility, including
4993 those governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or similar
4994 transient lodging shall not be construed to be a tenant living in a dwelling unit if such person does not reside
4995 in such lodging as his primary residence. Such guest shall be exempt from this chapter, and the innkeeper or
4996 property owner, or his agent, shall have the right to use self-help eviction under Virginia law, without the
4997 necessity of the filing of an unlawful detainer action in a court of competent jurisdiction and the execution of a
4998 writ of possession issued pursuant to such action, which would otherwise be required under this chapter.

4999 2. A hotel, motel, extended stay facility, vacation residential facility, including those governed by the
5000 Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or similar transient lodging shall
5001 be exempt from the provisions of this chapter if overnight sleeping accommodations are furnished to a person
5002 for consideration if such person does not reside in such lodging as his primary residence.

5003 3. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those
5004 governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or similar transient
5005 lodging as his primary residence for 90 consecutive days or less, such lodging shall not be subject to the
5006 provisions of this chapter. However, the owner of such lodging establishment shall give a five-day written notice
5007 of nonpayment to a person residing in such lodging and, upon the expiration of the five-day period specified in
5008 the notice, may exercise self-help eviction if payment in full has not been received.

5009 4. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those
5010 governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or similar transient
5011 lodging as his primary residence for more than 90 consecutive days or is subject to a written lease for more
5012 than 90 days, such lodging shall be subject to the provisions of this chapter.

5013 5. Nothing herein shall be construed to preclude the owner of a lodging establishment that uses self-help
5014 eviction pursuant to this section from pursuing any civil or criminal remedies under the laws of the
5015 Commonwealth.

5016 E. Nothing in this chapter shall prohibit a locality from establishing a commission, reconciliatory in nature
5017 only, or designating an existing agency, which upon mutual agreement of the parties may mediate conflicts that
5018 may arise out of the application of this chapter, nor shall anything in this chapter be deemed to prohibit an
5019 ordinance designed to effect compliance with local property maintenance codes. This chapter shall supersede
5020 all other local ordinances or regulations concerning landlord and tenant relations and the leasing of residential
5021 property.

5022 **§ 55.1-1202. Notice.**

5023 A. If the rental agreement so provides, the landlord and tenant may send notices in electronic form;
5024 however, any tenant who so requests may elect to send and receive notices in paper form. If electronic delivery
5025 is used, the sender shall retain sufficient proof of the electronic delivery, which may be an electronic receipt of
5026 delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender
5027 confirming the electronic delivery.

5028 B. In the case of the landlord, notice is served on the landlord at his place of business where the rental
5029 agreement was made or at any place held out by the landlord as the place for receipt of the communication.

5030 In the case of the tenant, notice is served at the tenant's last known place of residence, which may be the
5031 dwelling unit.

5032 C. Notice, knowledge, or a notice or notification received by an organization is effective for a particular
5033 transaction from the time it is brought to the attention of the person conducting that transaction, or from the
5034 time it would have been brought to his attention if the organization had exercised reasonable diligence.

5035 D. No notice of termination of tenancy served upon a tenant by a public housing authority organized under
5036 the Housing Authorities Law (§ 36-1 et seq.) shall be effective unless it contains on its first page, in type no
5037 smaller or less legible than that otherwise used in the body of the notice, the name, address, and telephone
5038 number of the legal services program, if any, serving the jurisdiction in which the premises is located.

5039 E. The landlord may, in accordance with a written agreement, delegate to a managing agent or other third
5040 party the responsibility of providing any written notice under this chapter. The landlord may also engage an
5041 attorney at law to prepare or provide any written notice under this chapter or legal process under Title 8.01.
5042 Nothing herein shall be construed to preclude use of an electronic signature as defined in § 59.1-480, or an
5043 electronic notarization as defined in § 47.1-2, in any written notice under this chapter or legal process under
5044 Title 8.01.

5045 **§ 55.1-1203. Application deposit and application fee.**

5046 A. Any landlord may require a refundable application deposit in addition to a nonrefundable application
5047 fee. If the applicant fails to rent the unit for which application was made, from the application deposit the
5048 landlord shall refund to the applicant within 20 days after the applicant's failure to rent the unit or the landlord's
5049 rejection of the application all sums in excess of the landlord's actual expenses and damages together with an
5050 itemized list of such expenses and damages. If, however, the application deposit was made by cash, certified
5051 check, cashier's check, or postal money order, such refund shall be made within 10 days of the applicant's
5052 failure to rent the unit if the failure to rent is due to the landlord's rejection of the application. If the landlord
5053 fails to comply with this section, the applicant may recover as damages suffered by him that portion of the
5054 application deposit wrongfully withheld and reasonable attorney fees.

5055 B. A landlord may request that a prospective tenant provide information that will enable the landlord to
5056 determine whether each applicant may become a tenant. The landlord may photocopy each applicant's driver's
5057 license or other similar photo identification, containing either the applicant's social security number or control
5058 number issued by the Department of Motor Vehicles pursuant to § 46.2-342. However, a landlord shall not
5059 photocopy a U.S. government-issued identification so long as to do so is a violation of 18 U.S.C. § 701. The
5060 landlord may require, for the purpose of determining whether each applicant is eligible to become a tenant in
5061 the landlord's dwelling unit, that each applicant provide a social security number issued by the U.S. Social
5062 Security Administration or an individual taxpayer identification number issued by the U.S. Internal Revenue
5063 Service.

5064 C. An application fee shall not exceed \$50, exclusive of any actual out-of-pocket expenses paid by the
5065 landlord to a third party performing background, credit, or other pre-occupancy checks on the applicant.
5066 However, where an application is being made for a dwelling unit that is a public housing unit or other housing

5067 unit subject to regulation by the U.S. Department of Housing and Urban Development, an application fee shall
5068 not exceed \$32, exclusive of any actual out-of-pocket expenses paid to a third party by the landlord performing
5069 background, credit, or other pre-occupancy checks on the applicant.

5070 **§ 55.1-1204. Terms and conditions of rental agreement; payment of rent; copy of rental agreement for**
5071 **tenant.**

5072 A. A landlord and tenant may include in a rental agreement terms and conditions not prohibited by this
5073 chapter or other rule of law, including rent, charges for late payment of rent, the term of the agreement,
5074 automatic renewal of the rental agreement, requirements for notice of intent to vacate or terminate the rental
5075 agreement, and other provisions governing the rights and obligations of the parties.

5076 B. In the absence of a rental agreement, the tenant shall pay as rent the fair rental value for the use and
5077 occupancy of the dwelling unit.

5078 C. Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless
5079 otherwise agreed, rent is payable at the place designated by the landlord, and periodic rent is payable at the
5080 beginning of any term of one month or less and otherwise in equal installments at the beginning of each month.
5081 If the landlord receives from a tenant a written request for a written statement of charges and payments, he
5082 shall provide the tenant with a written statement showing all debits and credits over the tenancy or the past 12
5083 months, whichever is shorter. The landlord shall provide such written statement within 10 business days of
5084 receiving the request.

5085 D. Unless the rental agreement fixes a definite term, the tenancy shall be week-to-week in the case of a
5086 tenant who pays weekly rent and month-to-month in all other cases. Terminations of tenancies shall be governed
5087 by § 55.1-1253 unless the rental agreement provides for a different notice period.

5088 E. If the rental agreement contains any provision allowing the landlord to approve or disapprove a
5089 sublessee or assignee of the tenant, the landlord shall, within 10 business days of receipt of the written
5090 application of the prospective sublessee or assignee on a form to be provided by the landlord, approve or
5091 disapprove the sublessee or assignee. Failure of the landlord to act within 10 business days is evidence of his
5092 approval.

5093 F. The landlord shall provide a copy of any written rental agreement signed by both the tenant and the
5094 landlord to the tenant within one month of the effective date of the written rental agreement. The failure of the
5095 landlord to deliver such a rental agreement shall not affect the validity of the agreement.

5096 G. No unilateral change in the terms of a rental agreement by a landlord or tenant shall be valid unless (i)
5097 notice of the change is given in accordance with the terms of the rental agreement or as otherwise required by
5098 law and (ii) both parties consent in writing to the change.

5099 H. The landlord shall provide the tenant with a written receipt, upon request from the tenant, whenever the
5100 tenant pays rent in the form of cash or money order.

5101 **§ 55.1-1205. Prepaid rent; maintenance of escrow account.**

5102 A landlord and a tenant may agree in a rental agreement that the tenant pay prepaid rent. If a landlord
5103 receives prepaid rent, it shall be placed in an escrow account in a federally insured depository authorized to
5104 do business in Virginia by the end of the fifth business day following receipt and shall remain in the account
5105 until such time as the prepaid rent becomes due. Unless the landlord has otherwise become entitled to receive
5106 any portion of the prepaid rent, it shall not be removed from the escrow account required by this section without
5107 the written consent of the tenant.

5108 **§ 55.1-1206. Landlord may obtain certain insurance for tenant.**

5109 A. A landlord may require as a condition of tenancy that a tenant have commercial insurance coverage as
5110 specified in the rental agreement to secure the performance by the tenant of the terms and conditions of the
5111 rental agreement and pay for the cost of premiums for such insurance coverage obtained by the landlord,
5112 generally known as "damage insurance." As provided in § 55.1-1200, such payments shall not be deemed a
5113 security deposit, but shall be rent. However, as provided in § 55.1-1208, the landlord shall not require a tenant
5114 to pay both a security deposit and the cost of damage insurance premiums, if the total amount of any security
5115 deposit and damage insurance premiums exceeds the amount of two months' periodic rent. The landlord shall
5116 notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for
5117 damage insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written
5118 proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement.
5119 Where a landlord obtains damage insurance coverage on behalf of a tenant, the insurance policy shall provide
5120 coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such

5121 insurance coverage and may recover administrative or other fees associated with administration of a damage
 5122 insurance policy, including a tenant opting out of the insurance coverage provided by the landlord pursuant to
 5123 this subsection. If a landlord obtains damage insurance for his tenants, the landlord shall provide to each
 5124 tenant, prior to execution of the rental agreement, a summary of the insurance policy or certificate evidencing
 5125 the coverage being provided and upon request of the tenant make available a copy of the insurance policy.

5126 B. A landlord may require as a condition of tenancy that a tenant have renter's insurance as specified in
 5127 the rental agreement that is a combination multi-peril policy containing fire, miscellaneous property, and
 5128 personal liability coverage insuring personal property located in dwelling units not occupied by the owner. A
 5129 landlord may require a tenant to pay for the cost of premiums for such insurance obtained by the landlord, in
 5130 order to provide such coverage for the tenant as part of rent or as otherwise provided in this section. As
 5131 provided in § 55.1-1200, such payments shall not be deemed a security deposit but shall be rent. The landlord
 5132 shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy
 5133 for renter's insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord
 5134 written proof of such coverage and shall maintain such coverage at all times during the term of the rental
 5135 agreement. If a tenant allows his renter's insurance policy required by the rental agreement to lapse for any
 5136 reason, the landlord may provide any landlord's renter's insurance coverage to such tenant. The tenant shall
 5137 be obligated to pay for the cost of premiums for such insurance as rent or as otherwise provided herein until
 5138 the tenant has provided written documentation to the landlord showing that the tenant has reinstated his own
 5139 renter's insurance coverage.

5140 C. If the landlord requires that such premiums be paid prior to the commencement of the tenancy, the total
 5141 amount of all security deposits and insurance premiums for damage insurance and renter's insurance shall not
 5142 exceed the amount of two months' periodic rent. Otherwise, the landlord may add a monthly amount as
 5143 additional rent to recover the costs of such insurance coverage.

5144 D. Where a landlord obtains renter's insurance coverage on behalf of a tenant, the insurance policy shall
 5145 provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of
 5146 such insurance coverage and may recover administrative or other fees associated with the administration of a
 5147 renter's insurance program, including a tenant opting out of the insurance coverage provided to the tenant
 5148 pursuant to this subsection. If a landlord obtains renter's insurance for his tenants, the landlord shall provide
 5149 to each tenant, prior to execution of the rental agreement, a summary of the insurance policy prepared by the
 5150 insurer or certificate evidencing the coverage being provided and upon request of the tenant make available a
 5151 copy of the insurance policy.

5152 E. Nothing in this section shall be construed to prohibit the landlord from recovering from the tenant, as
 5153 part of the rent, the tenant's prorated share of the actual costs of other insurance coverages provided by the
 5154 landlord relative to the premises, or the tenant's prorated share of a self-insurance program held in an escrow
 5155 account by the landlord, including the landlord's administrative or other fees associated with the administration
 5156 of such coverages. The landlord may apply such funds held in escrow to pay claims pursuant to the landlord's
 5157 self-insurance plan.

5158 **§ 55.1-1207. Effect of unsigned or undelivered rental agreement.**

5159 If the landlord does not sign and deliver a written rental agreement signed and delivered to him by the
 5160 tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if
 5161 it had been signed and delivered by the landlord. If the tenant does not sign and deliver a written rental
 5162 agreement signed and delivered to him by the landlord, acceptance of possession or payment of rent without
 5163 reservation gives the rental agreement the same effect as if it had been signed and delivered by the tenant. If a
 5164 rental agreement given effect pursuant to this section provides for a term longer than one year, it is effective
 5165 for only one year.

5166 **§ 55.1-1208. Prohibited provisions in rental agreements.**

5167 A. A rental agreement shall not contain provisions that the tenant:

- 5168 1. Agrees to waive or forgo rights or remedies under this chapter;
- 5169 2. Agrees to waive or forgo rights or remedies pertaining to the 120-day conversion or rehabilitation notice
 5170 required in the Virginia Condominium Act (§ 55.1-1900 et seq.) or the Virginia Real Estate Cooperative Act (§
 5171 55.1-2100 et seq.) or under § 55.1-1410;
- 5172 3. Authorizes any person to confess judgment on a claim arising out of the rental agreement;
- 5173 4. Agrees to pay the landlord's attorney fees except as provided in this chapter;

5174 5. Agrees to the exculpation or limitation of any liability of the landlord to the tenant arising under law or
5175 to indemnify the landlord for that liability or any associated costs;

5176 6. Agrees as a condition of tenancy in public housing to a prohibition or restriction of any lawful possession
5177 of a firearm within individual dwelling units unless required by federal law or regulation; or

5178 7. Agrees to both the payment of a security deposit and the provision of a bond or commercial insurance
5179 policy purchased by the tenant to secure the performance of the terms and conditions of a rental agreement, if
5180 the total of the security deposit and the bond or insurance premium exceeds the amount of two months' periodic
5181 rent.

5182 B. Any provision prohibited by subsection A that is included in a rental agreement is unenforceable. If a
5183 landlord brings an action to enforce any such provision, the tenant may recover actual damages sustained by
5184 him and reasonable attorney fees.

5185 **§ 55.1-1209. Confidentiality of tenant records.**

5186 A. No landlord or managing agent shall release information about a tenant or prospective tenant in the
5187 possession of the landlord or managing agent to a third party unless:

5188 1. The tenant or prospective tenant has given prior written consent;

5189 2. The information is a matter of public record as defined in § 2.2-3701;

5190 3. The information is a summary of the tenant's rent payment record, including the amount of the tenant's
5191 periodic rent payment;

5192 4. The information is a copy of a material noncompliance notice that has not been remedied or a termination
5193 notice given to the tenant under § 55.1-1245 and the tenant did not remain in the premises after such notice
5194 was given;

5195 5. The information is requested by a local, state, or federal law-enforcement or public safety official in the
5196 performance of his duties;

5197 6. The information is requested pursuant to a subpoena in a civil case;

5198 7. The information is requested by a local commissioner of the revenue in accordance with § 58.1-3901;

5199 8. The information is requested by a contract purchaser of the landlord's property, provided that the
5200 contract purchaser agrees in writing to maintain the confidentiality of such information;

5201 9. The information is requested by a lender of the landlord for financing or refinancing of the property;

5202 10. The information is requested by the commanding officer, military housing officer, or military attorney
5203 of the tenant;

5204 11. The third party is the landlord's attorney or the landlord's collection agency;

5205 12. The information is otherwise provided in the case of an emergency;

5206 13. The information is requested by the landlord to be provided to the managing agent or a successor to
5207 the managing agent; or

5208 14. The information is requested by an employee or independent contractor of the United States to obtain
5209 census information pursuant to federal law.

5210 B. A tenant may designate a third party to receive duplicate copies of a summons that has been issued
5211 pursuant to § 8.01-126 and of written notices from the landlord relating to the tenancy. Where such a third
5212 party has been designated by the tenant, the landlord shall mail the duplicate copy of any summons issued
5213 pursuant to § 8.01-126 or notice to the designated third party at the same time the summons or notice is mailed
5214 to or served upon the tenant. Nothing in this subsection shall be construed to grant standing to any third party
5215 designated by the tenant to challenge actions of the landlord in which notice was mailed pursuant to this
5216 subsection. The failure of the landlord to give notice to a third party designated by the tenant shall not affect
5217 the validity of any judgment entered against the tenant.

5218 C. A landlord or managing agent may enter into an agreement with a third-party service provider to
5219 maintain tenant records in electronic form or other medium. In such case, the landlord and managing agent
5220 shall not be liable under this section in the event of a breach of the electronic data of such third-party service
5221 provider, except in the case of gross negligence or intentional act. Nothing in this section shall be construed to
5222 require a landlord or managing agent to indemnify such third-party service provider.

5223 D. A tenant may request a copy of his tenant records in paper or electronic form. If the rental agreement
5224 so provides, a landlord may charge a tenant requesting more than one copy of his records the actual costs of
5225 preparing copies of such records. However, if the landlord makes available tenant records to each tenant by
5226 electronic portal, the tenant shall not be required to pay for access to such portal.

5227 **§ 55.1-1210. Landlord and tenant remedies for abuse of access.**

5228 *If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or*
5229 *terminate the rental agreement. In either case, the landlord may recover actual damages and reasonable*
5230 *attorney fees. If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes*
5231 *repeated demands for entry that is otherwise lawful but that have the effect of unreasonably harassing the*
5232 *tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct, or terminate the rental*
5233 *agreement. In either case, the tenant may recover actual damages and reasonable attorney fees.*

5234 **§ 55.1-1211. Appointment of resident agent by nonresident property owner; service of process, etc., on**
5235 **such agent or on Secretary of the Commonwealth.**

5236 *Any nonresident person of the Commonwealth who owns and leases residential real property consisting of*
5237 *four or more units within the Commonwealth shall have and continuously maintain an agent who is a resident*
5238 *and maintains a business office within the Commonwealth. Every lease executed by or on behalf of nonresident*
5239 *property owners regarding any such real property shall specifically designate such agent and the agent's office*
5240 *address for the purpose of service of any process, notice, order, or demand required or permitted by law to be*
5241 *served upon such nonresident property owner.*

5242 *Whenever any nonresident property owner fails to appoint or maintain an agent, as required in this section,*
5243 *or whenever his agent cannot with reasonable diligence be found, then the Secretary of the Commonwealth*
5244 *shall be an agent of the nonresident property owner upon whom may be served any process, notice, order, or*
5245 *demand. Service may be made on the Secretary of the Commonwealth or any of his staff at his office who shall*
5246 *forthwith cause it to be sent by registered or certified mail addressed to the nonresident property owner at his*
5247 *address as shown on the official tax records maintained by the locality where the property is located.*

5248 *The name and office address of the agent appointed as provided in this section shall be filed in the office of*
5249 *the clerk of the court in which deeds are recorded in the county or city in which the property lies. Recordation*
5250 *shall be in the same book as certificates of fictitious names are recorded as provided by § 59.1-74, for which*
5251 *the clerk shall be entitled to a fee of \$10.*

5252 *No nonresident property owner shall maintain an action in the courts of the Commonwealth concerning*
5253 *property for which a designation is required by this section until such designation has been filed.*

5254 **§ 55.1-1212. Energy submetering, energy allocation equipment, sewer and water submetering**
5255 **equipment, and ratio utility billing systems; local government fees.**

5256 **A. As used in this section:**

5257 *"Energy allocation equipment" means the same as that term is defined in § 56-245.2.*

5258 *"Energy submetering equipment" has the same meaning ascribed to "submetering equipment" in § 56-*
5259 *245.2.*

5260 *"Local government fees" means any local government charges or fees assessed against a residential*
5261 *building, including charges or fees for stormwater, recycling, trash collection, elevator testing, fire or life safety*
5262 *testing, or residential rental inspection programs.*

5263 *"Ratio utility billing system" means a program that utilizes a mathematical formula for allocating, among*
5264 *the tenants in a residential building, the actual or anticipated water, sewer, electrical, oil, or natural gas*
5265 *billings billed to the residential building owner from a third-party provider of the utility service. Permitted*
5266 *allocation methods may include formulas based on square footage, occupancy, number of bedrooms, or some*
5267 *other specific method agreed to by the residential building owner and the tenant in the rental agreement or*
5268 *lease.*

5269 *"Residential building" means all of the individual units served through the same utility-owned meter within*
5270 *a residential building that is defined in § 56-245.2 as an apartment building or house or all of the individual*
5271 *dwelling units served through the same utility-owned meter within a manufactured home park as defined in §*
5272 *55.1-1300.*

5273 *"Water and sewer submetering equipment" means equipment used to measure actual water or sewer usage*
5274 *in any residential building when such equipment is not owned or controlled by the utility or other provider of*
5275 *water or sewer service that provides service to the residential building.*

5276 **B. Energy submetering equipment, energy allocation equipment, water and sewer submetering equipment,**
5277 **or a ratio utility billing system may be used in a residential building if clearly stated in the rental agreement or**
5278 **lease for the residential building. All energy submetering equipment and energy allocation equipment shall**
5279 **meet the requirements and standards established and enforced by the State Corporation Commission pursuant**
5280 **to § 56-245.3.**

5281 C. If energy submetering equipment, energy allocation equipment, or water and sewer submetering
5282 equipment is used in any residential building, the owner, manager, or operator of such residential building
5283 shall bill the tenant for electricity, oil, natural gas, or water and sewer for the same billing period as the utility
5284 serving the residential building, unless the rental agreement or lease expressly provides otherwise. The owner,
5285 manager, or operator of such residential building may charge and collect from the tenant additional service
5286 charges, including monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs
5287 of administrative expenses and billing charged to the residential building owner, manager, or operator by a
5288 third-party provider of such services, provided that such charges are agreed to by the residential building
5289 owner and the tenant in the rental agreement or lease. The residential building owner may require the tenant
5290 to pay a late charge of up to \$5 if the tenant fails to make payment when due, which shall not be less than 15
5291 days following the date of mailing or delivery of the bill sent pursuant to this section.

5292 D. If a ratio utility billing system is used in any residential building, in lieu of increasing the rent, the owner,
5293 manager, or operator of such residential building may employ such a program that utilizes a mathematical
5294 formula for allocating, among the tenants in a residential building, the actual or anticipated water, sewer,
5295 electrical, oil, or natural gas billings billed to the residential building owner from a third-party provider of the
5296 utility service. The owner, manager, or operator of the residential building may charge and collect from the
5297 tenant additional service charges, including monthly billing fees, account set-up fees, or account move-out fees,
5298 to cover the actual costs of administrative expenses and billings charged to the residential building owner,
5299 manager, or operator by a third-party provider of such services, provided that such charges are agreed to by
5300 the residential building owner and the tenant in the rental agreement or lease. The residential building owner
5301 may require the tenant to pay a late charge of up to \$5 if the tenant fails to make payment when due, which
5302 shall not be less than 15 days following the date of mailing or delivery of the bill sent pursuant to this section.
5303 The late charge shall be deemed rent (i) as defined in § 55.1-1200 if a ratio utility billing system is used in a
5304 residential multifamily dwelling unit subject to this chapter or (ii) as defined in § 55.1-1300 if a ratio utility
5305 billing system is used in a manufactured home park subject to the Manufactured Home Lot Rental Act (§ 55.1-
5306 1300 et seq.).

5307 E. Energy allocation equipment shall be tested periodically by the owner, manager, or operator of the
5308 residential building. Upon the request by a tenant, the owner shall test the energy allocation equipment without
5309 charge. The test conducted without charge to the tenant shall not be conducted more frequently than once in a
5310 24-month period for the same tenant. The tenant or his designated representative may be present during the
5311 testing of the energy allocation equipment. A written report of the results of the test shall be made to the tenant
5312 within 10 working days after the completion of the test.

5313 F. The owner of any residential building shall maintain adequate records regarding energy submetering
5314 equipment, energy allocation equipment, water and sewer submetering equipment, or a ratio utility billing
5315 system. A tenant may inspect and copy the records for the leased premises during reasonable business hours at
5316 a convenient location within or serving the residential building. The owner of the residential building may
5317 impose and collect a reasonable charge for copying documents, reflecting the actual costs of materials and
5318 labor for copying, prior to providing copies of the records to the tenant.

5319 G. Notwithstanding any enforcement action undertaken by the State Corporation Commission pursuant to
5320 its authority under § 56-245.3, tenants and owners shall retain any private right of action resulting from any
5321 breach of the rental agreement or lease terms required by this section or § 56-245.3, if applicable, to the same
5322 extent as such actions may be maintained for breach of other terms of the rental agreement or lease under this
5323 chapter, if applicable. The use of energy submetering equipment, energy allocation equipment, water and sewer
5324 submetering equipment, or a ratio utility billing system is not within the jurisdiction of the Department of
5325 Agriculture and Consumer Services under Chapter 56 (§ 3.2-5600 et seq.) of Title 3.2.

5326 H. In lieu of increasing the rent, the owner, manager, or operator of a residential building may employ a
5327 program that utilizes a mathematical formula for allocating the actual or anticipated local government fees
5328 billed to the residential building owner among the tenants in such residential building if clearly stated in the
5329 rental agreement or lease. Permitted allocation methods may include formulas based upon square footage,
5330 occupancy, number of bedrooms, or some other specific method agreed to by the residential building owner
5331 and the tenant in the rental agreement or lease. Such owner, manager, or operator of a residential building
5332 may also charge and collect from each tenant additional service charges, including monthly billing fees,
5333 account set-up fees, or account move-out fees, to cover the actual costs of administrative expenses for
5334 administration of such a program. If the building is residential and is subject to (i) this chapter, such local

5335 government fees and administrative expenses shall be deemed to be rent as defined in § 55.1-1200 or (ii) the
 5336 Manufactured Home Lot Rental Act (§ 55.1-1300 et seq.), such local government fees and administrative
 5337 expenses shall be deemed to be rent as defined in § 55.1-1300.

5338 I. Nothing in this section shall be construed to prohibit an owner, manager, or operator of a residential
 5339 building from including water, sewer, electrical, natural gas, oil, or other utilities in the amount of rent as
 5340 specified in the rental agreement or lease.

5341 **§ 55.1-1213. Transfer of deposits upon purchase.**

5342 The current owner of rental property shall transfer any security deposits and any accrued interest on the
 5343 deposits in his possession to the new owner at the time of the transfer of the rental property. If the current owner
 5344 has entered into a written property management agreement with a managing agent in accordance with the
 5345 provisions of subsection E of § 54.1-2135, the current owner shall give written notice to the managing agent
 5346 requesting payment of such security deposits to the current owner prior to settlement with the new owner. Upon
 5347 receipt of the written notice, the managing agent shall transfer the security deposits to the current owner and
 5348 provide written notice to each tenant that his security deposit has been transferred to the new owner in
 5349 accordance with this section.

5350 Article 2.

5351 Landlord Obligations.

5352 **§ 55.1-1214. Inspection of dwelling unit; report.**

5353 A. The landlord shall, within five days after occupancy of a dwelling unit, submit a written report to the
 5354 tenant itemizing damages to the dwelling unit existing at the time of occupancy, and the report shall be deemed
 5355 correct unless the tenant objects to it in writing within five days after receipt of the report.

5356 B. The landlord may adopt a written policy allowing the tenant to prepare the written report of the move-
 5357 in inspection, in which case the tenant shall submit a copy to the landlord, and the report shall be deemed
 5358 correct unless the landlord objects thereto in writing within five days after receipt of the report. Such written
 5359 policy adopted by the landlord may also provide for the landlord and the tenant to prepare the written report
 5360 of the move-in inspection jointly, in which case both the landlord and the tenant shall sign the written report
 5361 and receive a copy of the report, at which time the inspection report shall be deemed correct.

5362 C. If any damages are reflected on the written report, a landlord is not required to make repairs to address
 5363 such damages unless required to do so under § 55.1-1215 or 55.1-1220.

5364 **§ 55.1-1215. Disclosure of mold in dwelling units.**

5365 As part of the written report of the move-in inspection required by § 55.1-1214, the landlord shall disclose
 5366 whether there is any visible evidence of mold in areas readily accessible within the interior of the dwelling unit.
 5367 If the landlord's written disclosure states that there is no visible evidence of mold in the dwelling unit, this
 5368 written statement shall be deemed correct unless the tenant objects to it in writing within five days after
 5369 receiving the report. If the landlord's written disclosure states that there is visible evidence of mold in the
 5370 dwelling unit, the tenant shall have the option to terminate the tenancy and not take possession or remain in
 5371 possession of the dwelling unit. If the tenant requests to take possession, or remain in possession, of the dwelling
 5372 unit, notwithstanding the presence of visible evidence of mold, the landlord shall promptly remediate the mold
 5373 condition but in no event later than five business days after the tenant's request to take possession or decision
 5374 to remain in possession, reinspect the dwelling unit to confirm that there is no visible evidence of mold in the
 5375 dwelling unit, and prepare a new report stating that there is no visible evidence of mold in the dwelling unit
 5376 upon reinspection.

5377 **§ 55.1-1216. Disclosure of sale of premises.**

5378 A. For the purpose of service of process and receiving and issuing receipts for notices and demands, the
 5379 landlord or any person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in
 5380 writing at or before the beginning of the tenancy the name and address of:

- 5381 1. The person authorized to manage the premises; and
- 5382 2. An owner of the premises or any other person authorized to act for and on behalf of the owner.

5383 B. In the event of the sale of the premises, the landlord shall notify the tenant of such sale and disclose to
 5384 the tenant the name and address of the purchaser and a telephone number at which such purchaser can be
 5385 located.

5386 C. With respect to a multifamily dwelling unit, if an application for registration of the rental property as a
 5387 condominium or cooperative has been filed with the Real Estate Board, or if there is within six months an
 5388 existing plan for tenant displacement resulting from (i) demolition or substantial rehabilitation of the property

5389 or (ii) conversion of the rental property to office, hotel, or motel use or planned unit development, the landlord
5390 or any person authorized to enter into a rental agreement on his behalf shall disclose that information in writing
5391 to any prospective tenant.

5392 D. The information required to be furnished by this section shall be kept current, and the provisions of this
5393 section extend to and are enforceable against any successor landlord or owner. A person who fails to comply
5394 with this section becomes an agent of each person who is a landlord for the purposes of service of process and
5395 receiving and issuing receipts for notices and demands.

5396 **§ 55.1-1217. Required disclosures for properties located adjacent to a military air installation; remedy**
5397 **for nondisclosure.**

5398 A. The landlord of property in any locality in which a military air installation is located, or any person
5399 authorized to enter into a rental agreement on his behalf, shall provide to a prospective tenant a written
5400 disclosure that the property is located in a noise zone or accident potential zone, or both, as designated by the
5401 locality on its official zoning map. Such disclosure shall be provided prior to the execution by the tenant of a
5402 written lease agreement or, in the case of an oral lease agreement, prior to occupancy by the tenant. The
5403 disclosure shall specify the noise zone or accident potential zone in which the property is located according to
5404 the official zoning map of the locality. A disclosure made pursuant to this section containing inaccurate
5405 information regarding the location of the noise zone or accident potential zone shall be deemed as
5406 nondisclosure unless the inaccurate information is provided by an officer or employee of the locality in which
5407 the property is located.

5408 B. Any tenant who is not provided the disclosure required by subsection A may terminate the lease
5409 agreement at any time during the first 30 days of the lease period by sending to the landlord by certified or
5410 registered mail, return receipt requested, a written notice of termination. Such termination shall be effective as
5411 of (i) 15 days after the date of the mailing of the notice or (ii) the date through which rent has been paid,
5412 whichever is later. In no event, however, shall the effective date of the termination exceed one month from the
5413 date of mailing. Termination of the lease agreement shall be the exclusive remedy for the failure to comply with
5414 the disclosure provisions of this section, and shall not affect any rights or duties of the landlord or tenant arising
5415 under this chapter, other applicable law, or the rental agreement.

5416 **§ 55.1-1218. Required disclosures for properties with defective drywall; remedy for nondisclosure.**

5417 A. If the landlord of a dwelling unit has actual knowledge of the existence of defective drywall in such
5418 dwelling unit that has not been remediated, the landlord shall provide to a prospective tenant a written
5419 disclosure that the property has defective drywall. Such disclosure shall be provided prior to the execution by
5420 the tenant of a written lease agreement or, in the case of an oral lease agreement, prior to occupancy by the
5421 tenant. For purposes of this section, "defective drywall" means all defective drywall as defined in § 36-156.1.

5422 B. Any tenant who is not provided the disclosure required by subsection A may terminate the lease
5423 agreement at any time within 60 days of discovery of the existence of defective drywall by providing written
5424 notice to the landlord in accordance with the lease or as required by law. Such termination shall be effective
5425 as of (i) 15 days after the date of the mailing of the notice or (ii) the date through which rent has been paid,
5426 whichever is later. In no event, however, shall the effective date of the termination exceed one month from the
5427 date of mailing. Termination of the lease agreement shall be the exclusive remedy for the failure to comply with
5428 the disclosure provisions of this section, and shall not affect any rights or duties of the landlord or tenant arising
5429 under this chapter, other applicable law, or the rental agreement.

5430 **§ 55.1-1219. Required disclosures for property previously used to manufacture methamphetamine;**
5431 **remedy for nondisclosure.**

5432 A. If the landlord of a dwelling unit has actual knowledge that the dwelling unit was previously used to
5433 manufacture methamphetamine and has not been cleaned up in accordance with the guidelines established
5434 pursuant to § 32.1-11.7 and the applicable licensing provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title
5435 54.1, the landlord shall provide to a prospective tenant a written disclosure that states such information. Such
5436 disclosure shall be provided prior to the execution by the tenant of a written lease agreement or, in the case of
5437 an oral lease agreement, prior to occupancy by the tenant.

5438 B. Any tenant who is not provided the disclosure required by subsection A may terminate the lease
5439 agreement at any time within 60 days of discovery that the property was previously used to manufacture
5440 methamphetamine and has not been cleaned up in accordance with the guidelines established pursuant to §
5441 32.1-11.7 by providing written notice to the landlord in accordance with the lease or as required by law. Such
5442 termination shall be effective as of (i) 15 days after the date of the mailing of the notice or (ii) the date through

5443 which rent has been paid, whichever is later. In no event, however, shall the effective date of the termination
 5444 exceed one month from the date of mailing. Termination of the lease agreement shall be the exclusive remedy
 5445 for the failure to comply with the disclosure provisions required by this section and shall not affect any rights
 5446 or duties of the landlord or tenant arising under this chapter, other applicable law, or the rental agreement.

5447 **§ 55.1-1220. Landlord to maintain fit premises.**

5448 A. The landlord shall:

5449 1. Comply with the requirements of applicable building and housing codes materially affecting health and
 5450 safety;

5451 2. Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable
 5452 condition;

5453 3. Keep all common areas shared by two or more dwelling units of a multifamily premises in a clean and
 5454 structurally safe condition;

5455 4. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating,
 5456 ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to
 5457 be supplied by him;

5458 5. Maintain the premises in such a condition as to prevent the accumulation of moisture and the growth of
 5459 mold and promptly respond to any notices from a tenant as provided in subdivision A 10 of § 55.1-1227. Where
 5460 there is visible evidence of mold, the landlord shall promptly remediate the mold conditions in accordance with
 5461 the requirements of subsection E of § 8.01-226.12 and reinspect the dwelling unit to confirm that there is no
 5462 longer visible evidence of mold in the dwelling unit. The landlord shall provide a tenant with a copy of a
 5463 summary of information related to mold remediation occurring during that tenancy and, upon request of the
 5464 tenant, make available the full package of such information and reports not protected by attorney-client
 5465 privilege. Once the mold has been remediated in accordance with professional standards, the landlord shall
 5466 not be required to make disclosures of a past incidence of mold to subsequent tenants;

5467 6. Provide and maintain appropriate receptacles and conveniences for the collection, storage, and removal
 5468 of ashes, garbage, rubbish, and other waste incidental to the occupancy of dwelling units and arrange for the
 5469 removal of same;

5470 7. Supply running water and reasonable amounts of hot water at all times and reasonable air conditioning
 5471 if provided and heat in season except where the dwelling unit is so constructed that heat, air conditioning, or
 5472 hot water is generated by an installation within the exclusive control of the tenant or supplied by a direct public
 5473 utility connection; and

5474 8. Provide a certificate to the tenant stating that all smoke alarms are present, have been inspected, and
 5475 are in good working order no more than once every 12 months. The landlord, his employee, or an independent
 5476 contractor may perform the inspection to determine that the smoke alarm is in good working order.

5477 B. The landlord shall perform the duties imposed by subsection A in accordance with law; however, the
 5478 landlord shall only be liable for the tenant's actual damages proximately caused by the landlord's failure to
 5479 exercise ordinary care.

5480 C. If the duty imposed by subdivision A 1 is greater than any duty imposed by any other subdivision of that
 5481 subsection, the landlord's duty shall be determined by reference to subdivision A 1.

5482 D. The landlord and tenant may agree in writing that the tenant perform the landlord's duties specified in
 5483 subdivisions A 3, 6, and 7 and also specified repairs, maintenance tasks, alterations, and remodeling, but only
 5484 if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord
 5485 and if the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

5486 **§ 55.1-1221. Landlord to provide locks and peepholes.**

5487 The governing body of any locality may require by ordinance that any landlord who rents five or more
 5488 dwelling units in any one multifamily building shall install:

5489 1. Dead-bolt locks that meet the requirements of the Uniform Statewide Building Code (§ 36-97 et seq.) for
 5490 new multifamily construction and peepholes in any exterior swinging entrance door to any such unit; however,
 5491 any door having a glass panel shall not require a peephole;

5492 2. Manufacturer's locks that meet the requirements of the Uniform Statewide Building Code (§ 36-97 et
 5493 seq.) and removable metal pins or charlie bars in accordance with the Uniform Statewide Building Code on
 5494 exterior sliding glass doors located in a building at any level designated in the ordinance; and

5495 3. Locking devices that meet the requirements of the Uniform Statewide Building Code (§ 36-97 et seq.) on
 5496 all exterior windows.

5497 Any ordinance adopted pursuant to this section shall further provide that any landlord subject to the
5498 ordinance shall have a reasonable time as determined by the governing body in which to comply with the
5499 requirements of the ordinance.

5500 **§ 55.1-1222. Access of tenant to cable, satellite, and other television facilities.**

5501 No landlord of a multifamily dwelling unit shall demand or accept payment of any fee, charge, or other
5502 thing of value from any provider of cable television service, cable modem service, satellite master antenna
5503 television service, direct broadcast satellite television service, subscription television service, or service of any
5504 other television programming system in exchange for granting a television service provider mere access to the
5505 landlord's tenants or giving the tenants of such landlord mere access to such service. A landlord may enter into
5506 a service agreement with a television service provider to provide marketing and other services to the television
5507 service provider designed to facilitate the television service provider's delivery of its services. Under such a
5508 service agreement, the television service provider may compensate the landlord for the reasonable value of the
5509 services provided and for the reasonable value of the landlord's property used by the television service provider.

5510 No landlord shall demand or accept any such payment from any tenants in exchange for such service unless
5511 the landlord is itself the provider of the service, nor shall any landlord discriminate in rental charges between
5512 tenants who receive any such service and those who do not. Nothing contained in this section shall prohibit a
5513 landlord from (i) requiring that the provider of such service and the tenant bear the entire cost of the
5514 installation, operation, or removal of the facilities incident to such service or (ii) demanding or accepting
5515 reasonable indemnity or security for any damages caused by such installation, operation, or removal.

5516 **§ 55.1-1223. Notice to tenants for insecticide or pesticide use.**

5517 A. The landlord shall give written notice to the tenant no less than 48 hours prior to his application of an
5518 insecticide or pesticide in the tenant's dwelling unit unless the tenant agrees to a shorter notification period. If
5519 a tenant requests the application of the insecticide or pesticide, the 48-hour notice is not required. Tenants who
5520 have concerns about specific insecticides or pesticides shall notify the landlord in writing no less than 24 hours
5521 before the scheduled insecticide or pesticide application. The tenant shall prepare the dwelling unit for the
5522 application of insecticides or pesticides in accordance with any written instructions of the landlord and, if
5523 insects or pests are found to be present, follow any written instructions of the landlord to eliminate the insects
5524 or pests following the application of insecticides or pesticides.

5525 B. In addition, the landlord shall post notice of all insecticide or pesticide applications in areas of the
5526 premises other than the dwelling units. Such notice shall consist of conspicuous signs placed in or upon such
5527 premises where the insecticide or pesticide will be applied at least 48 hours prior to the application.

5528 C. A violation by the tenant of this section may be remedied by the landlord in accordance with § 55.1-
5529 1248 or by notice given by the landlord requiring the tenant to remedy in accordance with § 55.1-1245, as
5530 applicable.

5531 **§ 55.1-1224. Limitation of liability.**

5532 Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental
5533 agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and
5534 this chapter as to events occurring subsequent to notice to the tenant of the conveyance. Unless otherwise
5535 agreed, a managing agent of premises that includes a dwelling unit is relieved of liability under the rental
5536 agreement and this chapter as to events occurring after written notice to the tenant of the termination of his
5537 management.

5538 **§ 55.1-1225. Tenancy at will; effect of notice of change of terms or provisions of tenancy.**

5539 A notice of any change by a landlord or tenant in any terms or provisions of a tenancy at will shall constitute
5540 a notice to vacate the premises, and such notice of change shall be given in accordance with the terms of the
5541 rental agreement, if any, or as otherwise required by law.

5542 **§ 55.1-1226. Security deposits.**

5543 A. No landlord may demand or receive a security deposit, however denominated, in an amount or value in
5544 excess of two months' periodic rent. Upon termination of the tenancy, such security deposit, whether it is
5545 property or money held by the landlord as security as provided in this section, may be applied by the landlord
5546 solely to (i) the payment of accrued rent, including the reasonable charges for late payment of rent specified in
5547 the rental agreement; (ii) the payment of the amount of damages that the landlord has suffered by reason of the
5548 tenant's noncompliance with § 55.1-1227, less reasonable wear and tear; (iii) other damages or charges as
5549 provided in the rental agreement; or (iv) actual damages for breach of the rental agreement pursuant to § 55.1-
5550 1251. The security deposit and any deductions, damages, and charges shall be itemized by the landlord in a

5551 written notice given to the tenant, together with any amount due to the tenant, within 45 days after the
5552 termination date of the tenancy. As of the date of the termination of the tenancy or the date the tenant vacates
5553 the dwelling unit, whichever occurs last, the tenant shall be required to deliver possession of the dwelling unit
5554 to the landlord. If the termination date is prior to the expiration of the rental agreement or any renewal thereof,
5555 or the tenant has not given proper notice of termination of the rental agreement, the tenant shall be liable for
5556 actual damages pursuant to § 55.1-1251, in which case, the landlord shall give written notice of security deposit
5557 disposition within the 45-day period but may retain any security balance to apply against any financial
5558 obligations of the tenant to the landlord pursuant to this chapter or the rental agreement. If the tenant fails to
5559 vacate the dwelling unit as of the termination of the tenancy, the landlord may file an unlawful detainer action
5560 pursuant to § 8.01-126.

5561 B. Where there is more than one tenant subject to a rental agreement, unless otherwise agreed to in writing
5562 by each of the tenants, disposition of the security deposit shall be made with one check being payable to all
5563 such tenants and sent to a forwarding address provided by one of the tenants. The landlord shall make the
5564 security deposit disposition within the 45-day time period required by subsection A, but if no forwarding
5565 address is provided to the landlord, the landlord may continue to hold such security deposit in escrow. If a
5566 tenant fails to provide a forwarding address to the landlord to enable the landlord to make a refund of the
5567 security deposit, upon the expiration of one year from the date of the end of the 45-day time period, the landlord
5568 may remit such sum to the State Treasurer as unclaimed property on a form prescribed by the administrator
5569 that includes the name; social security number, if known; and last known address of each tenant on the rental
5570 agreement. If the landlord or managing agent is a real estate licensee, compliance with this subsection shall be
5571 deemed compliance with § 54.1-2108 and corresponding regulations of the Real Estate Board.

5572 C. Nothing in this section shall be construed by a court of law or otherwise as entitling the tenant, upon the
5573 termination of the tenancy, to an immediate credit against the tenant's delinquent rent account in the amount
5574 of the security deposit. The landlord shall apply the security deposit in accordance with this section within the
5575 45-day time period required by subsection A. However, provided that the landlord has given prior written notice
5576 in accordance with this section, the landlord may withhold a reasonable portion of the security deposit to cover
5577 an amount of the balance due on the water, sewer, or other utility account that is an obligation of the tenant to
5578 a third-party provider under the rental agreement for the dwelling unit, and upon payment of such obligations
5579 the landlord shall provide written confirmation to the tenant within 10 days, along with payment to the tenant
5580 of any balance otherwise due to the tenant. In order to withhold such funds as part of the disposition of the
5581 security deposit, the landlord shall have so advised the tenant of his rights and obligations under this section
5582 in (i) a termination notice to the tenant in accordance with this chapter, (ii) a written notice to the tenant
5583 confirming the vacating date in accordance with this section, or (iii) a separate written notice to the tenant at
5584 least 15 days prior to the disposition of the security deposit. Any written notice to the tenant shall be given in
5585 accordance with § 55.1-1202.

5586 The tenant may provide the landlord with written confirmation of the payment of the final water, sewer, or
5587 other utility bill for the dwelling unit, in which case the landlord shall refund the security deposit, unless there
5588 are other authorized deductions, within the 45-day period required by subsection A. If the tenant provides such
5589 written confirmation after the expiration of the 45-day period, the landlord shall refund any remaining balance
5590 of the security deposit held to the tenant within 10 days following the receipt of such written confirmation
5591 provided by the tenant. If the landlord otherwise receives confirmation of payment of the final water, sewer, or
5592 other utility bill for the dwelling unit, the landlord shall refund the security deposit, unless there are other
5593 authorized deductions, within the 45-day period.

5594 D. Nothing in this section shall be construed to prohibit the landlord from making the disposition of the
5595 security deposit prior to the 45-day period required by subsection A and charging an administrative fee to the
5596 tenant for such expedited processing, if the rental agreement so provides and the tenant requests expedited
5597 processing in a separate written document.

5598 E. The landlord shall notify the tenant in writing of any deductions provided by this section to be made from
5599 the tenant's security deposit during the course of the tenancy. Such notification shall be made within 30 days of
5600 the date of the determination of the deduction and shall itemize the reasons in the same manner as provided in
5601 subsection F. No such notification shall be required for deductions made less than 30 days prior to the
5602 termination of the rental agreement. If the landlord willfully fails to comply with this section, the court shall
5603 order the return of the security deposit to the tenant, together with actual damages and reasonable attorney
5604 fees, unless the tenant owes rent to the landlord, in which case the court shall order an amount equal to the

5605 security deposit credited against the rent due to the landlord. In the event that damages to the premises exceed
 5606 the amount of the security deposit and require the services of a third-party contractor, the landlord shall give
 5607 written notice to the tenant advising him of that fact within the 45-day period required by subsection A. If notice
 5608 is given as prescribed in this subsection, the landlord shall have an additional 15-day period to provide an
 5609 itemization of the damages and the cost of repair. This section shall not preclude the landlord or tenant from
 5610 recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest
 5611 in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or
 5612 transferred, is bound by this section and shall be required to return any security deposit received by the original
 5613 landlord that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's
 5614 interest by law or equity, regardless of any contractual agreements between the original landlord and his
 5615 successors in interest.

5616 F. The landlord shall:

5617 1. Maintain and itemize records for each tenant of all deductions from security deposits provided for under
 5618 this section that the landlord has made by reason of a tenant's noncompliance with § 55.1-1227, or for any
 5619 other reason set out in this section, during the preceding two years; and

5620 2. Permit a tenant or his authorized agent or attorney to inspect such tenant's records of deductions at any
 5621 time during normal business hours.

5622 G. Upon request by the landlord to a tenant to vacate, or within five days after receipt of notice by the
 5623 landlord of the tenant's intent to vacate, the landlord shall provide written notice to the tenant of the tenant's
 5624 right to be present at the landlord's inspection of the dwelling unit for the purpose of determining the amount
 5625 of security deposit to be returned. If the tenant desires to be present when the landlord makes the inspection,
 5626 he shall, in writing, so advise the landlord, who in turn shall notify the tenant of the date and time of the
 5627 inspection, which must be made within 72 hours of delivery of possession. Following the move-out inspection,
 5628 the landlord shall provide the tenant with a written security deposit disposition statement, including an itemized
 5629 list of damages. If additional damages are discovered by the landlord after the security deposit disposition has
 5630 been made, nothing in this section shall be construed to preclude the landlord from recovery of such damages
 5631 against the tenant, provided, however, that the tenant may present into evidence a copy of the move-out report
 5632 to support the tenant's position that such additional damages did not exist at the time of the move-out inspection.

5633 H. If the tenant has any assignee or sublessee, the landlord shall be entitled to hold a security deposit from
 5634 only one party in compliance with the provisions of this section.

5635 Article 3.

5636 Tenant Obligations.

5637 **§ 55.1-1227. Tenant to maintain dwelling unit.**

5638 A. In addition to the provisions of the rental agreement, the tenant shall:

5639 1. Comply with all obligations primarily imposed upon tenants by applicable provisions of building and
 5640 housing codes materially affecting health and safety;

5641 2. Keep that part of the dwelling unit and the part of the premises that he occupies and uses as clean and
 5642 safe as the condition of the premises permit;

5643 3. Keep that part of the dwelling unit and the part of the premises that he occupies free from insects and
 5644 pests, as those terms are defined in § 3.2-3900, and promptly notify the landlord of the existence of any insects
 5645 or pests;

5646 4. Remove from his dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner
 5647 and in the appropriate receptacles provided by the landlord;

5648 5. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

5649 6. Use in a reasonable manner all utilities and all electrical, plumbing, sanitary, heating, ventilating, air-
 5650 conditioning, and other facilities and appliances, including an elevator in a multifamily premises, and keep all
 5651 utility services paid for by the tenant to the utility service provider or its agent on at all times during the term
 5652 of the rental agreement;

5653 7. Not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or
 5654 permit any person, whether known by the tenant or not, to do so;

5655 8. Not remove or tamper with a properly functioning smoke alarm installed by the landlord, including
 5656 removing any working batteries, so as to render the alarm inoperative. The tenant shall maintain the smoke
 5657 alarm in accordance with the uniform set of standards for maintenance of smoke alarms established in the

5658 *Statewide Fire Prevention Code (§ 27-94 et seq.) and subdivision C 6 of § 36-105, Part III of the Uniform*
5659 *Statewide Building Code (§ 36-97 et seq.);*

5660 9. *Not remove or tamper with a properly functioning carbon monoxide alarm installed by the landlord,*
5661 *including the removal of any working batteries, so as to render the carbon monoxide alarm inoperative. The*
5662 *tenant shall maintain the carbon monoxide alarm in accordance with the uniform set of standards for*
5663 *maintenance of carbon monoxide alarms established in the Statewide Fire Prevention Code (§ 27-94 et seq.)*
5664 *and subdivision C 6 of § 36-105, Part III of the Uniform Statewide Building Code (§ 36-97 et seq.);*

5665 10. *Use reasonable efforts to maintain the dwelling unit and any other part of the premises that he occupies*
5666 *in such a condition as to prevent accumulation of moisture and the growth of mold and promptly notify the*
5667 *landlord of any moisture accumulation that occurs or of any visible evidence of mold discovered by the tenant;*

5668 11. *Not paint or disturb painted surfaces or make alterations in the dwelling unit without the prior written*
5669 *approval of the landlord, provided that (i) the dwelling unit was constructed prior to 1978 and therefore*
5670 *requires the landlord to provide the tenant with lead-based paint disclosures and (ii) the landlord has provided*
5671 *the tenant with such disclosures and the rental agreement provides that the tenant is required to obtain the*
5672 *landlord's prior written approval before painting, disturbing painted surfaces, or making alterations in the*
5673 *dwelling unit;*

5674 12. *Be responsible for his conduct and the conduct of other persons, whether known by the tenant or not,*
5675 *who are on the premises with his consent, to ensure that his neighbors' peaceful enjoyment of the premises will*
5676 *not be disturbed;*

5677 13. *Abide by all reasonable rules and regulations imposed by the landlord;*

5678 14. *Be financially responsible for the added cost of treatment or extermination due to the tenant's*
5679 *unreasonable delay in reporting the existence of any insects or pests and be financially responsible for the cost*
5680 *of treatment or extermination due to the tenant's fault in failing to prevent infestation of any insects or pests in*
5681 *the area occupied; and*

5682 15. *Use reasonable care to prevent any dog or other animal in possession of the tenant, authorized*
5683 *occupants, or guests or invitees from causing personal injuries to a third party in the dwelling unit or on the*
5684 *premises, or property damage to the dwelling unit or the premises.*

5685 B. *If the duty imposed by subdivision A 1 is greater than any duty imposed by any other subdivision of that*
5686 *subsection, the tenant's duty shall be determined by reference to subdivision A 1.*

5687 **§ 55.1-1228. Rules and regulations.**

5688 A. *A landlord, from time to time, may adopt rules or regulations, however described, concerning the tenant's*
5689 *use and occupancy of the dwelling unit and premises. Any such rule or regulation is enforceable against the*
5690 *tenant only if:*

5691 1. *Its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the*
5692 *landlord's property from abusive use, or make a fair distribution of services and facilities held out for the*
5693 *tenants generally;*

5694 2. *It is reasonably related to the purpose for which it is adopted;*

5695 3. *It applies to all tenants in the premises in a fair manner;*

5696 4. *It is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform*
5697 *him of what he is required to do or is prohibited from doing to comply;*

5698 5. *It is not for the purpose of evading the obligations of the landlord; and*

5699 6. *The tenant has been provided with a copy of the rules and regulations or changes to such rules and*
5700 *regulations at the time he enters into the rental agreement or when they are adopted.*

5701 B. *A rule or regulation adopted, changed, or provided to the tenant after the tenant enters into the rental*
5702 *agreement shall be enforceable against the tenant if reasonable notice of its adoption or change has been given*
5703 *to the tenant and it does not constitute a substantial modification of his bargain. If a rule or regulation adopted*
5704 *or changed after the tenant enters into the rental agreement does constitute a substantial modification of his*
5705 *bargain, it shall not be valid unless the tenant consents to it in writing.*

5706 C. *Any court enforcing this chapter shall consider violations of the reasonable rules and regulations*
5707 *imposed under this section as a breach of the rental agreement and grant the landlord appropriate relief.*

5708 **§ 55.1-1229. Access; consent; correction of nonemergency conditions; relocation of tenant; security**
5709 **systems.**

5710 A. *The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in*
5711 *order to inspect the premises; make necessary or agreed-upon repairs, decorations, alterations, or*

5712 improvements; supply necessary or agreed-upon services; or exhibit the dwelling unit to prospective or actual
5713 purchasers, mortgagees, tenants, workmen, or contractors. If, upon inspection of a dwelling unit during the
5714 term of a tenancy, the landlord determines there is a violation by the tenant of § 55.1-1227 or the rental
5715 agreement materially affecting health and safety that can be remedied by repair, replacement of a damaged
5716 item, or cleaning in accordance with § 55.1-1248, the landlord may make such repairs and send the tenant an
5717 invoice for payment. If, upon inspection of the dwelling unit during the term of a tenancy, the landlord discovers
5718 a violation of the rental agreement, this chapter, or other applicable law, the landlord may send a written notice
5719 of termination pursuant to § 55.1-1245. If the rental agreement so provides and if a tenant without reasonable
5720 justification declines to permit the landlord or managing agent to exhibit the dwelling unit for sale or lease, the
5721 landlord may recover damages, costs, and reasonable attorney fees against such tenant.

5722 The landlord may enter the dwelling unit without consent of the tenant in case of emergency. The landlord
5723 shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or if it is
5724 impractical to do so, the landlord shall give the tenant notice of his intent to enter and may enter only at
5725 reasonable times. Unless impractical to do so, the landlord shall give the tenant at least 24 hours' notice of
5726 routine maintenance to be performed that has not been requested by the tenant. If the tenant makes a request
5727 for maintenance, the landlord is not required to provide notice to the tenant. During the pendency of an unlawful
5728 detainer filed by the landlord against the tenant, the landlord may request the court to enter an order requiring
5729 the tenant to provide the landlord with access to such dwelling unit.

5730 B. Upon the sole determination by the landlord of the existence of a nonemergency property condition in
5731 the dwelling unit that requires the tenant to temporarily vacate the dwelling unit in order for the landlord to
5732 properly remedy such property condition, the landlord may, upon at least 30 days' written notice to the tenant,
5733 require the tenant to temporarily vacate the dwelling unit for a period not to exceed 30 days to a comparable
5734 dwelling unit, or hotel, as selected by the landlord and at no expense or cost to the tenant. The landlord shall
5735 not be required to pay for any other expenses of the tenant that arise after the temporary relocation period. The
5736 landlord and tenant may agree for the tenant to temporarily vacate the dwelling unit in less than 30 days. For
5737 purposes of this subsection, "nonemergency property condition" means (i) a condition in the dwelling unit that,
5738 in the determination of the landlord, is necessary for the landlord to remedy in order for the landlord to be in
5739 compliance with § 55.1-1220; (ii) the condition does not need to be remedied within a 24-hour period, with any
5740 condition that needs to be remedied within 24 hours being defined as an "emergency condition"; and (iii) the
5741 condition can only be effectively remedied by the temporary relocation of the tenant pursuant to the provisions
5742 of this subsection.

5743 The tenant shall continue to be responsible for payment of rent under the rental agreement during the
5744 period of any temporary relocation. The landlord shall pay all costs of repairs or remediation required to
5745 address the nonemergency property condition. Refusal of the tenant to cooperate with a temporary relocation
5746 pursuant to this subsection shall be deemed a breach of the rental agreement, unless the tenant agrees to vacate
5747 the unit and terminate the rental agreement within the 30-day notice period. If the landlord properly remedies
5748 the nonemergency property condition within the 30-day period, nothing in this section shall be construed to
5749 entitle the tenant to terminate the rental agreement. Further, nothing in this section shall be construed to limit
5750 the landlord from taking legal action against the tenant for any noncompliance that occurs during the period
5751 of any temporary relocation pursuant to this subsection. During the pendency of an unlawful detainer filed by
5752 the landlord against the tenant, the landlord may request the court to enter an order requiring the tenant to
5753 provide the landlord with access to such dwelling unit.

5754 C. The landlord has no other right to access except by court order or that permitted by §§ 55.1-1248 and
5755 55.1-1249 or if the tenant has abandoned or surrendered the premises.

5756 D. The tenant may install within the dwelling unit new security systems that the tenant may believe
5757 necessary to ensure his safety, including chain latch devices approved by the landlord and fire detection
5758 devices, provided that:

- 5759 1. Installation does no permanent damage to any part of the dwelling unit;
- 5760 2. A duplicate of all keys and instructions for the operation of all devices are given to the landlord; and
- 5761 3. Upon termination of the tenancy, the tenant is responsible for payment to the landlord for reasonable
5762 costs incurred for the removal of all such devices and repairs to all damaged areas.

5763 E. Upon written request of a tenant in a dwelling unit, the landlord shall install a carbon monoxide alarm
5764 in the tenant's dwelling unit within 90 days. The landlord may charge the tenant a reasonable fee to recover

5765 the costs of the equipment and labor for such installation. The landlord's installation of a carbon monoxide
 5766 alarm shall be in compliance with the Uniform Statewide Building Code (§ 36-97 et seq.).

5767 **§ 55.1-1230. Access following entry of certain court orders.**

5768 A. A tenant or authorized occupant who has obtained an order from a court pursuant to § 16.1-279.1 or
 5769 subsection B of § 20-103 granting such tenant possession of the premises to the exclusion of one or more co-
 5770 tenants or authorized occupants may provide the landlord with a copy of that court order and request that the
 5771 landlord either (i) install a new lock or other security devices on the exterior doors of the dwelling unit at the
 5772 landlord's actual cost or (ii) permit the tenant or authorized occupant to do so, provided that:

5773 1. Installation of the new lock or security devices does no permanent damage to any part of the dwelling
 5774 unit; and

5775 2. A duplicate copy of all keys and instructions for the operation of all devices are given to the landlord.

5776 Upon termination of the tenancy, the tenant shall be responsible for payment to the landlord of the
 5777 reasonable costs incurred for the removal of all such devices installed and repairs to all damaged areas.

5778 B. A person who is not a tenant or authorized occupant of the dwelling unit and who has obtained an order
 5779 from a court pursuant to § 16.1-279.1 or subsection B of § 20-103 granting such person possession of the
 5780 premises to the exclusion of one or more co-tenants or authorized occupants may provide a copy of such order
 5781 to the landlord and submit a rental application to become a tenant of such dwelling unit within 10 days of the
 5782 entry of such order. If such person's rental application meets the landlord's tenant selection criteria, such
 5783 person may become a tenant of such dwelling unit under a written rental agreement. If such person submits a
 5784 rental application and does not meet the landlord's tenant selection criteria, such person shall vacate the
 5785 dwelling unit no later than 30 days after the date the landlord gives such person written notice that his rental
 5786 application has been rejected. If such person does not provide a copy of the protective order to the landlord
 5787 and submit a rental application to the landlord within 10 days as required by this section, such person shall
 5788 vacate the dwelling unit no later than 30 days after the date of the entry of such order. Such person shall be
 5789 liable to the landlord for failure to vacate the dwelling unit as required in this section.

5790 Any tenant obligated on a rental agreement shall pay the rent and otherwise comply with any and all
 5791 requirements of the rental agreement and any applicable laws and regulations. The landlord may pursue all of
 5792 its remedies under the rental agreement and applicable laws and regulations, including filing an unlawful
 5793 detainer action pursuant to § 8.01-126 to obtain a money judgment and to evict any persons residing in such
 5794 dwelling unit.

5795 C. A landlord who has received a copy of a court order in accordance with subsection A shall not provide
 5796 copies of any keys to the dwelling unit to any person excluded from the premises by such order.

5797 D. This section shall not apply when the court order excluding a person was issued ex parte.

5798 **§ 55.1-1231. Relocation of tenant where mold remediation needs to be performed in the dwelling unit.**

5799 Where a mold condition in the dwelling unit materially affects the health or safety of any tenant or
 5800 authorized occupant, the landlord may require the tenant to temporarily vacate the dwelling unit in order for
 5801 the landlord to perform mold remediation in accordance with professional standards as defined in § 55.1-1200
 5802 for a period not to exceed 30 days. The landlord shall provide the tenant with either (i) a comparable dwelling
 5803 unit, as selected by the landlord, at no expense or cost to the tenant or (ii) a hotel room, as selected by the
 5804 landlord, at no expense or cost to the tenant. The landlord shall not be required to pay for any other expenses
 5805 of the tenant that arise after the relocation period. The tenant shall continue to be responsible for payment of
 5806 rent under the rental agreement during the period of any temporary relocation and for the remainder of the
 5807 term of the rental agreement following the remediation. Nothing in this section shall be construed as entitling
 5808 the tenant to a termination of a tenancy where the landlord has remediated a mold condition in accordance
 5809 with professional standards as defined in § 55.1-1200. The landlord shall pay all costs of the relocation and
 5810 the mold remediation, unless the mold is a result of the tenant's failure to comply with § 55.1-1227.

5811 **§ 55.1-1232. Use and occupancy by tenant.**

5812 Unless otherwise agreed, the tenant shall occupy his dwelling unit only as a residence.

5813 **§ 55.1-1233. Tenant to surrender possession of dwelling unit.**

5814 At the termination of the term of tenancy, whether by expiration of the rental agreement or by reason of
 5815 default by the tenant, the tenant shall promptly vacate the premises, removing all items of personal property
 5816 and leaving the premises in good and clean order, reasonable wear and tear excepted. If the tenant fails to
 5817 vacate, the landlord may bring an action for possession and damages, including reasonable attorney fees.

5818

Tenant Remedies.

5819

§ 55.1-1234. Noncompliance by landlord.

5820 *Except as provided in this chapter, if there is a material noncompliance by the landlord with the rental*
 5821 *agreement or a noncompliance with any provision of this chapter, materially affecting health and safety, the*
 5822 *tenant may serve a written notice on the landlord specifying the acts and omissions constituting the breach and*
 5823 *stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if*
 5824 *such breach is not remedied in 21 days.*

5825 *If the landlord commits a breach that is not remediable, the tenant may serve a written notice on the*
 5826 *landlord specifying the acts and omissions constituting the breach and stating that the rental agreement will*
 5827 *terminate upon a date not less than 30 days after receipt of the notice.*

5828 *If the landlord has been served with a prior written notice that required the landlord to remedy a breach,*
 5829 *and the landlord remedied such breach, where the landlord intentionally commits a subsequent breach of a like*
 5830 *nature as the prior breach, the tenant may serve a written notice on the landlord specifying the acts and*
 5831 *omissions constituting the subsequent breach, make reference to the prior breach of a like nature, and state*
 5832 *that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice.*

5833 *If the breach is remediable by repairs and the landlord adequately remedies the breach prior to the date*
 5834 *specified in the notice, the rental agreement will not terminate. The tenant may not terminate for a condition*
 5835 *caused by the deliberate or negligent act or omission of the tenant, an authorized occupant, or a guest or invitee*
 5836 *of the tenant. In addition, the tenant may recover damages and obtain injunctive relief for noncompliance by*
 5837 *the landlord with the provisions of the rental agreement or of this chapter. The tenant shall be entitled to recover*
 5838 *reasonable attorney fees unless the landlord proves by a preponderance of the evidence that the landlord's*
 5839 *actions were reasonable under the circumstances. If the rental agreement is terminated due to the landlord's*
 5840 *noncompliance, the landlord shall return the security deposit in accordance with § 55.1-1226.*

§ 55.1-1235. Early termination of rental agreement by military personnel.

5841 *A. Any member of the Armed Forces of the United States or a member of the National Guard serving on*
 5842 *full-time duty or as a civil service technician with the National Guard may, through the procedure detailed in*
 5843 *subsection B, terminate his rental agreement if the member (i) has received permanent change of station orders*
 5844 *to depart 35 miles or more (radius) from the location of the dwelling unit, (ii) has received temporary duty*
 5845 *orders in excess of three months' duration to depart 35 miles or more (radius) from the location of the dwelling*
 5846 *unit, (iii) is discharged or released from active duty with the Armed Forces of the United States or from his full-*
 5847 *time duty or technician status with the National Guard, or (iv) is ordered to report to government-supplied*
 5848 *quarters resulting in the forfeiture of basic allowance for quarters.*

5849 *B. Tenants who qualify to terminate a rental agreement pursuant to subsection A shall do so by serving on*
 5850 *the landlord a written notice of termination to be effective on a date stated in such written notice, such date to*
 5851 *be not less than 30 days after the first date on which the next rental payment is due and payable after the date*
 5852 *on which the written notice is given. The termination date shall be no more than 60 days prior to the date of*
 5853 *departure necessary to comply with the official orders or any supplemental instructions for interim training or*
 5854 *duty prior to the transfer. Prior to the termination date, the tenant shall furnish the landlord with a copy of the*
 5855 *official notification of the orders or a signed letter, confirming the orders, from the tenant's commanding officer.*

5856 *C. The landlord may not charge any liquidated damages.*

5857 *D. Nothing in this section shall affect the tenant's obligations established by § 55.1-1227.*

§ 55.1-1236. Early termination of rental agreements by victims of family abuse, sexual abuse, or criminal sexual assault.

5861 *A. Any tenant who is a victim of (i) family abuse as defined by § 16.1-228, (ii) sexual abuse as defined by §*
 5862 *18.2-67.10, or (iii) other criminal sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2*
 5863 *may terminate such tenant's obligations under a rental agreement under the following circumstances:*

5864 *1. The victim has obtained an order of protection pursuant to § 16.1-279.1 and has given written notice of*
 5865 *termination in accordance with subsection B during the period of the protective order or any extension thereof;*
 5866 *or*

5867 *2. A court has entered an order convicting a perpetrator of any crime of sexual assault under Article 7 (§*
 5868 *18.2-61 et seq.) of Chapter 4 of Title 18.2, sexual abuse as defined by § 18.2-67.10, or family abuse as defined*
 5869 *by § 16.1-228 against the victim and the victim gives written notice of termination in accordance with subsection*
 5870 *B. A victim may exercise a right of termination under this section to terminate a rental agreement in effect when*
 5871 *the conviction order is entered and one subsequent rental agreement based upon the same conviction.*
 5872

5873 B. A tenant who qualifies to terminate such tenant's obligations under a rental agreement pursuant to
5874 subsection A shall do so by serving on the landlord a written notice of termination to be effective on a date
5875 stated in such written notice, such date to be not less than 30 days after the first date on which the next rental
5876 payment is due and payable after the date on which the written notice is given. When the tenant serves the
5877 termination notice on the landlord, the tenant shall also provide the landlord with a copy of (i) the order of
5878 protection issued or (ii) the conviction order.

5879 C. The rent shall be payable at such time as would otherwise have been required by the terms of the rental
5880 agreement through the effective date of the termination as provided in subsection B.

5881 D. The landlord may not charge any liquidated damages.

5882 E. The victim's obligations as a tenant under § 55.1-1227 shall continue through the effective date of the
5883 termination as provided in subsection B. Any co-tenants on the lease with the victim shall remain responsible
5884 for the rent for the balance of the term of the rental agreement. If the perpetrator is the remaining sole tenant
5885 obligated on the rental agreement, the landlord may terminate the rental agreement and collect actual damages
5886 for such termination against the perpetrator pursuant to § 55.1-1251.

5887 **§ 55.1-1237. Notice to tenant in event of foreclosure.**

5888 A. The landlord of a dwelling unit used as a single-family residence shall give written notice to the tenant
5889 or any prospective tenant of such dwelling unit that the landlord has received a notice of a mortgage default,
5890 mortgage acceleration, or foreclosure sale relative to the loan on the dwelling unit within five business days
5891 after written notice from the lender is received by the landlord. This requirement shall not apply (i) to any
5892 managing agent who does not receive a copy of such written notice from the lender or (ii) if the tenant or
5893 prospective tenant provides a copy of the written notice from the lender to the landlord or the managing agent.

5894 B. If the landlord fails to provide the notice required by this section, the tenant shall have the right to
5895 terminate the rental agreement upon written notice to the landlord at least five business days prior to the
5896 effective date of termination. If the tenant terminates the rental agreement, the landlord shall make disposition
5897 of the tenant's security deposit in accordance with law or the provisions of the rental agreement, whichever is
5898 applicable.

5899 C. If there is in effect at the date of the foreclosure sale a tenant in a dwelling unit foreclosed upon, the
5900 foreclosure shall act as a termination of the rental agreement by the owner. In such case, the tenant may remain
5901 in possession of such dwelling unit as a month-to-month tenant on the terms of the terminated rental agreement
5902 until the successor owner gives a notice of termination of such month-to-month tenancy. If the successor owner
5903 elects to terminate the month-to-month tenancy, written notice of such termination shall be given in accordance
5904 with the rental agreement or the provisions of § 55.1-1202 or 55.1-1410, as applicable.

5905 D. Unless or until the successor owner terminates the month-to-month tenancy, the terms of the terminated
5906 rental agreement remain in effect except that the tenant shall make rental payments (i) to the successor owner
5907 as directed in a written notice to the tenant in this subsection; (ii) to the managing agent of the owner, if any,
5908 or successor owner; or (iii) into a court escrow account pursuant to the provisions of § 55.1-1244; however,
5909 there is no obligation of a tenant to file a tenant's assertion and pay rent into escrow. Where there is not a
5910 managing agent designated in the terminated rental agreement, the tenant shall remain obligated for payment
5911 of the rent but shall not be held to be delinquent or assessed a late charge until the successor owner provides
5912 written notice identifying the name, address, and telephone number of the party to which the rent should be
5913 paid.

5914 E. The successor owner may enter into a new rental agreement with the tenant in the dwelling unit, in which
5915 case, upon the commencement date of the new rental agreement, the month-to-month tenancy shall terminate.

5916 **§ 55.1-1238. Failure to deliver possession.**

5917 If the landlord willfully fails to deliver possession of the dwelling unit to the tenant, then rent abates until
5918 possession is delivered, and the tenant may (i) terminate the rental agreement upon at least five days' written
5919 notice to the landlord, upon which termination the landlord shall return all prepaid rent and security deposits,
5920 or (ii) demand performance of the rental agreement by the landlord. If the tenant elects, he may file an action
5921 for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the
5922 damages sustained by him. If a person's failure to deliver possession is willful and not in good faith, an
5923 aggrieved person may recover from that person the actual damages sustained by him and reasonable attorney
5924 fees.

5925 **§ 55.1-1239. Wrongful failure to supply an essential service.**

5926 A. If contrary to the rental agreement or provisions of this chapter the landlord willfully or negligently fails
 5927 to supply an essential service, the tenant shall serve a written notice on the landlord specifying the breach, if
 5928 acting under this section, and, in such event and after allowing the landlord reasonable time to correct such
 5929 breach, may:

- 5930 1. Recover damages based upon the diminution in the fair rental value of the dwelling unit; or
- 5931 2. Procure reasonable substitute housing during the period of the landlord's noncompliance, in which case
 5932 the tenant is excused from paying rent for the period of the landlord's noncompliance, as determined by the
 5933 court.

5934 B. If the tenant proceeds under this section, he shall be entitled to recover reasonable attorney fees;
 5935 however, he may not proceed under § 55.1-1234 as to that breach. The rights of the tenant under this section
 5936 shall not arise until he has given written notice to the landlord; however, no rights arise if the condition was
 5937 caused by the deliberate or negligent act or omission of the tenant, an authorized occupant, or a guest or invitee
 5938 of the tenant.

5939 **§ 55.1-1240. Fire or casualty damage.**

5940 If the dwelling unit or premises is damaged or destroyed by fire or casualty to an extent that the tenant's
 5941 enjoyment of the dwelling unit is substantially impaired or required repairs can only be accomplished if the
 5942 tenant vacates the dwelling unit, either the tenant or the landlord may terminate the rental agreement. The
 5943 tenant may terminate the rental agreement by vacating the premises and within 14 days thereafter, serving on
 5944 the landlord a written notice of his intention to terminate the rental agreement, in which case the rental
 5945 agreement terminates as of the date of vacating. If continued occupancy is lawful, § 55.1-1411 shall apply.

5946 The landlord may terminate the rental agreement by giving the tenant 14 days' notice of his intention to
 5947 terminate the rental agreement on the basis of the landlord's determination that such damage requires the
 5948 removal of the tenant and that the use of the premises is substantially impaired, in which case the rental
 5949 agreement terminates as of the expiration of the notice period.

5950 If the rental agreement is terminated, the landlord shall return all security deposits in accordance with §
 5951 55.1-1226 and prepaid rent, plus accrued interest, recoverable by law unless the landlord reasonably believes
 5952 that the tenant, an authorized occupant, or a guest or invitee of the tenant was the cause of the damage or
 5953 casualty, in which case the landlord shall provide a written statement to the tenant for the security and prepaid
 5954 rent, plus accrued interest based upon the damage or casualty, and may recover actual damages sustained
 5955 pursuant to § 55.1-1251. Proration for rent in the event of termination or apportionment shall be made as of
 5956 the date of the casualty.

5957 **§ 55.1-1241. Landlord's noncompliance as defense to action for possession for nonpayment of rent.**

5958 A. In an action for possession based upon nonpayment of rent or in an action for rent by a landlord when
 5959 the tenant is in possession, the tenant may assert as a defense that there exists upon the leased premises a
 5960 condition that constitutes, or will constitute, a fire hazard or a serious threat to the life, health, or safety of the
 5961 occupants of the dwelling unit, including (i) a lack of heat, running water, light, electricity, or adequate sewage
 5962 disposal facilities; (ii) an infestation of rodents; or (iii) a condition that constitutes material noncompliance on
 5963 the part of the landlord with the rental agreement or provisions of law. The assertion of any defense provided
 5964 for in this section shall be conditioned upon the following:

- 5965 1. Prior to the commencement of the action for rent or possession, the landlord or his agent refused or,
 5966 having a reasonable opportunity to do so, failed to remedy the condition for which he was served a written
 5967 notice of the condition by the tenant or was notified of such condition by a violation or condemnation notice
 5968 from an appropriate state or local agency. For the purposes of this subsection, what period of time shall be
 5969 deemed to be unreasonable delay is left to the discretion of the court, except that there shall be a rebuttable
 5970 presumption that a period in excess of 30 days from receipt of the notification by the landlord is unreasonable;
 5971 and

- 5972 2. The tenant, if in possession, has paid into court the amount of rent found by the court to be due and
 5973 unpaid, to be held by the court pending the issuance of an order under subsection C.

5974 B. It shall be a sufficient answer to such a defense provided for in this section if the landlord establishes
 5975 that (i) the conditions alleged in the defense do not in fact exist; (ii) such conditions have been removed or
 5976 remedied; (iii) such conditions have been caused by the tenant, his guest or invitee, members of the family of
 5977 such tenant, or a guest or invitee of such family member; or (iv) the tenant has unreasonably refused entry to
 5978 the landlord to the premises for the purposes of correcting such conditions.

5979 C. The court shall make findings of fact upon any defense raised under this section or the answer to any
 5980 defense and shall issue any order as may be required, including any one or more of the following:

5981 1. Reducing rent in such amount as the court determines to be equitable to represent the existence of any
 5982 condition set forth in subsection A;

5983 2. Terminating the rental agreement or ordering the surrender of the premises to the landlord; or

5984 3. Referring any matter before the court to the proper state or local agency for investigation and report
 5985 and granting a continuance of the action or complaint pending receipt of such investigation and report. When
 5986 such a continuance is granted, the tenant shall deposit with the court any rents that will become due during the
 5987 period of continuance, to be held by the court pending its further order, or, in its discretion, the court may use
 5988 such funds to (i) pay a mortgage on the property in order to stay a foreclosure, (ii) pay a creditor to prevent or
 5989 satisfy a bill to enforce a mechanic's or materialman's lien, or (iii) remedy any condition set forth in subsection
 5990 A that is found by the court to exist.

5991 D. If it appears that the tenant has raised a defense under this section in bad faith or has caused the violation
 5992 or has unreasonably refused entry to the landlord for the purpose of correcting the condition giving rise to the
 5993 violation, the court may impose upon the tenant the reasonable costs of the landlord, including court costs, the
 5994 costs of repair where the court finds the tenant has caused the violation, and reasonable attorney fees.

5995 **§ 55.1-1242. Rent escrow required for continuance of tenant's case.**

5996 A. Where a landlord has filed an unlawful detainer action seeking possession of the premises as provided
 5997 by this chapter and the tenant seeks to obtain a continuance of the action or to set it for a contested trial, the
 5998 court shall, upon request of the landlord, order the tenant to pay an amount equal to the rent that is due as of
 5999 the initial court date into the court escrow account prior to granting the tenant's request for a delayed court
 6000 date. However, if the tenant asserts a good faith defense, and the court so finds, the court shall not require the
 6001 rent to be escrowed. If the landlord requests a continuance or to set the case for a contested trial, the court
 6002 shall not require the rent to be escrowed.

6003 B. If the court finds that the tenant has not asserted a good faith defense, the tenant shall be required to
 6004 pay an amount determined by the court to be proper into the court escrow account in order for the case to be
 6005 continued or set for contested trial. The court may grant the tenant a continuance of no more than one week to
 6006 make full payment of the court-ordered amount into the court escrow account. If the tenant fails to pay the
 6007 entire amount ordered, the court shall, upon request of the landlord, enter judgment for the landlord and enter
 6008 an order of possession of the premises.

6009 C. The court shall further order that should the tenant fail to pay future rents due under the rental agreement
 6010 into the court escrow account, the court shall, upon the request of the landlord, enter judgment for the landlord
 6011 and enter an order of possession of the premises.

6012 D. Upon motion of the landlord, the court may disburse the moneys held in the court escrow account to the
 6013 landlord for payment of his mortgage or other expenses relating to the dwelling unit.

6014 E. Except as provided in subsection D, no rent required to be escrowed under this section shall be disbursed
 6015 within 10 days of the date of the judgment unless otherwise agreed to by the parties. If an appeal is taken by
 6016 the plaintiff, the rent held in escrow shall be transmitted to the clerk of the circuit court to be held in such court
 6017 escrow account pending the outcome of the appeal.

6018 **§ 55.1-1243. Tenant's remedies for landlord's unlawful ouster, exclusion, or diminution of service.**

6019 If a landlord unlawfully removes or excludes a tenant from the premises or willfully diminishes services to
 6020 the tenant by interrupting or causing the interruption of an essential service to the tenant, the tenant may obtain
 6021 an order from a general district court to recover possession, require the landlord to resume any such
 6022 interrupted essential service, or terminate the rental agreement and, in any case, recover the actual damages
 6023 sustained by him and reasonable attorney fees. If the rental agreement is terminated, the landlord shall return
 6024 all of the security deposit in accordance with § 55.1-1226.

6025 **§ 55.1-1244. Tenant's assertion; rent escrow.**

6026 A. The tenant may assert that there exists upon the leased premises a condition that constitutes a material
 6027 noncompliance by the landlord with the rental agreement or with provisions of law or that, if not promptly
 6028 corrected, will constitute a fire hazard or serious threat to the life, health, or safety of occupants of the premises,
 6029 including (i) a lack of heat or hot or cold running water, except where the tenant is responsible for payment of
 6030 the utility charge and where the lack of such heat or hot or cold running water is the direct result of the tenant's
 6031 failure to pay the utility charge; (ii) a lack of light, electricity, or adequate sewage disposal facilities; (iii) an
 6032 infestation of rodents; or (iv) the existence of paint containing lead pigment on surfaces within the dwelling,

6033 provided that the landlord has notice of such paint. The tenant may file such an assertion in a general district
6034 court in which the premises is located by a declaration setting forth such assertion and asking for one or more
6035 forms of relief as provided for in subsection D.

6036 B. Prior to the granting of any relief, the tenant shall show to the satisfaction of the court that:

6037 1. Prior to the commencement of the action, the landlord or his agent refused or, having a reasonable
6038 opportunity to do so, failed to remedy the condition for which he was served a written notice of the condition
6039 by the tenant or was notified of such condition by a violation or condemnation notice from an appropriate state
6040 or local agency. For the purposes of this subsection, what period of time shall be deemed to be unreasonable
6041 delay is left to the discretion of the court, except that there shall be a rebuttable presumption that a period in
6042 excess of 30 days from receipt of the notification by the landlord is unreasonable; and

6043 2. The tenant has paid into court the amount of rent called for under the rental agreement, within five days
6044 of the date due under the rental agreement, unless or until such amount is modified by subsequent order of the
6045 court under this chapter.

6046 C. It shall be sufficient answer or rejoinder to an assertion made pursuant to subsection A if the landlord
6047 establishes to the satisfaction of the court that (i) the conditions alleged by the tenant do not in fact exist; (ii)
6048 such conditions have been removed or remedied; (iii) such conditions have been caused by the tenant, his guest
6049 or invitee, members of the family of such tenant, or a guest or invitee of such family member; or (iv) the tenant
6050 has unreasonably refused entry to the landlord to the premises for the purpose of correcting such conditions.

6051 D. Any court shall make findings of fact on the issues before it and shall issue any order that may be
6052 required. Such an order may include any one or more of the following:

6053 1. Terminating the rental agreement upon the request of the tenant or ordering the surrender of the premises
6054 to the landlord if the landlord prevails on a request for possession pursuant to an unlawful detainer properly
6055 filed with the court;

6056 2. Ordering all moneys already accumulated in escrow disbursed to the landlord or to the tenant in
6057 accordance with this chapter;

6058 3. Ordering that the escrow be continued until the conditions causing the complaint are remedied;

6059 4. Ordering that the amount of rent, whether paid into the escrow account or paid to the landlord, be abated
6060 as determined by the court in such an amount as may be equitable to represent the existence of any condition
6061 found by the court to exist. In all cases where the court deems that the tenant is entitled to relief under this
6062 chapter, the burden shall be upon the landlord to show cause why there should not be an abatement of rent;

6063 5. Ordering any amount of moneys accumulated in escrow disbursed to the tenant where the landlord
6064 refuses to make repairs after a reasonable time or to the landlord or to a contractor chosen by the landlord in
6065 order to make repairs or to otherwise remedy the condition. In either case, the court shall in its order insure
6066 that moneys thus disbursed will be in fact used for the purpose of making repairs or effecting a remedy;

6067 6. Referring any matter before the court to the proper state or local agency for investigation and report
6068 and granting a continuance of the action or complaint pending receipt of such investigation and report. When
6069 such a continuance is granted, the tenant shall deposit with the court, within five days of date due under the
6070 rental agreement, subject to any abatement under this section, rents that become due during the period of the
6071 continuance, to be held by the court pending its further order;

6072 7. Ordering escrow funds disbursed to pay a mortgage on the property in order to stay a foreclosure; or

6073 8. Ordering escrow funds disbursed to pay a creditor to prevent or satisfy a bill to enforce a mechanic's or
6074 materialman's lien.

6075 E. Notwithstanding any provision of subsection D, where an escrow account is established by the court and
6076 the condition is not fully remedied within six months of the establishment of such account, and the landlord has
6077 not made reasonable attempts to remedy the condition, the court shall award all moneys accumulated in escrow
6078 to the tenant. In such event, the escrow shall not be terminated, but shall begin upon a new six-month period
6079 with the same result if, at the end of the period, the condition has not been remedied.

6080 F. The initial hearing on the tenant's assertion filed pursuant to subsection A shall be held within 15
6081 calendar days from the date of service of process on the landlord as authorized by § 55.1-1216, except that the
6082 court shall order an earlier hearing where emergency conditions are alleged to exist upon the premises, such
6083 as failure of heat in winter, lack of adequate sewage disposal facilities, or any other condition that constitutes
6084 an immediate threat to the health or safety of the inhabitants of the leased premises. The court, on motion of
6085 either party or on its own motion, may hold hearings subsequent to the initial proceeding in order to further
6086 determine the rights and obligations of the parties. Distribution of escrow moneys may only occur by order of

6087 the court after a hearing of which both parties are given notice as required by law or upon motion of both the
6088 landlord and tenant or upon certification by the appropriate inspector that the work required by the court to
6089 be done has been satisfactorily completed. If the tenant proceeds under this subsection, he may not proceed
6090 under any other section of this article as to that breach.

6091 Article 5.

6092 Landlord Remedies.

6093 **§ 55.1-1245. Noncompliance with rental agreement; monetary penalty.**

6094 A. Except as otherwise provided in this chapter, if there is a material noncompliance by the tenant with the
6095 rental agreement or a violation of § 55.1-1227 materially affecting health and safety, the landlord may serve a
6096 written notice on the tenant specifying the acts and omissions constituting the breach and stating that the rental
6097 agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach is not
6098 remedied in 21 days and that the rental agreement shall terminate as provided in the notice.

6099 B. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately
6100 remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate.

6101 C. If the tenant commits a breach that is not remediable, the landlord may serve a written notice on the
6102 tenant specifying the acts and omissions constituting the breach and stating that the rental agreement will
6103 terminate upon a date not less than 30 days after receipt of the notice. Notwithstanding anything to the contrary,
6104 when a breach of the tenant's obligations under this chapter or the rental agreement involves or constitutes a
6105 criminal or a willful act that is not remediable and that poses a threat to health or safety, the landlord may
6106 terminate the rental agreement immediately and proceed to obtain possession of the premises. For purposes of
6107 this subsection, any illegal drug activity involving a controlled substance, as used or defined by the Drug
6108 Control Act (§ 54.1-3400 et seq.), or any activity that involves or constitutes a criminal or willful act that also
6109 poses a threat to health and safety, by the tenant, an authorized occupant, or a guest or invitee of the tenant
6110 shall constitute an immediate nonremediable violation for which the landlord may proceed to terminate the
6111 tenancy without the necessity of waiting for a conviction of any criminal offense that may arise out of the same
6112 actions. In order to obtain an order of possession from a court of competent jurisdiction terminating the tenancy
6113 for illegal drug activity or for any other activity that involves or constitutes a criminal or willful act that also
6114 poses a threat to health and safety, the landlord shall prove any such violations by a preponderance of the
6115 evidence. However, where the illegal drug activity or any activity that involves or constitutes a criminal or
6116 willful act that also poses a threat to health and safety is engaged in by an authorized occupant or a guest or
6117 invitee of the tenant, the tenant shall be presumed to have knowledge of such activities unless the presumption
6118 is rebutted by a preponderance of the evidence. The initial hearing on the landlord's action for immediate
6119 possession of the premises shall be held within 15 calendar days from the date of service on the tenant; however,
6120 the court shall order an earlier hearing when emergency conditions are alleged to exist upon the premises that
6121 constitute an immediate threat to the health or safety of the other tenants. After the initial hearing, if the matter
6122 is scheduled for a subsequent hearing or for a contested trial, the court, to the extent practicable, shall order
6123 that the matter be given priority on the court's docket. Such subsequent hearing or contested trial shall be heard
6124 no later than 30 calendar days from the date of service on the tenant. During the interim period between the
6125 date of the initial hearing and the date of any subsequent hearing or contested trial, the court may afford any
6126 further remedy or relief as is necessary to protect the interests of parties to the proceeding or the interests of
6127 any other tenant residing on the premises. Failure by the court to hold either of the hearings within the time
6128 limits set out in this section shall not be a basis for dismissal of the case.

6129 D. If the tenant is a victim of family abuse as defined in § 16.1-228 that occurred in the dwelling unit or on
6130 the premises and the perpetrator is barred from the dwelling unit pursuant to § 55.1-1246 on the basis of
6131 information provided by the tenant to the landlord, or by a protective order from a court of competent
6132 jurisdiction pursuant to § 16.1-253.1 or 16.1-279.1 or subsection B of § 20-103, the lease shall not terminate
6133 solely due to an act of family abuse against the tenant. However, these provisions shall not be applicable if (i)
6134 the tenant fails to provide written documentation corroborating the tenant's status as a victim of family abuse
6135 and the exclusion from the dwelling unit of the perpetrator no later than 21 days from the alleged offense or
6136 (ii) the perpetrator returns to the dwelling unit or the premises, in violation of a bar notice, and the tenant fails
6137 to promptly notify the landlord within 24 hours that the perpetrator has returned to the dwelling unit or the
6138 premises, unless the tenant proves by a preponderance of the evidence that the tenant had no actual knowledge
6139 that the perpetrator violated the bar notice, or it was not possible for the tenant to notify the landlord within 24
6140 hours, in which case the tenant shall promptly notify the landlord, but in no event later than seven days. If the

6141 provisions of this subsection are not applicable, the tenant shall remain responsible for the acts of the other co-
6142 tenants, authorized occupants, or guests or invitees pursuant to § 55.1-1227 and is subject to termination of the
6143 tenancy pursuant to the lease and this chapter.

6144 E. If the tenant has been served with a prior written notice that required the tenant to remedy a breach, and
6145 the tenant remedied such breach, where the tenant intentionally commits a subsequent breach of a like nature
6146 as the prior breach, the landlord may serve a written notice on the tenant specifying the acts and omissions
6147 constituting the subsequent breach, make reference to the prior breach of a like nature, and state that the rental
6148 agreement will terminate upon a date not less than 30 days after receipt of the notice.

6149 F. If rent is unpaid when due, and the tenant fails to pay rent within five days after written notice is served
6150 on him notifying the tenant of his nonpayment, and of the landlord's intention to terminate the rental agreement
6151 if the rent is not paid within the five-day period, the landlord may terminate the rental agreement and proceed
6152 to obtain possession of the premises as provided in § 55.1-1251. If a check for rent is delivered to the landlord
6153 drawn on an account with insufficient funds, or if an electronic funds transfer has been rejected because of
6154 insufficient funds or a stop-payment order has been placed in bad faith by the authorizing party, and the tenant
6155 fails to pay rent within five days after written notice is served on him notifying the tenant of his nonpayment
6156 and of the landlord's intention to terminate the rental agreement if the rent is not paid by cash, cashier's check,
6157 certified check, or a completed electronic funds transfer within the five-day period, the landlord may terminate
6158 the rental agreement and proceed to obtain possession of the premises as provided in § 55.1-1251. Nothing
6159 shall be construed to prevent a landlord from seeking an award of costs or attorney fees under § 8.01-27.1 or
6160 civil recovery under § 8.01-27.2, as a part of other damages requested on the unlawful detainer filed pursuant
6161 to § 8.01-126, provided that the landlord has given notice in accordance with § 55.1-1202, which notice may
6162 be included in the five-day termination notice provided in accordance with this section.

6163 G. Except as otherwise provided in this chapter, the landlord may recover damages and obtain injunctive
6164 relief for any noncompliance by the tenant with the rental agreement or § 55.1-1227. In the event of a breach
6165 of the rental agreement or noncompliance by the tenant, the landlord shall be entitled to recover from the tenant
6166 the following, regardless of whether a lawsuit is filed or an order is obtained from a court: (i) rent due and
6167 owing as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental
6168 agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees as contracted
6169 for in the rental agreement or as provided by law, (v) costs of the proceeding as contracted for in the rental
6170 agreement or as provided by law only if court action has been filed, and (vi) damages to the dwelling unit or
6171 premises as contracted for in the rental agreement.

6172 H. In a case where a lawsuit is pending before the court upon a breach of the rental agreement or
6173 noncompliance by the tenant and the landlord prevails, the court shall award a money judgment to the landlord
6174 and against the tenant for the relief requested, which may include the following: (i) rent due and owing as of
6175 the court date as contracted for in the rental agreement; (ii) other charges and fees as contracted for in the
6176 rental agreement; (iii) late charges contracted for in the rental agreement; (iv) reasonable attorney fees as
6177 contracted for in the rental agreement or as provided by law, unless in any such action the tenant proves by a
6178 preponderance of the evidence that the tenant's failure to pay rent or vacate was reasonable; (v) costs of the
6179 proceeding as contracted for in the rental agreement or as provided by law; and (vi) damages to the dwelling
6180 unit or premises.

6181 **§ 55.1-1246. Barring guest or invitee of a tenant.**

6182 A. A guest or invitee of a tenant may be barred from the premises by the landlord upon written notice served
6183 personally upon the guest or invitee of the tenant for conduct on the landlord's property where the premises are
6184 located that violates the terms and conditions of the rental agreement, a local ordinance, or a state or federal
6185 law. A copy of the notice shall be served upon the tenant in accordance with this chapter. The notice shall
6186 describe the conduct of the guest or invitee that is the basis for the landlord's action.

6187 B. In addition to the remedies against the tenant authorized by this chapter, a landlord may apply to the
6188 magistrate for a warrant for trespass, provided that the guest or invitee has been served in accordance with
6189 subsection A.

6190 C. The tenant may file a tenant's assertion, in accordance with § 55.1-1244, requesting that the general
6191 district court review the landlord's action to bar the guest or invitee.

6192 **§ 55.1-1247. Sheriffs authorized to serve certain notices; fee for service.**

6193 *The sheriff of any county or city, upon request, may deliver any notice to a tenant on behalf of a landlord*
6194 *or lessor under the provisions of § 55.1-1245 or 55.1-1415. For this service, the sheriff shall be allowed a fee*
6195 *not to exceed \$12.*

6196 **§ 55.1-1248. Remedy by repair, etc.; emergencies.**

6197 *If there is a violation by the tenant of § 55.1-1227 or the rental agreement materially affecting health and*
6198 *safety that can be remedied by repair, replacement of a damaged item, or cleaning, the landlord shall send a*
6199 *written notice to the tenant specifying the breach and stating that the landlord will enter the dwelling unit and*
6200 *perform the work in a workmanlike manner and submit an itemized bill for the actual and reasonable cost for*
6201 *such work to the tenant, which shall be due as rent on the next rent due date or, if the rental agreement has*
6202 *terminated, for immediate payment.*

6203 *In case of emergency the landlord may, as promptly as conditions require, enter the dwelling unit, perform*
6204 *the work in a workmanlike manner, and submit an itemized bill for the actual and reasonable cost for such*
6205 *work to the tenant, which shall be due as rent on the next rent due date or, if the rental agreement has*
6206 *terminated, for immediate payment.*

6207 *The landlord may perform the repair, replacement, or cleaning or may engage a third party to do so.*

6208 **§ 55.1-1249. Remedies for absence, nonuse, and abandonment.**

6209 *If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence*
6210 *in excess of seven days and the tenant fails to do so, the landlord may recover actual damages from the tenant.*
6211 *During any absence of the tenant in excess of seven days, the landlord may enter the dwelling unit at times*
6212 *reasonably necessary to protect his possessions and property. The rental agreement is deemed to be terminated*
6213 *by the landlord as of the date of abandonment by the tenant. If the landlord cannot determine whether the*
6214 *premises has been abandoned by the tenant, the landlord shall serve written notice on the tenant in accordance*
6215 *with § 55.1-1202 requiring the tenant to give written notice to the landlord within seven days that the tenant*
6216 *intends to remain in occupancy of the premises. If the tenant gives such written notice to the landlord, or if the*
6217 *landlord otherwise determines that the tenant remains in occupancy of the premises, the landlord shall not treat*
6218 *the premises as having been abandoned. Unless the landlord receives written notice from the tenant or*
6219 *otherwise determines that the tenant remains in occupancy of the premises, upon the expiration of seven days*
6220 *from the date of the landlord's notice to the tenant, there shall be a rebuttable presumption that the premises*
6221 *has been abandoned by the tenant, and the rental agreement shall be deemed to terminate on that date. The*
6222 *landlord shall mitigate damages in accordance with § 55.1-1251.*

6223 **§ 55.1-1250. Landlord's acceptance of rent with reservation.**

6224 *A. The landlord may accept full or partial payment of all rent and receive an order of possession from a*
6225 *court of competent jurisdiction pursuant to an unlawful detainer action filed under Article 13 (§ 8.01-124 et*
6226 *seq.) of Chapter 3 of Title 8.01 and proceed with eviction under § 55.1-1255, provided that the landlord has*
6227 *stated in a written notice to the tenant that any and all amounts owed to the landlord by the tenant, including*
6228 *payment of any rent, damages, money judgment, award of attorney fees, and court costs, would be accepted*
6229 *with reservation and would not constitute a waiver of the landlord's right to evict the tenant from the dwelling*
6230 *unit. Such notice may be included in a written termination notice given by the landlord to the tenant in*
6231 *accordance with § 55.1-1245, and if so included, nothing herein shall be construed by a court of law or*
6232 *otherwise as requiring such landlord to give the tenant subsequent written notice. If the dwelling unit is a public*
6233 *housing unit or other housing unit subject to regulation by the U.S. Department of Housing and Urban*
6234 *Development, nothing in this section shall be construed to require that written notice be given to any public*
6235 *agency paying a portion of the rent under the rental agreement. If a landlord enters into a new written rental*
6236 *agreement with the tenant prior to eviction, an order of possession obtained prior to the entry of such new*
6237 *rental agreement is not enforceable.*

6238 *B. The tenant may pay or present to the court a redemption tender for payment of all rent due and owing*
6239 *as of the return date, including late charges, attorney fees, and court costs, at or before the first return date on*
6240 *an action for unlawful detainer. For purposes of this section, "redemption tender" means a written commitment*
6241 *to pay all rent due and owing as of the return date, including late charges, attorney fees, and court costs, by a*
6242 *local government or nonprofit entity within 10 days of such return date.*

6243 *C. If the tenant presents a redemption tender to the court at the return date, the court shall continue the*
6244 *action for unlawful detainer for 10 days following the return date for payment to the landlord of all rent due*
6245 *and owing as of the return date, including late charges, attorney fees, and court costs, and dismiss the action*
6246 *upon such payment. Should the landlord not receive full payment of all rent due and owing as of the return*

6247 date, including late charges, attorney fees, and court costs, within 10 days of the return date, the court shall,
6248 without further evidence, grant to the landlord judgment for all amounts due and immediate possession of the
6249 premises.

6250 D. In cases of unlawful detainer, a tenant may pay the landlord or his attorney or pay into court all (i) rent
6251 due and owing as of the court date as contracted for in the rental agreement, (ii) other charges and fees as
6252 contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable
6253 attorney fees as contracted for in the rental agreement or as provided by law, and (v) costs of the proceeding
6254 as provided by law, at which time the unlawful detainer proceeding shall be dismissed. A tenant may invoke the
6255 rights granted in this section no more than one time during any 12-month period of continuous residency in the
6256 dwelling unit, regardless of the term of the rental agreement or any renewal term of the rental agreement.

6257 **§ 55.1-1251. Remedy after termination.**

6258 If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a
6259 separate claim for actual damages for breach of the rental agreement, reasonable attorney fees as provided in
6260 § 55.1-1245, and the cost of service of any notice under § 55.1-1245 or 55.1-1415 or process by a sheriff or
6261 private process server, which cost shall not exceed the amount authorized by § 55.1-1247, and such claims may
6262 be enforced, without limitation, by initiating an action for unlawful entry or detainer. Actual damages for
6263 breach of the rental agreement may include a claim for rent that would have accrued until the expiration of the
6264 term of the rental agreement or until a tenancy pursuant to a new rental agreement commences, whichever
6265 occurs first, provided that nothing contained in this section shall diminish the duty of the landlord to mitigate
6266 actual damages for breach of the rental agreement. In obtaining post-possession judgments for actual damages
6267 as defined in this section, the landlord shall not seek a judgment for accelerated rent through the end of the
6268 term of the tenancy.

6269 In any unlawful detainer action brought by the landlord, this section shall not be construed to prevent the
6270 landlord from being granted by the court a simultaneous judgment for money due and for possession of the
6271 premises without a credit for any security deposit. Upon the tenant vacating the premises either voluntarily or
6272 by a writ of possession, security deposits shall be credited to the tenant's account by the landlord in accordance
6273 with the requirements of § 55.1-1226.

6274 **§ 55.1-1252. Recovery of possession limited.**

6275 A landlord may not recover or take possession of the dwelling unit (i) by willful diminution of services to
6276 the tenant by interrupting or causing the interruption of an essential service required by the rental agreement
6277 or (ii) by refusal to permit the tenant access to the unit unless such refusal is pursuant to a court order for
6278 possession.

6279 **§ 55.1-1253. Periodic tenancy; holdover remedies.**

6280 A. The landlord or the tenant may terminate a week-to-week tenancy by serving a written notice on the
6281 other at least seven days prior to the next rent due date. The landlord or the tenant may terminate a month-to-
6282 month tenancy by serving a written notice on the other at least 30 days prior to the next rent due date, unless
6283 the rental agreement provides for a different notice period. The landlord and the tenant may agree in writing
6284 to an early termination of a rental agreement. In the event that no such agreement is reached, the provisions of
6285 § 55.1-1251 shall control.

6286 B. If the tenant remains in possession without the landlord's consent after expiration of the term of the
6287 rental agreement or its termination, the landlord may bring an action for possession and may also recover
6288 actual damages, reasonable attorney fees, and court costs, unless the tenant proves by a preponderance of the
6289 evidence that the failure of the tenant to vacate the dwelling unit as of the termination date was reasonable.
6290 The landlord may include in the rental agreement a reasonable liquidated damage penalty, not to exceed an
6291 amount equal to 150 percent of the per diem of the monthly rent, for each day the tenant remains in the dwelling
6292 unit after the termination date specified in the landlord's notice. However, if the dwelling unit is a public
6293 housing unit or other housing unit subject to regulation by the U.S. Department of Housing and Urban
6294 Development, any liquidated damage penalty shall not exceed an amount equal to the per diem of the monthly
6295 rent set out in the lease agreement. If the landlord consents to the tenant's continued occupancy, § 55.1-1204
6296 applies.

6297 C. In the event of termination of a rental agreement where the tenant remains in possession with the
6298 agreement of the landlord either as a hold-over tenant or a month-to-month tenant and no new rental agreement
6299 is entered into, the terms of the terminated agreement shall remain in effect and govern the hold-over or month-
6300 to-month tenancy, except that the amount of rent shall be either as provided in the terminated rental agreement

6301 or the amount set forth in a written notice to the tenant, provided that such new rent amount shall not take effect
6302 until the next rent due date coming 30 days after the notice.

6303 **§ 55.1-1254. Disposal of property abandoned by tenants.**

6304 If any items of personal property are left in the dwelling unit, the premises, or any storage area provided
6305 by the landlord after the rental agreement has terminated and delivery of possession has occurred, the landlord
6306 may consider such property to be abandoned. The landlord may dispose of the property so abandoned as the
6307 landlord sees fit or appropriate, provided that he has given (i) a termination notice to the tenant in accordance
6308 with this chapter, including a statement that any items of personal property left in the dwelling unit or the
6309 premises would be disposed of within the 24-hour period after termination; (ii) written notice to the tenant in
6310 accordance with § 55.1-1249, including a statement that any items of personal property left in the dwelling
6311 unit, the premises, or the storage area would be disposed of within the 24-hour period after expiration of the
6312 seven-day notice period; or (iii) a separate written notice to the tenant, including a statement that any items of
6313 personal property left in the dwelling unit, the premises, or the storage area would be disposed of within 24
6314 hours after expiration of a 10-day period from the date such notice was given to the tenant. Any written notice
6315 to the tenant shall be given in accordance with § 55.1-1202. The tenant shall have the right to remove his
6316 personal property from the dwelling unit, the premises, or the storage area at reasonable times during the 24-
6317 hour period after termination or at such other reasonable times until the landlord has disposed of the remaining
6318 personal property of the tenant.

6319 During the 24-hour period and until the landlord disposes of the remaining personal property of the tenant,
6320 the landlord shall not have any liability for the risk of loss for such personal property. If the landlord fails to
6321 allow reasonable access to the tenant to remove his personal property as provided in this section, the tenant
6322 shall have a right to injunctive or other relief as provided by law. If the landlord received any funds from any
6323 sale of abandoned property as provided in this section, the landlord shall pay such funds to the account of the
6324 tenant and apply the funds to any amounts due the landlord by the tenant, including the reasonable costs
6325 incurred by the landlord in selling, storing, or safekeeping such property. If any such funds are remaining after
6326 application, the remaining funds shall be treated as a security deposit under the provisions of § 55.1-1226. The
6327 provisions of this section shall not be applicable if the landlord has been granted a writ of possession for the
6328 premises in accordance with Title 8.01 and execution of such writ has been completed pursuant to § 8.01-470.

6329 Nothing in this section shall affect the right of a landlord to enforce an inchoate or perfected lien of the
6330 landlord on the personal property of a tenant in a dwelling unit or on the premises leased to such tenant and
6331 the right of a landlord to distress, levy, and seize such personal property as otherwise provided by law.

6332 **§ 55.1-1255. Authority of sheriffs to store and sell personal property removed from residential premises;
6333 recovery of possession by owner; disposition or sale.**

6334 Notwithstanding the provisions of § 8.01-156, when personal property is removed from a dwelling unit, the
6335 premises, or any storage area provided by the landlord pursuant to an action of unlawful detainer or ejection,
6336 or pursuant to any other action in which personal property is removed from the dwelling unit in order to restore
6337 the dwelling unit to the person entitled to such dwelling unit, the sheriff shall oversee the removal of such
6338 personal property to be placed into the public way. The tenant shall have the right to remove his personal
6339 property from the public way during the 24-hour period after eviction. Upon the expiration of the 24-hour
6340 period after eviction, the landlord shall remove, or dispose of, any such personal property remaining in the
6341 public way.

6342 At the landlord's request, any personal property removed pursuant to this section shall be placed into a
6343 storage area designated by the landlord, which may be the dwelling unit. The tenant shall have the right to
6344 remove his personal property from the landlord's designated storage area at reasonable times during the 24
6345 hours after eviction or at such other reasonable times until the landlord has disposed of the property as provided
6346 in this section. During that 24-hour period and until the landlord disposes of the remaining personal property
6347 of the tenant, the landlord and the sheriff shall not have any liability for the risk of loss for such personal
6348 property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as
6349 provided in this section, the tenant shall have a right to injunctive or other relief as otherwise provided by law.

6350 Any property remaining in the landlord's storage area upon the expiration of the 24-hour period after
6351 eviction may be disposed of by the landlord as the landlord sees fit or appropriate. If the landlord receives any
6352 funds from any sale of such remaining property, the landlord shall pay such funds to the account of the tenant
6353 and apply the funds to any amounts due the landlord by the tenant, including the reasonable costs incurred by
6354 the landlord in the eviction process described in this section or the reasonable costs incurred by the landlord

6355 *in selling or storing such property. If any funds are remaining after application, the remaining funds shall be*
 6356 *treated as a security deposit under the provisions of § 55.1-1226.*

6357 *The notice posted by the sheriff setting the date and time of the eviction, pursuant to § 8.01-470, shall*
 6358 *provide notice to the tenant of the rights afforded to tenants in this section and shall include a copy of this*
 6359 *statute attached to, or made a part of, the notice.*

6360 **§ 55.1-1256. Disposal of property of deceased tenants.**

6361 *A. If a tenant who is the sole tenant under a written rental agreement still residing in the dwelling unit dies,*
 6362 *and there is no person authorized by order of the circuit court to handle probate matters for the deceased*
 6363 *tenant, the landlord may dispose of the personal property left in the dwelling unit or upon the premises.*
 6364 *However, the landlord shall give at least 10 days' written notice to (i) the person identified in the rental*
 6365 *application, lease agreement, or other landlord document as the authorized person to contact in the event of*
 6366 *the death or emergency of the tenant or (ii) the tenant in accordance with § 55.1-1202 if no such person is*
 6367 *identified in the rental application, lease agreement, or other landlord document as the authorized contact*
 6368 *person. The notice given under clause (i) or (ii) shall include a statement that any items of personal property*
 6369 *left in the premises would be treated as abandoned property and disposed of in accordance with the provisions*
 6370 *of § 55.1-1254, if not claimed within 10 days. Authorized occupants, or guests or invitees, are not allowed to*
 6371 *occupy the dwelling unit after the death of the sole remaining tenant and shall vacate the dwelling unit prior to*
 6372 *the end of the 10-day period.*

6373 *B. The landlord may request that such authorized contact person provide reasonable proof of identification.*
 6374 *Thereafter, the authorized contact person identified in the rental application, lease agreement, or other*
 6375 *landlord document may (i) have access to the dwelling unit or the premises and to the tenant records maintained*
 6376 *by the landlord and (ii) rightfully claim the personal property of the deceased tenant and otherwise handle the*
 6377 *affairs of the deceased tenant with the landlord.*

6378 *C. The rental agreement is deemed to be terminated by the landlord as of the date of death of the tenant*
 6379 *who is the sole tenant under a written rental agreement still residing in the dwelling unit, and the landlord shall*
 6380 *not be required to seek an order of possession from a court of competent jurisdiction. The estate of the tenant*
 6381 *shall remain liable for actual damages under § 55.1-1251, and the landlord shall mitigate such damages.*

6382 **§ 55.1-1257. Who may recover rent or possession.**

6383 *Notwithstanding any rule of court to the contrary, (i) any person licensed under the provisions of § 54.1-*
 6384 *2106.1, (ii) any property manager, or a managing agent of a landlord as defined in § 55.1-1200, or (iii) any*
 6385 *employee, who is authorized in writing by a corporate officer with the approval of the board of directors, or by*
 6386 *a manager, a general partner, or a trustee, of a partnership, association, corporation, limited liability company,*
 6387 *limited partnership, professional corporation, professional limited liability company, registered limited liability*
 6388 *partnership, registered limited liability limited partnership, business trust, or family trust to sign pleadings as*
 6389 *the agent of the business entity may obtain a judgment (a) for possession in the general district court for the*
 6390 *county or city in which the premises, or part thereof, is situated or (b) for rent or damages, including actual*
 6391 *damages for breach of the rental agreement, or for final rent and damages under § 8.01-128, in any general*
 6392 *district court where venue is proper under Chapter 5 (§ 8.01-257 et seq.) of Title 8.01, against any defendant*
 6393 *if the person seeking such judgment had a contractual agreement with the landlord to manage the premises for*
 6394 *which rent or possession is due and may prepare, execute, file, and have served on other parties in any general*
 6395 *district court a warrant in debt, suggestion for summons in garnishment, garnishment summons, writ of*
 6396 *possession, or writ of fieri facias arising out of a landlord-tenant relationship. However, the activities of any*
 6397 *such person in court shall be limited by the provisions of § 16.1-88.03. However, nothing shall be construed as*
 6398 *preventing a nonlawyer from requesting relief from the court as provided by law or statute when such*
 6399 *nonlawyer is before the court on one of the actions specified herein.*

6400 **Article 6.**

6401 **Retaliatory Action.**

6402 **§ 55.1-1258. Retaliatory conduct prohibited.**

6403 *A. Except as provided in this section or as otherwise provided by law, a landlord may not retaliate by*
 6404 *increasing rent or decreasing services or by bringing or threatening to bring an action for possession or by*
 6405 *causing a termination of the rental agreement pursuant to § 55.1-1253 or 55.1-1410 after he has knowledge*
 6406 *that (i) the tenant has complained to a governmental agency charged with responsibility for enforcement of a*
 6407 *building or housing code of a violation applicable to the premises materially affecting health or safety, (ii) the*
 6408 *tenant has made a complaint to or filed an action against the landlord for a violation of any provision of this*

6409 chapter, (iii) the tenant has organized or become a member of a tenant's organization, or (iv) the tenant has
 6410 testified in a court proceeding against the landlord. However, the provisions of this subsection shall not be
 6411 construed to prevent the landlord from increasing rent to that which is charged for similar market rentals nor
 6412 decreasing services that apply equally to all tenants.

6413 B. If the landlord acts in violation of this section, the tenant is entitled to the applicable remedies provided
 6414 for in this chapter, including recovery of actual damages, and may assert such retaliation as a defense in any
 6415 action against him for possession. The burden of proving retaliatory intent shall be on the tenant.

6416 C. Notwithstanding subsections A and B, a landlord may terminate the rental agreement pursuant to § 55.1-
 6417 1253 or 55.1-1410 and bring an action for possession if:

6418 1. Violation of the applicable building or housing code was caused primarily by lack of reasonable care by
 6419 the tenant, an authorized occupant, or a guest or invitee of the tenant;

6420 2. The tenant is in default in rent;

6421 3. Compliance with the applicable building or housing code requires alteration, remodeling, or demolition
 6422 that would effectively deprive the tenant of use of the dwelling unit; or

6423 4. The tenant is in default of a provision of the rental agreement materially affecting the health and safety
 6424 of himself or others. The maintenance of the action provided in this section does not release the landlord from
 6425 liability under § 55.1-1226.

6426 D. The landlord may also terminate the rental agreement pursuant to § 55.1-1253 or 55.1-1410 for any
 6427 other reason not prohibited by law unless the court finds that the reason for the termination was retaliation.

6428 **§ 55.1-1259. Actions to enforce chapter.**

6429 In addition to any other remedies in this chapter, any person adversely affected by an act or omission
 6430 prohibited under this chapter may institute an action for injunction and damages against the person responsible
 6431 for such act or omission in the circuit court in the county or city in which such act or omission occurred. If the
 6432 court finds that the defendant was responsible for such act or omission, it shall enjoin the defendant from
 6433 continuance of such practice, and in its discretion award the plaintiff damages as provided in this section.

CHAPTER 13.

MANUFACTURED HOME LOT RENTAL ACT.

6436 **§ 55.1-1300. Definitions.**

6437 As used in this chapter, unless the context requires a different meaning:

6438 "Abandoned manufactured home" means a manufactured home occupying a manufactured home lot
 6439 pursuant to a written agreement under which (i) the tenant has defaulted in rent or (ii) the landlord has the
 6440 right to terminate the written rental agreement pursuant to § 55.1-1249.

6441 "Guest or invitee" means a person, other than the tenant, who has the permission of the tenant to visit but
 6442 not to occupy the premises.

6443 "Landlord" means the manufactured home park owner or the lessor or sublessor of a manufactured home
 6444 park. "Landlord" also means a manufactured home park operator who fails to disclose the name of such owner,
 6445 lessor, or sublessor as provided in § 55.1-1216.

6446 "Manufactured home" means a structure, transportable in one or more sections, that in the traveling mode
 6447 is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more
 6448 square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a
 6449 permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-
 6450 conditioning, and electrical systems contained in the structure.

6451 "Manufactured home lot" means a parcel of land within the boundaries of a manufactured home park
 6452 provided for the placement of a single manufactured home and the exclusive use of its occupants.

6453 "Manufactured home owner" means the owner of a manufactured home.

6454 "Manufactured home park" means a parcel of land under single or common ownership upon which five or
 6455 more manufactured homes are located on a continual, nonrecreational basis together with any structure,
 6456 equipment, road, or facility intended for use incidental to the occupancy of the manufactured homes.

6457 "Manufactured home park" does not include a premises used solely for storage or display of uninhabited
 6458 manufactured homes or a premises occupied solely by a landowner and members of his family.

6459 "Manufactured home park operator" means a person employed or contracted by a manufactured home
 6460 park owner or landlord to manage a manufactured home park.

6461 "Manufactured home park owner" means a person who owns land that accommodates a manufactured
 6462 home park.

6463 "Owner" means one or more persons, jointly or severally, in whom is vested (i) all or part of the legal title
6464 to the property or (ii) all or part of the beneficial ownership and right to present use and enjoyment of the
6465 premises. "Owner" includes a mortgagee in possession.

6466 "Reasonable charges in addition to rent" means any routine maintenance and utility charges for which the
6467 tenant is liable under the rental agreement.

6468 "Rent" means payments made by the tenant to the landlord for use of a manufactured home lot and other
6469 facilities or services provided by the landlord.

6470 "Rental agreement" means any agreement, written or oral, and valid rules and regulations adopted in
6471 conformance with § 55.1-1228 embodying the terms and conditions concerning the use and occupancy of a
6472 manufactured home lot and premises and other facilities or services provided by the landlord.

6473 "Secured party" means the same as that term is defined in § 8.9A-102.

6474 "Security interest" means the same as that term is defined in § 8.1A-201.

6475 "Tenant" means a person entitled as under a rental agreement to occupy a manufactured home lot to the
6476 exclusion of others.

6477 **§ 55.1-1301. Written rental agreement required.**

6478 A. Before the tenancy begins, all parties shall sign and date a written rental agreement that includes all
6479 terms governing the rental and occupancy of a manufactured home lot. The landlord shall give the tenant a
6480 copy of the signed and dated written rental agreement and a copy of this chapter or a clear and simple
6481 description of the obligations of landlords and tenants under this chapter within seven days after the tenant
6482 signs the written rental agreement. The written rental agreement shall not contain any provisions contrary to
6483 the provisions of this chapter and shall not contain a provision prohibiting the tenant from selling his
6484 manufactured home. A notice of any change by a landlord in any terms or provisions of the written rental
6485 agreement shall constitute a notice to vacate the premises, and such notice shall be given in accordance with
6486 the terms of the written rental agreement or as otherwise required by law. The written rental agreement shall
6487 not provide that the tenant pay any recurring charges except fixed rent, utility charges, or reasonable incidental
6488 charges for services or facilities supplied by the landlord. The landlord shall post a copy of this chapter,
6489 including the full text of the sections referenced in § 55.1-1311, in the manufactured home park.

6490 B. In the event that any party has a secured interest in the manufactured home, the written rental agreement
6491 or rental application shall include the name and address of such party and the name and address of the dealer
6492 from whom the manufactured home was purchased. In addition, the written rental agreement shall require the
6493 tenant to notify the landlord within 10 days of any new security interest, change of existing security interest, or
6494 settlement of security interest.

6495 **§ 55.1-1302. Term of rental agreement; renewal; security deposits.**

6496 A. A landlord shall offer all current and prospective year-round residents a rental agreement with a rental
6497 period of not less than one year. Such offer shall contain the same terms and conditions as are offered with
6498 shorter term leases, except that rental discounts may be offered by a landlord to residents who enter into a
6499 rental agreement for a period of not less than one year.

6500 B. Upon the expiration of a rental agreement, the agreement shall be automatically renewed for a term of
6501 one year with the same terms unless the landlord provides written notice to the tenant of any change in the
6502 terms of the agreement at least 60 days prior to the expiration date. In the case of an automatic renewal of a
6503 rental agreement for a year-round resident, the security deposit initially furnished by the tenant shall not be
6504 increased by the landlord, nor shall an additional security deposit be required.

6505 C. Except as limited by subsection B, the provisions of § 55.1-1226 shall govern the terms and conditions
6506 of security deposits for rental agreements under this chapter.

6507 **§ 55.1-1303. Landlord's obligations.**

6508 The landlord shall:

6509 1. Comply with applicable laws governing health, zoning, safety, and other matters pertaining to
6510 manufactured home parks;

6511 2. Make all repairs and do whatever is necessary to put and keep the manufactured home park in a fit and
6512 habitable condition, including maintaining in a clean and safe condition all facilities and common areas
6513 provided by the landlord for use by the tenants of two or more manufactured home lots;

6514 3. Maintain in good and working order and condition all electrical, plumbing, sanitary, heating, ventilating,
6515 air conditioning, and other facilities and appliances supplied or required to be supplied by the landlord;

6516 4. Provide and maintain appropriate receptacles as a manufactured home park facility, except when door-
 6517 to-door garbage and waste pickup is available within the manufactured home park for the collection and
 6518 storage of garbage and other waste incidental to the occupancy of the manufactured home park, and arrange
 6519 for the removal of the garbage and other waste; and

6520 5. Provide reasonable access to electric, water, and sewage disposal connections for each manufactured
 6521 home lot. In the event of a planned disruption by the landlord in electric, water, or sewage disposal services,
 6522 the landlord shall give written notice to tenants no less than 48 hours prior to the planned disruption in service.

6523 **§ 55.1-1304. Tenant's obligations.**

6524 In addition to the provisions of the rental agreement, the tenant shall:

6525 1. Comply with applicable laws affecting manufactured home owners and tenants;

6526 2. Keep and maintain the exterior of the tenant's manufactured home and manufactured home lot as clean
 6527 and safe as conditions permit;

6528 3. Place all garbage and other waste in the appropriate receptacles, which shall be provided by the tenant
 6529 when door-to-door garbage and waste pickup is provided;

6530 4. Use in a reasonable and orderly manner all facilities and appliances in the manufactured home park
 6531 and require any guest or invitee to do so;

6532 5. Conduct himself and require any guest or invitee to conduct himself in a manner that will not disturb the
 6533 tenant's neighbors' peaceful enjoyment of the premises;

6534 6. Abide by all reasonable rules and regulations imposed by the landlord; and

6535 7. In the absence of express written agreement to the contrary, occupy the tenant's manufactured home only
 6536 as a dwelling unit.

6537 **§ 55.1-1305. Rent; liability of secured party taking possession of an abandoned manufactured home.**

6538 A. A secured party shall have no liability for rent or other charges to a landlord except as provided in this
 6539 section.

6540 B. In the event that a manufactured home subject to a security interest becomes an abandoned manufactured
 6541 home, the landlord shall send notice of abandonment to the manufactured home owner, the secured party, and
 6542 the dealer as provided for in § 55.1-1202 at the addresses shown in the written rental agreement or rental
 6543 application. The notice of abandonment shall state the amount of rent and the amount and nature of any
 6544 reasonable charges in addition to rent for which the secured party will be liable. The notice shall include any
 6545 written rental agreement previously signed by the tenant and the landlord.

6546 C. A secured party that has a security interest in an abandoned manufactured home, and that has a right
 6547 to possession of the manufactured home under § 8.9A-609 or under the applicable security agreement, is liable
 6548 to the landlord under the same payment terms as the tenant prior to the secured party's accrual of the right of
 6549 possession and for any other reasonable charges in addition to rent incurred. Such liability is for the period
 6550 that begins 15 days from receipt of the notice of abandonment by the secured party and ends upon the earlier
 6551 to occur of the removal of the abandoned manufactured home from the manufactured home park or disposition
 6552 of the abandoned manufactured home under §§ 8.9A-610 through 8.9A-624 or under the applicable security
 6553 agreement.

6554 D. This section shall not affect the availability of the landlord's lien as provided in § 55.1-1316, nor shall
 6555 this section impact the priority of the secured party's lien as provided in § 46.2-640.

6556 E. Any rent or reasonable charges in addition to rent owed by the secured party to the landlord pursuant
 6557 to this section shall be paid to the landlord prior to the removal of the manufactured home from the
 6558 manufactured home park.

6559 F. If a secured party that has a secured interest in an abandoned manufactured home becomes liable to the
 6560 landlord pursuant to this section, then the relationship between the secured party and the landlord shall be
 6561 governed by the rental agreement previously signed by the tenant and the landlord unless otherwise agreed,
 6562 except that the term of the rental agreement shall convert to a month-to-month tenancy. No waiver is required
 6563 to convert the rental agreement to a month-to-month tenancy. Either the landlord or the secured party may
 6564 terminate the month-to-month tenancy upon giving written notice of at least 30 days. The secured party and the
 6565 landlord are not required to execute a new rental agreement. Nothing in this section shall be construed to be a
 6566 waiver of any rights by the tenant.

6567 **§ 55.1-1306. Demands and charges prohibited; access by tenant's guest or invitee; purchases by**
 6568 **manufactured home owner not restricted; exception; conditions of occupancy.**

6569 A. A landlord shall not demand or collect:

- 6570 1. An entrance fee for the privilege of leasing or occupying a manufactured home lot;
- 6571 2. A commission on the sale of a manufactured home located in the manufactured home park, unless the
- 6572 tenant expressly employs him to perform a service in connection with such sale, but no such employment of the
- 6573 landlord by the tenant shall be a condition or term of the initial sale or rental;
- 6574 3. A fee for improvements or installations on the interior of a manufactured home, unless the tenant
- 6575 expressly employs him to perform a service in connection with such improvements or installations;
- 6576 4. A fee, charge, or other thing of value from any provider of cable television service, cable modem service,
- 6577 satellite master antenna television service, direct broadcast satellite television service, subscription television
- 6578 service, or service of any other television programming system in exchange for granting a television service
- 6579 provider mere access to the landlord's tenants or giving the tenants of such landlord mere access to such
- 6580 service. A landlord may enter into a service agreement with a television service provider to provide marketing
- 6581 and other services to the television service provider designed to facilitate the television service provider's
- 6582 delivery of its services. Under such a service agreement, the television service provider may compensate the
- 6583 landlord for the reasonable value of the services provided and for the reasonable value of the landlord's
- 6584 property used by the television service provider.
- 6585 No landlord shall demand or accept any such payment from any tenants in exchange for such services,
- 6586 unless the landlord is itself the provider of the service, nor shall any landlord discriminate in rental charges
- 6587 between tenants who receive any such service and those who do not. Nothing in this subdivision shall prohibit
- 6588 a landlord from requiring that the provider of such service and the tenant bear the entire cost of the installation,
- 6589 operation, or removal of the facilities incident to such installation, operation, or removal or prohibit a landlord
- 6590 from demanding or accepting reasonable indemnity or security for any damages caused by such installation,
- 6591 operation, or removal; or
- 6592 5. An exit fee for moving a manufactured home from a manufactured home park.
- 6593 B. A guest or invitee of the tenant shall have free access to the tenant's manufactured home site without
- 6594 charge or registration.
- 6595 C. A manufactured home owner shall not be restricted in his choice of vendors from whom he may purchase
- 6596 his (i) manufactured home, except in connection with the initial leasing or renting of a newly constructed lot
- 6597 not previously leased or rented to any other person, or (ii) goods and services. However, nothing in this chapter
- 6598 shall prohibit a landlord from prescribing reasonable requirements governing, as a condition of occupancy,
- 6599 the style, size, or quality of the manufactured home or other structures placed on the manufactured home lot.
- 6600 **§ 55.1-1307. Charge for utility service.**
- 6601 Notwithstanding the provisions of § 56-245.3, a landlord who purchases from a publicly regulated utility
- 6602 any electricity, gas, or other utility service, including water and sewer services, for resale or pass-through to a
- 6603 tenant may not charge for the resale or pass-through of such service an amount that exceeds the amount
- 6604 permitted under the provisions of § 55.1-1212.
- 6605 **§ 55.1-1308. Termination of tenancy.**
- 6606 A. Either party may terminate a rental agreement with a term of 60 days or more by giving written notice
- 6607 to the other at least 60 days prior to the termination date; however, the rental agreement may require a longer
- 6608 period of notice. Notwithstanding the provisions of this section, where a landlord and seller of a manufactured
- 6609 home have in common (i) one or more owners, (ii) immediate family members, or (iii) officers or directors, the
- 6610 rental agreement shall be renewed except for reasons that would justify a termination of the rental agreement
- 6611 or eviction by the landlord as authorized by this chapter. A landlord may not cause the eviction of a tenant by
- 6612 willfully interrupting gas, electricity, water, or any other essential service, or by removal of the manufactured
- 6613 home from the manufactured home lot, or by any other willful self-help measure.
- 6614 B. If the termination is due to rehabilitation or a change in the use of all or any part of a manufactured
- 6615 home park by the landlord, a 180-day written notice is required to terminate a rental agreement. As used in
- 6616 this subsection, "change" includes conversion to hotel, motel, or other commercial use; planned unit
- 6617 development; rehabilitation; demolition; or sale to a contract purchaser. This 180-day notice requirement shall
- 6618 not be waived; however, a period of less than 180 days may be agreed upon by both the landlord and tenant in
- 6619 a written agreement separate from the rental agreement executed after such notice is given and applicable only
- 6620 to the 180-day notice period.
- 6621 **§ 55.1-1309. Waiver of landlord's right to terminate.**
- 6622 Unless the landlord accepts the rent with reservation, and gives a written notice to the tenant of such
- 6623 acceptance within five business days of receipt of the rent, acceptance of periodic rent payments with knowledge

6624 in fact of a material noncompliance by the tenant shall constitute a waiver of the landlord's right to terminate
 6625 the rental agreement. Except as provided in § 55.1-1423, if the landlord has given the tenant written notice that
 6626 the rent payments have been accepted with reservation, the landlord may accept full payment of all rent
 6627 payments and still be entitled to receive an order of possession terminating the rental agreement.

6628 **§ 55.1-1310. Sale or lease of manufactured home by manufactured home owner.**

6629 No landlord shall unreasonably refuse or restrict the sale or rental of a manufactured home located in his
 6630 manufactured home park by a tenant. No landlord shall prohibit the manufactured home owner from placing a
 6631 "for sale" sign on or in the owner's home except that the size, placement, and character of all signs are subject
 6632 to the rules and regulations of the manufactured home park. Prior to selling or leasing the manufactured home,
 6633 the tenant shall give notice to the landlord, including the name of the prospective vendee or lessee if the
 6634 prospective vendee or lessee intends to occupy the manufactured home in that manufactured home park. The
 6635 landlord shall have the burden of proving that his refusal or restriction regarding the sale or rental of a
 6636 manufactured home was reasonable. The refusal or restriction of the sale or rental of a manufactured home
 6637 exclusively or predominantly based on the age of the home shall be considered unreasonable. Any refusal or
 6638 restriction based on race, color, religion, national origin, familial status, elderliness, handicap, or sex shall be
 6639 conclusively presumed to be unreasonable.

6640 **§ 55.1-1311. Other provisions of law applicable.**

6641 Sections 55.1-1202, 55.1-1207, 55.1-1208, 55.1-1216, 55.1-1224, 55.1-1226, 55.1-1228, 55.1-1234
 6642 through 55.1-1249, 55.1-1251, 55.1-1252, and 55.1-1259 shall, insofar as they are not inconsistent with this
 6643 chapter, apply, mutatis mutandis, to the rental and occupancy of a manufactured home lot.

6644 **§ 55.1-1312. Authority of local governments over manufactured home parks.**

6645 The governing body of any locality may adopt ordinances to enforce the obligations imposed on landlords
 6646 by § 55.1-1303.

6647 **§ 55.1-1313. Notice of uncorrected violations.**

6648 If a landlord does not remedy a violation of an ordinance that pertains to the health and safety of tenants
 6649 in a manufactured home park within seven days of receiving notice from the locality of such violation, the
 6650 locality shall notify tenants of the manufactured home park who are affected by the violation. Such notification
 6651 may consist of posting the notice of violation in a conspicuous place in the manufactured home park or mailing
 6652 copies of the notice to affected tenants.

6653 **§ 55.1-1314. Retaliatory conduct prohibited.**

6654 A. Except as provided in this section, or as otherwise provided by law, a landlord shall not retaliate by
 6655 selectively increasing rent or decreasing services or by bringing or threatening to bring an action for possession
 6656 after the landlord has knowledge that (i) the tenant has complained to a governmental agency charged with
 6657 responsibility for enforcement of a building or housing code of a violation applicable to the premises materially
 6658 affecting health or safety, (ii) the tenant has made a complaint to or filed an action against the landlord for a
 6659 violation of any provision of this chapter, (iii) the tenant has organized or become a member of a tenant's
 6660 organization, or (iv) the tenant has testified in a court proceeding against the landlord.

6661 B. The landlord shall be deemed to have knowledge of a fact if he has actual knowledge of it, he has received
 6662 a notice or notification of it, or, from all the facts and circumstances known to him at the time in question, he
 6663 has reason to know that it exists.

6664 C. Notwithstanding the provisions of subsections A and B, a landlord may terminate the rental agreement
 6665 pursuant to subsection A of § 55.1-1308 and bring an action for possession if:

- 6666 1. Violation of the applicable building and housing code was caused by lack of reasonable care by the
 6667 tenant, a member of the tenant's household, or a guest or invitee of the tenant;
- 6668 2. The tenant is in default in rent; or
- 6669 3. The tenant is in default of a provision of the rental agreement materially affecting the health and safety
 6670 of the tenant or others.

6671 **§ 55.1-1315. Eviction of tenant.**

6672 A landlord may evict a tenant only for:

- 6673 1. Nonpayment of rent;
- 6674 2. Violation of the applicable building and housing code caused by a lack of reasonable care by the tenant,
 6675 a member of the tenant's household, or a guest or invitee of the tenant;
- 6676 3. Violation of a federal, state, or local law or ordinance that is detrimental to the health, safety, and welfare
 6677 of other tenants in the manufactured home park;

6678 4. Violation of any rule or provisions of the rental agreement materially affecting the health, safety, and
6679 welfare of the tenant or others; or

6680 5. Two or more violations of any rule or provision of the rental agreement occurring within a six-month
6681 period.

6682 **§ 55.1-1316. Right to sell manufactured home upon eviction.**

6683 A tenant who has been evicted from a manufactured home park shall have 90 days after judgment has been
6684 entered in which to sell the manufactured home or remove the manufactured home from the manufactured home
6685 park. Such tenant shall be responsible for paying the rental amount and for regular maintenance of the
6686 manufactured home lot during the period between the date of eviction and the sale of the manufactured home
6687 or the removal of the manufactured home from the manufactured home park. Such right to keep the
6688 manufactured home in the manufactured home park shall be conditioned upon the payment of all rent accrued
6689 prior to the date of judgment and prospective monthly rent as it becomes due. During such term, a secured
6690 party shall be liable for such charges as provided in § 55.1-1305. The manufactured home park owner shall
6691 have a lien on the manufactured home to the extent that such rental payments are not made. Any sale of the
6692 manufactured home shall be subject to the rights of any secured party having a security interest in the home,
6693 and the lien granted to the manufactured home park owner under this section shall be subject to any such
6694 security interest.

6695 **§ 55.1-1317. Transfer of deposits upon purchase.**

6696 The manufactured home park owner shall transfer any security deposits and any accrued interest on the
6697 deposits in his possession to the new manufactured home park owner at the time of the transfer of the rental
6698 property. If the current manufactured home park owner has entered into a written property management
6699 agreement with a managing agent in accordance with the provisions of subsection E of § 54.1-2135, the current
6700 manufactured home park owner shall give written notice to the managing agent requesting payment of such
6701 security deposits to the current manufactured home park owner prior to settlement with the new manufactured
6702 home park owner. Upon receipt of the written notice, the managing agent shall transfer the security deposits to
6703 the current manufactured home park owner and provide written notice to each tenant that his security deposit
6704 has been transferred to the new manufactured home park owner in accordance with this section.

6705 **§ 55.1-1318. Penalties for violation of chapter.**

6706 If the landlord acts in willful violation of § 55.1-1303, 55.1-1306, 55.1-1310, or 55.1-1314 or if the landlord
6707 fails to provide a written, dated rental agreement, the tenant is entitled to recover from the landlord an amount
6708 equal to the greater of either the tenant's monthly rental payment at the time of the violation or actual damages
6709 and reasonable attorney fees.

6710 **§ 55.1-1319. Injunctive relief.**

6711 The attorney for any locality may file an action for injunctive relief for violations of this chapter.

6712 **CHAPTER 14.**

6713 **NONRESIDENTIAL TENANCIES.**

6714 **Article 1.**

6715 **General Provisions.**

6716 **§ 55.1-1400. Applicability; right to terminate tenant.**

6717 A. As used in this chapter, unless the context requires a different meaning, "nonresidential tenancy" means
6718 the rental of any real estate for purposes other than residential use, including business, industrial, or
6719 agricultural purposes.

6720 B. The provisions of this chapter shall apply to all nonresidential tenancies. The lease or rental agreement
6721 controls the landlord-tenant relationship unless such lease or rental agreement is silent, in which case the
6722 provisions of this chapter apply. The right to evict a tenant whose right of possession has been terminated in
6723 any commercial or other nonresidential tenancy under this chapter may be effectuated by self-help eviction
6724 without further legal process so long as such eviction does not incite a breach of the peace. However, nothing
6725 in this chapter shall be construed to preclude termination of any commercial or other nonresidential tenancy
6726 by the filing of an unlawful detainer action, entry of an order of possession, and eviction pursuant to § 55.1-
6727 1416.

6728 **§ 55.1-1401. Appointment of resident agent by nonresident property owner; service of process, etc., on
6729 such agent or on Secretary of the Commonwealth.**

6730 Any nonresident person as the term "person" is defined in § 55.1-1200 of the Commonwealth who owns
6731 and leases nonresidential real property within the Commonwealth shall have and continuously maintain an

6732 agent who is a resident and maintains a business office within the Commonwealth. Every lease executed by or
 6733 on behalf of nonresident property owners regarding any such real property shall specifically designate such
 6734 agent and the agent's office address for the purpose of service of any process, notice, order, or demand required
 6735 or permitted by law to be served upon such nonresident property owner.

6736 Whenever any nonresident property owner fails to appoint or maintain an agent, as required in this section,
 6737 or whenever his agent cannot with reasonable diligence be found, then the Secretary of the Commonwealth
 6738 shall be an agent of the nonresident property owner upon whom may be served any process, notice, order, or
 6739 demand. Service may be made on the Secretary of the Commonwealth or any of his staff at his office who shall
 6740 forthwith cause it to be sent by registered or certified mail addressed to the nonresident property owner at his
 6741 address as shown on the official tax records maintained by the locality where the property is located.

6742 The name and office address of the agent appointed as provided in this section shall be filed in the office of
 6743 the clerk of the court in which deeds are recorded in the county or city in which the property lies. Recordation
 6744 shall be in the same book as certificates of fictitious names are recorded as provided by § 59.1-74 for which
 6745 the clerk shall be entitled to a fee of \$10.

6746 No nonresident property owner shall maintain an action in the courts of the Commonwealth concerning
 6747 property for which a designation is required by this section until such designation has been filed.

6748 **§ 55.1-1402. Apportionment on purchase of part of land by holder of rent.**

6749 When the holder of a rent purchases part of the land out of which the rent issues, such rent shall be
 6750 apportioned in like manner as if the land had come to him by descent, and when the holder of land that is part
 6751 of land out of which rent issues purchases such rent or part of it, the rent so purchased shall be apportioned as
 6752 in like manner as if the land had come to him by descent.

6753 **§ 55.1-1403. Perfection of lien or interest in leases, rents, and profits.**

6754 The recordation pursuant to § 55.1-600, in the county or city in which the real property is located, of any
 6755 deed, deed of trust, or other instrument granting, transferring, or assigning the interest of the grantor,
 6756 transferor, assignor, pledgor, or lessor in leases, rents, or profits arising from the real property described in
 6757 such deed, deed of trust, or other instrument shall fully perfect the interest of the grantee, transferee, assignee,
 6758 or pledgee as to the assignor and all third parties without the necessity of (i) furnishing notice to the assignor
 6759 or lessee, (ii) obtaining possession of the real property, (iii) impounding the rents, (iv) securing the appointment
 6760 of a receiver, or (v) taking any other affirmative action. The lessee is authorized to pay the assignor until the
 6761 lessee receives written notification that rents due or to become due have been assigned and that payment is to
 6762 be made to the assignee.

6763 **§ 55.1-1404. Energy submetering, energy allocation equipment, sewer and water submetering
 6764 equipment, ratio utility billings systems; local government fees.**

6765 A. As used in this section:

6766 "Building" means all of the individual units served through the same utility-owned meter within a building
 6767 that is used as a nonresidential tenancy, including a building used as an office building or shopping center as
 6768 those terms are defined in § 56-245.2.

6769 "Campground" means the same as that term is defined in § 35.1-1.

6770 "Campsite" means the same as that term is defined in § 35.1-1.

6771 "Energy allocation equipment" means the same as that term is defined in § 56-245.2.

6772 "Energy submetering equipment" has the same meaning ascribed to "submetering equipment" in § 56-
 6773 245.2.

6774 "Local government fees" means any local government charges or fees assessed against a building or
 6775 campground, including stormwater, recycling, trash collection, elevator testing, or fire or life safety testing.

6776 "Ratio utility billing system" means a program that utilizes a mathematical formula for allocating, among
 6777 the tenants in a building or campground, the actual or anticipated water, sewer, electrical, oil, or natural gas
 6778 billings billed to the building or campground owner from a third-party provider of the utility service. Permitted
 6779 allocation methods may include formulas based on square footage, occupancy, number of bedrooms, or some
 6780 other specific method agreed to by the building or campground owner and the tenant in the rental agreement
 6781 or lease.

6782 "Water and sewer submetering equipment" means equipment used to measure actual water or sewer usage
 6783 in any nonresidential rental unit, as defined in § 56-245.2, when such equipment is not owned or controlled by
 6784 the utility or other provider of water or sewer service that provides service to the building in which the
 6785 nonresidential rental unit is located or campground where the campsite is located.

6786 *B. Energy submetering equipment, energy allocation equipment, water and sewer submetering equipment,*
6787 *or a ratio utility billing system may be used in a building or campground if clearly stated in the rental agreement*
6788 *or lease for the leased premises. All energy submetering equipment and energy allocation equipment shall meet*
6789 *the requirements and standards established and enforced by the State Corporation Commission pursuant to §*
6790 *56-245.3.*

6791 *C. If energy submetering equipment, water and sewer submetering equipment, or energy allocation*
6792 *equipment is used in any building or campground, the owner, manager, or operator of the building or*
6793 *campground shall bill the tenant for electricity, oil, natural gas, or water and sewer for the same billing period*
6794 *as the utility serving the building or campground, unless the rental agreement or lease expressly provides*
6795 *otherwise. The owner, manager, or operator of the building or campground may charge and collect from the*
6796 *tenant additional service charges, including monthly billing fees, account set-up fees, or account move-out fees,*
6797 *to cover the actual costs of administrative expenses and billing charged to the building or campground owner,*
6798 *manager, or operator by a third-party provider of such services, provided that such charges are agreed to by*
6799 *the building or campground owner and the tenant in the rental agreement or lease. The building or campground*
6800 *owner may require the tenant to pay a late charge of up to \$5 if the tenant fails to make payment when due,*
6801 *which shall not be less than 15 days following the date of mailing or delivery of the bill sent pursuant to this*
6802 *section.*

6803 *D. If a ratio utility billing system is used in any building or campground, in lieu of increasing the rent, the*
6804 *owner, manager, or operator of the building or campground may employ such a program that utilizes a*
6805 *mathematical formula for allocating, among the tenants in a building or campground, the actual or anticipated*
6806 *water, sewer, electrical, oil, or natural gas billings billed to the building or campground owner from a third-*
6807 *party provider of the utility service. The owner, manager, or operator of the building or campground may*
6808 *charge and collect from the tenant additional service charges, including monthly billing fees, account set-up*
6809 *fees, or account move-out fees, to cover the actual costs of administrative expenses and billings charged to the*
6810 *building or campground owner, manager, or operator by a third-party provider of such services, provided that*
6811 *such charges are agreed to by the building or campground owner and the tenant in the rental agreement or*
6812 *lease. The building or campground owner may require the tenant to pay a late charge of up to \$5 if the tenant*
6813 *fails to make payment when due, which shall not be less than 15 days following the date of mailing or delivery*
6814 *of the bill sent pursuant to this section.*

6815 *E. Energy allocation equipment shall be tested periodically by the owner, manager, or operator of the*
6816 *building or campground. Upon the request by a tenant, the owner shall test the energy allocation equipment*
6817 *without charge. The test conducted without charge to the tenant shall not be conducted more frequently than*
6818 *once in a 24-month period for the same tenant. The tenant or his designated representative may be present*
6819 *during the testing of the energy allocation equipment. A written report of the results of the test shall be made*
6820 *to the tenant within 10 working days after the completion of the test.*

6821 *F. The owner of any building or campground shall maintain adequate records regarding energy*
6822 *submetering equipment, water and sewer submetering equipment, energy allocation equipment, or a ratio utility*
6823 *billing system. A tenant may inspect and copy the records for the leased premises during reasonable business*
6824 *hours at a convenient location within the building or campground. The owner of the building or campground*
6825 *may impose and collect a reasonable charge for copying documents, reflecting the actual costs of materials*
6826 *and labor for copying, prior to providing copies of the records to the tenant.*

6827 *G. Notwithstanding any enforcement action undertaken by the State Corporation Commission pursuant to*
6828 *its authority under § 56-245.3, tenants and owners shall retain any private right of action resulting from any*
6829 *breach of the rental agreement or lease terms required by this section or § 56-245.3, if applicable, to the same*
6830 *extent as such actions may be maintained for breach of other terms of the rental agreement or lease under this*
6831 *chapter, if applicable. The use of energy submetering equipment, water and sewer submetering equipment,*
6832 *energy allocation equipment, or a ratio utility billing system is not within the jurisdiction of the Department of*
6833 *Agriculture and Consumer Services under Chapter 56 (§ 3.2-5600 et seq.) of Title 3.2.*

6834 *H. In lieu of increasing the rent, the owner, manager, or operator of a building or campground may employ*
6835 *a program that utilizes a mathematical formula for allocating the actual or anticipated local government fees*
6836 *billed to the building or campground owner among the tenants in such building or campground if clearly stated*
6837 *in the rental agreement or lease for the leased premises. Permitted allocation methods may include formulas*
6838 *based upon square footage, occupancy, number of bedrooms, or some other specific method agreed to by the*
6839 *building or campground owner and the tenant in the rental agreement or lease. Such owner, manager, or*

6840 operator of a building or campground may also charge and collect from each tenant additional service charges,
 6841 including monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs of
 6842 administrative expenses for administration of such a program.

6843 I. Nothing in this section shall be construed to prohibit an owner, manager, or operator of a building or
 6844 campground from including water, sewer, electrical, natural gas, oil, or other utilities in the amount of rent as
 6845 specified in the rental agreement or lease.

6846 **§ 55.1-1405. Transfer of deposits upon purchase.**

6847 The current owner of nonresidential rental property shall transfer any security deposits and any accrued
 6848 interest on the deposits in his possession to the new owner at the time of the transfer of the rental property. If
 6849 the current owner has entered into a written property management agreement with a managing agent in
 6850 accordance with the provisions of subsection E of § 54.1-2135, the current owner shall give written notice to
 6851 the managing agent requesting payment of such security deposits to the current owner prior to settlement with
 6852 the new owner. Upon receipt of the written notice, the managing agent shall transfer the security deposits to
 6853 the current owner and provide written notice to each tenant that his security deposit has been transferred to
 6854 the new owner in accordance with this section.

6855 Article 2.

6856 Assignments.

6857 **§ 55.1-1406. Grantees and assignees have same rights against lessees as lessors.**

6858 A grantee or assignee of any land leased, or of the reversion thereof, and his heirs, personal representative,
 6859 or assigns, shall enjoy against the lessee, and his heirs, personal representative, or assigns, the like advantage,
 6860 by action or entry for any forfeiture or by action upon any covenant or promise in the lease that the grantor,
 6861 assignor, or lessor, or his heirs, might have enjoyed.

6862 **§ 55.1-1407. Lessees have same rights against grantees as against lessors.**

6863 A lessee, his personal representative, or his assigns may have against a grantee or alienee of the reversion,
 6864 or of any part of such reversion, his heirs, or his assigns the like benefit of any condition, covenant, or promise
 6865 in the lease as he could have had against the lessor himself and his heirs and assigns, except the benefit of any
 6866 warranty, in deed or law.

6867 **§ 55.1-1408. What powers to pass to grantee or devisee; when attornment unnecessary.**

6868 In conveyances or devises of rents in fee, with powers of distress and reentry, or either of them, such powers
 6869 shall pass to the grantee or devisee without express words. A grant or devise of a rent, or of a reversion or
 6870 remainder, is good and effectual without attornment of the tenant, but no tenant who, before notice of the grant,
 6871 paid the rent to the grantor shall suffer any damage as a result of such payment.

6872 **§ 55.1-1409. When attornment void.**

6873 The attornment of a tenant to any stranger is void, unless it is with the consent of the landlord of such tenant
 6874 or pursuant to or in consequence of the judgment or order of a court.

6875 Article 3.

6876 Landlord Obligations.

6877 **§ 55.1-1410. Notice to terminate a tenancy in nonresidential rental property; notice of change in use of**
 6878 **multifamily residential building.**

6879 A. A year-to-year tenancy in a nonresidential rental property may be terminated by either party giving
 6880 three months' notice, in writing, prior to the end of any year of the tenancy, of his intention to terminate the
 6881 same. A month-to-month tenancy may be terminated by either party giving 30 days' notice in writing, prior to
 6882 the next rent due date, of his intention to terminate the same, unless the rental agreement provides for a different
 6883 notice period. Written notice of termination shall be given in accordance with this chapter or the lease
 6884 agreement.

6885 B. In addition to the termination rights set forth in subsection A, and notwithstanding the terms of the lease,
 6886 the landlord may terminate a lease agreement in a multifamily residential building due to rehabilitation or a
 6887 change in the use of all or any part of such building that contains at least four residential units, upon 120 days'
 6888 prior written notice to the tenant. Changes in use shall include conversion to hotel, motel, apartment hotel, or
 6889 other commercial use, planned unit development, substantial rehabilitation, demolition, or sale to a contract
 6890 purchaser requiring an empty building. This 120-day notice requirement shall not be waived except in the case
 6891 of a month-to-month tenancy, which may be terminated by the landlord by giving the tenant 30 days' written
 6892 notice prior to the next rent due date of the landlord's intention to terminate the tenancy.

6946 period after eviction. Upon the expiration of the 24-hour period after eviction, the landlord shall remove, or
 6947 dispose of, any such personal property remaining in the public way.

6948 At the landlord's request, any personal property removed pursuant to this section shall be placed into a
 6949 storage area designated by the landlord, which may be the leased or rented premises. The tenant shall have the
 6950 right to remove his personal property from the landlord's designated storage area at reasonable times during
 6951 the 24 hours after eviction from the premises or at such other reasonable times until the landlord has disposed
 6952 of the property as provided in this section. During that 24-hour period and until the landlord disposes of the
 6953 remaining personal property of the tenant, the landlord and the sheriff shall not have any liability for the loss
 6954 of such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal
 6955 property as provided in this section, the tenant shall have a right to injunctive relief and such other relief as
 6956 may be provided by law.

6957 Any property remaining in the landlord's storage area upon the expiration of the 24-hour period after
 6958 eviction may be disposed of by the landlord as the landlord sees fit or appropriate. If the landlord receives any
 6959 funds from any sale of such remaining property, the landlord shall pay such funds to the account of the tenant
 6960 and apply such funds to any amounts due the landlord by the tenant, including the reasonable costs incurred
 6961 by the landlord in the eviction process described in this section or the reasonable costs incurred by the landlord
 6962 in selling or storing such property. If any funds are remaining after application, the remaining funds shall be
 6963 treated as security deposit under applicable law.

6964 The notice posted by the sheriff setting the date and time of the eviction, pursuant to § 8.01-470, shall
 6965 provide notice to the tenant of the rights afforded to tenants in this section and shall include in the notice a copy
 6966 of this statute attached to, or made a part of, this notice.

6967 Nothing in this section shall affect the right of a landlord to enforce an inchoate or perfected lien of the
 6968 landlord on the personal property of a tenant in a nonresidential premises leased to such tenant or the right of
 6969 a landlord to distress, levy, and seize such personal property as otherwise provided by law.

6970 **§ 55.1-1417. Who may recover rent or possession.**

6971 Notwithstanding any rule of court to the contrary, (i) any person licensed under the provisions of § 54.1-
 6972 2106.1, (ii) any property manager, or a managing agent of a landlord as defined in § 55.1-1200, or directors,
 6973 or by a manager, a general partner, or a trustee, of a partnership, association, corporation, limited liability
 6974 company, limited partnership, professional corporation, professional limited liability company, registered
 6975 limited liability partnership, registered limited liability limited partnership, business trust, or family trust to
 6976 sign pleadings as the agent of the business entity, may obtain a judgment (a) for possession in the general
 6977 district court for the county or city in which the premises, or part thereof, is situated or (b) for rent or damages,
 6978 including actual damages for breach of the rental agreement, or for final rent and damages under § 8.01-128,
 6979 in any general district court where venue is proper under Chapter 5 (§ 8.01-257 et seq.) of Title 8.01, against
 6980 any defendant if the person seeking such judgment had a contractual agreement with the landlord to manage
 6981 the premises for which rent or possession is due and may prepare, execute, file, and have served on other parties
 6982 in any general district court a warrant in debt, suggestion for summons in garnishment, garnishment summons,
 6983 writ of possession, or writ of fieri facias arising out of a landlord-tenant relationship. However, the activities
 6984 of any such person in court shall be limited by the provisions of § 16.1-88.03. However, nothing shall be
 6985 construed as preventing a nonlawyer from requesting relief from the court as provided by law or statute when
 6986 such nonlawyer is before the court on one of the actions specified herein.

6987 Article 5.

6988 Miscellaneous Provisions.

6989 **§ 55.1-1418. Remedy when rent is to be paid in other thing than money.**

6990 When goods are distrained or attached for rent reserved in a share of the crop, or in anything other than
 6991 money, the claimant of the rent shall give the tenant 10 days' notice, and the claimant may then apply to the
 6992 court to which the attachment is returnable, or the circuit court of the county or city in which the distress is
 6993 made, to ascertain the value in money of the rent reserved and to order a sale of the goods distrained or
 6994 attached. The tenant may make the same defenses that he could to a motion on a forfeited forthcoming bond
 6995 given for rent and may also contest the value of what was reserved for the rent. The court shall ascertain, either
 6996 by its own judgment or, if either party requires it, by the verdict of a jury impaneled without the formality of
 6997 pleading, the extent of the liability of the tenant for rent and the value in money of such rent and if the tenant
 6998 has been served with notice shall enter judgment against him for the amount so ascertained. It shall also order
 6999 the goods distrained or attached, or so much thereof as may be necessary, to be sold to pay the amount so

7000 *ascertained. The officer charged with the execution of such warrant or attachment shall return such warrant*
7001 *or attachment to the clerk's office of the court, showing how he has executed such warrant or attachment. If the*
7002 *goods so directed to be sold prove insufficient to pay the amount of the rent so ascertained, an execution may*
7003 *be issued on the judgment as in case of other judgments, which may be levied on such property as would be*
7004 *leviable under an execution issued on a judgment in an action brought to recover the rent.*

7005 **§ 55.1-1419. Proceedings to establish right of reentry; judgment.**

7006 *Any person who has a right of reentry into lands by reason of any rent issuing thereout being in arrear, or*
7007 *by reason of the breach of any covenant or condition, may serve a declaration in ejectment on the tenant in*
7008 *possession, if any, or, if the possession is vacant, by posting the declaration upon the front door of the building,*
7009 *or at any other notorious place on the premises, and such service shall be in lieu of a demand and reentry.*
7010 *Upon proof to the court, by affidavit in case of judgment by default or upon proof on the trial, that the rent*
7011 *claimed was due and no sufficient distress was upon the premises, or that the covenant or condition was broken*
7012 *before the service of the declaration and that the plaintiff had power to reenter, he shall recover judgment and*
7013 *have execution for such lands.*

7014 **§ 55.1-1420. When defendant barred of relief.**

7015 *Should the defendant to a proceeding filed pursuant to § 55.1-1419, or other person on his behalf, not pay*
7016 *the rent in arrear, with interest and costs, nor file a complaint for relief against such forfeiture, within 12*
7017 *months after execution executed, he shall be barred of all right to be restored to such lands or tenements.*

7018 **§ 55.1-1421. How trustee or mortgagee relieved from the forfeiture.**

7019 *Any mortgagee or trustee of lands subject to a proceeding filed pursuant to § 55.1-1419 may, within 12*
7020 *months after execution executed, pay the rent and all arrears, with interest and costs, or file a complaint for*
7021 *relief against such forfeiture; and thereupon may be relieved against it, on the same terms and conditions as*
7022 *the owner of such lands or tenements would be entitled to.*

7023 **§ 55.1-1422. How owner relieved in court.**

7024 *If the owner of lands subject to a proceeding filed pursuant to § 55-1419, or any person having right or*
7025 *claim to such land, files within the appropriate time his complaint for relief, he shall not have or continue any*
7026 *injunction against the proceedings at law on the ejectment, unless, within 30 days following a full and perfect*
7027 *answer filed by the plaintiff in ejectment, he brings into court, or deposits in a bank within the Commonwealth*
7028 *to the credit of the cause, such money as the plaintiff in ejectment, in his answers, swears to be due and in*
7029 *arrear, over and above all just allowances and also the costs taxed in the action, there to remain until the*
7030 *hearing of the cause, or to be paid out to the plaintiff on good security, subject to the order of the court. If the*
7031 *complaint is filed within the appropriate time, and after execution executed, the plaintiff shall be accountable*
7032 *for no more than he, really and bona fide, without fraud, deceit, or willful neglect, makes of the premises from*
7033 *the time of his entering into the actual possession of the premises, and if it is less than the rent payable, then*
7034 *the possession shall not be restored until the plaintiff is paid the balance of the rent for the time he so held the*
7035 *lands.*

7036 **§ 55.1-1423. How judgment of forfeiture prevented.**

7037 *If any party having right or claim to lands subject to a proceeding filed pursuant to § 55-1419, at any time*
7038 *before the trial in such ejectment, pays to the party entitled to such rent, or to his attorney, or pays into court,*
7039 *all the rent and arrears owed, along with any reasonable attorney fees and late charges contracted for in a*
7040 *written rental agreement, interest, and costs, all further proceedings in the ejectment shall cease. If the person*
7041 *claiming the land is relieved, he is entitled to hold the land in the same manner as he was prior to the*
7042 *commencement of the proceedings, without a new lease or conveyance. If the parties dispute the amount of rent*
7043 *and other charges owed, the court shall take evidence on the issue and make orders for the tender, payment, or*
7044 *refund of any appropriate amounts.*

7045 **§ 55.1-1424. When action for reentry brought.**

7046 *Proceedings for ejectment shall not be initiated until the time for reentry of the premises specified in the*
7047 *rental agreement has lapsed.*

7048 **§ 55.1-1425. Written act of reentry to be returned and recorded and certificate of reentry published.**

7049 *When actual reentry is made, the party by or for whom the reentry is made shall return a written act of*
7050 *reentry, sworn to by the sheriff or another authorized officer, to the clerk of the circuit court of the county or*
7051 *city in which the lands or tenements are located. The clerk shall record the written act of reentry in the deed*
7052 *book and shall deliver to the party making the reentry a certificate setting forth the substance of such written*
7053 *act. Such certificate shall be published at least once a week for two months successively in a newspaper*

7054 published in or nearest to such county or city. Such publication shall be proved by affidavit to the satisfaction
 7055 of the clerk, who shall record such affidavit in the deed book. Such affidavit shall reference the book and page
 7056 where the original written act of reentry was recorded. The clerk shall return the original act of reentry to the
 7057 party entitled to it. The written act of reentry, when recorded, and the record of such written act, or a duly
 7058 certified copy from such record, shall be evidence, in all cases, of the facts contained therein.

7059 **§ 55.1-1426. Fee of clerk.**

7060 The clerk shall be paid for recording, granting certificate, and noting publication, as required by § 55.1-
 7061 1425, the fee prescribed in subdivision A 2 of § 17.1-275 and shall collect and account for the same tax upon
 7062 every such act of reentry offered for record as is levied by law upon deeds of conveyance.

7063 **§ 55.1-1427. How person entitled to lands may be restored to his possession.**

7064 If the person entitled to lands subject to a proceeding filed pursuant to § 55.1-1419 at the time of reentry
 7065 made, or having claim to such lands, does not pay the rent and all arrears owed, with interest and all reasonable
 7066 expenses incurred about such reentry, within one year from the first day of publication pursuant to § 55.1-1425,
 7067 he shall be forever barred from all right to the lands. If any party who has the right of possession pays the rent
 7068 and arrears owed, with interest and expenses pursuant to this section, to the party making reentry, within the
 7069 required time, he shall be reinstated in his possession to hold as if the reentry had not been made.

7070 **§ 55.1-1428. Limitation of action against person in possession by reentry.**

7071 No person who, or who with his predecessor in title under whom he claims, has possessed lands by virtue
 7072 of a reentry for the term of two years shall be disturbed therein by action or otherwise for any defect of
 7073 proceedings in such entry.

7074 **CHAPTER 15.**

7075 **RESIDENTIAL GROUND RENT ACT.**

7076 **§ 55.1-1500. Definitions.**

7077 As used in this chapter:

7078 "Land" is a three-dimensional concept and includes parcels with upper or lower boundaries, or both upper
 7079 and lower boundaries, as well as parcels extending ab solo usque ad coelum. Parcels of airspace constitute
 7080 land within the meaning of this chapter. Any requirement in this chapter of a legally sufficient description shall
 7081 be deemed to include a requirement that the upper and lower boundaries, if any, of the parcel in question be
 7082 identified with reference to established data.

7083 "Obligee" means any person or entity to whom a residential ground rent is owed.

7084 "Obligor" means one or more individuals who are obligated to pay a residential ground rent.

7085 "Residential ground rent" means a rent or charge paid for the use of land, whether or not title to such land
 7086 is transferred to the user, or a lease of land, for personal residential purposes, (i) which is assignable by the
 7087 obligor without the obligee's consent; (ii) which is for a term in excess of 15 years, including any rights of
 7088 renewal at the option of the obligor; (iii) where the obligor has a present or future right to terminate such
 7089 ground rent and to acquire the entire interest of the obligee in the land by the payment of a determined or
 7090 determinable amount; and (iv) where the obligee's interest in the land is primarily a security interest to protect
 7091 his right to be paid the rent or charge.

7092 **§ 55.1-1501. Form of instrument.**

7093 Any agreement in which a residential ground rent is created shall:

7094 1. Be reduced to writing;

7095 2. Be in recordable form; and

7096 3. Disclose the date, the names of the parties, the ground rent and any future adjustments to the ground
 7097 rent, when such rent is payable, the duration of the agreement, and the value of the land at the time the
 7098 agreement is made. If the parties agree to the amount for which the ground rent may be redeemed, such amount
 7099 shall also be included in the agreement. Such agreement shall be included as a part of the deed or other
 7100 instrument of transfer.

7101 **§ 55.1-1502. Changes in amount of rent.**

7102 The amount of a residential ground rent may be changed on demand of either the obligor or obligee at the
 7103 end of five years from the date of the agreement, and every five years thereafter, by giving notice to the other
 7104 party by certified mail or overnight delivery using a commercial service or the United States Postal Service
 7105 between 90 and 60 days prior to such fifth anniversary. Unless the parties agree otherwise, such change in
 7106 ground rent shall not exceed the percentage change for the preceding three years in the Average Consumer
 7107 Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the

7108 U.S. Department of Labor or such other instrument or agency of the United States or of the Commonwealth as
 7109 may be designated by the General Assembly. The first of such years shall constitute the base year.

7110 **§ 55.1-1503. Encumbrance on real property.**

7111 A residential ground rent shall constitute a lien against the real estate from the time it is recorded. Any
 7112 deed of trust or mortgage may provide that a default in payment of ground rent shall constitute a default in
 7113 such deed of trust or mortgage, that the trustee or beneficiary of the deed of trust or mortgage may satisfy such
 7114 obligation for rent, and that the money used to satisfy such obligation, along with interest, shall be a part of
 7115 the debt secured, to be repaid as provided in § 55.1-320 et seq.

7116 **§ 55.1-1504. Redemption rights.**

7117 The obligor shall have the right to redeem a residential ground rent at any time after three years from the
 7118 date the ground rent agreement is made. The redemption shall be effected for the amount agreed upon by the
 7119 obligor and the obligee or, in the absence of such an agreement, shall be determined by capitalizing the ground
 7120 rent in effect at the time of redemption, using the average rate on long-term business loans charged by
 7121 commercial banks in the southeast, as published by the Federal Reserve Board. Upon tender of such amount
 7122 by the obligor, together with any lawfully collectible arrearages of rent and interest thereon, the obligor may
 7123 redeem the land from, and shall be entitled to a release from, all obligation to pay ground rent. Such release
 7124 shall be in recordable form and the cost of recording the same, together with any other charges incidental to
 7125 it, other than the state transfer tax, shall be paid by the obligor.

7126 **§ 55.1-1505. Incorporation of agreement into deed.**

7127 A ground rent agreement made pursuant to the provisions of this chapter may be incorporated into the deed
 7128 or other instrument of transfer in the following form:

7129 This deed is subject to annual ground rent or charge as follows:

- 7130 1. Date of agreement: _____;
- 7131 2. Parties:
 - 7132 a. Obligor: _____; and
 - 7133 b. Obligee: _____;
- 7134 3. Ground rent and any future adjustments to it: _____;
- 7135 4. When payable: _____;
- 7136 5. Duration: _____;
- 7137 6. Original value of land: _____; and
- 7138 7. Redemption price, if agreed on: _____.

7139 **CHAPTER 16.**

7140 **DEEDS OF LEASE.**

7141 **§ 55.1-1600. Form of a lease.**

7142 A deed of lease may be made in a form substantially similar to the following: "This deed, made the ____
 7143 day of _____, in the year _____, between (herein insert the names of parties), witnesseth: that the said
 7144 _____ doth (or do) demise unto the said _____, his personal representative and assigns, all (here
 7145 describe the property) from the ____ day of _____, for the term of _____, thence ensuing, yielding
 7146 therefor during the said term the rent of (here state the rent and mode of payment). Witness the following
 7147 signature and seal (or signatures and seals)."

7148 **§ 55.1-1601. Memoranda of leases and options.**

7149 A. In lieu of the recording of a lease, a memorandum of such lease may be recorded, executed by the lessor
 7150 and the lessee in the manner that would entitle a conveyance to be recorded. Such memorandum of lease shall
 7151 contain at least the following information with respect to the lease:

- 7152 1. The name of the lessor;
- 7153 2. The name of the lessee and a reference to the lease;
- 7154 3. The addresses, if any, set forth in the lease as addresses of such parties;
- 7155 4. The date of the memorandum of such lease;
- 7156 5. A description of the leased premises; and
- 7157 6. A statement of the term, commencement date or termination date, and rights of extension or renewal, if
 7158 any, to the extent required to determine the period for which or date to which the lease may be in effect.

7159 B. In lieu of the recording of an option to purchase real estate, a memorandum of such option may be
 7160 recorded, executed by the grantor of the option in the manner that would entitle a conveyance to be recorded.

7161 *Such memorandum of option to purchase real estate shall contain at least the following information with respect*
 7162 *to the option:*

- 7163 1. *The name of the person granting the option;*
- 7164 2. *The name of the optionee and a reference to the option;*
- 7165 3. *The addresses, if any, set forth in the agreement as addresses of such parties;*
- 7166 4. *The date of the memorandum of the option;*
- 7167 5. *A description of the optioned premises;*
- 7168 6. *The option price or reference to the document containing the method with regard to how the option price*
 7169 *is computed; and*
- 7170 7. *The statement of the term, commencement date or termination date, and rights of extension or renewal,*
 7171 *if any, to the extent required to determine the period during which or date to which the option may be in effect.*

7172 **§ 55.1-1602. Certain covenants of lessee "to pay the rent" and "to pay the taxes."**

7173 *In a deed of lease, (i) a covenant by the lessee "to pay the rent" shall have the effect of a covenant that the*
 7174 *rent reserved by the deed shall be paid to the lessor, or those entitled under the lessor, in the manner stated in*
 7175 *the deed, and (ii) a covenant by the lessee "to pay the taxes" shall have the effect of a covenant that all the*
 7176 *taxes, levies, and assessments upon the demised premises, or upon the lessor on account thereof, shall be paid*
 7177 *by the lessee or those claiming under the lessee.*

7178 **§ 55.1-1603. Certain covenants of lessee that "he will not assign without leave" and that "he will leave**
 7179 **the premises in good repair."**

7180 *In a deed of lease, (i) a covenant by the lessee that "he will not assign without leave" shall have the same*
 7181 *effect as a covenant that the lessee will not, during the term, assign, transfer, or set over the premises, or any*
 7182 *part of such premises, to any person without the consent, in writing, of the lessor or the lessor's representative*
 7183 *or assigns, and (ii) a covenant by the lessee that "he will leave the premises in good repair" shall, subject to*
 7184 *the qualifications of § 55.1-1411, have the same effect as a covenant that the demised premises will, at the*
 7185 *expiration or other sooner determination of the term, be peaceably surrendered and yielded to the lessor or the*
 7186 *lessor's representatives or assigns in good and substantial repair and condition, reasonable wear and tear*
 7187 *excepted.*

7188 **§ 55.1-1604. Covenant of lessor "for lessee's quiet enjoyment."**

7189 *A covenant by a lessor "for the lessee's quiet enjoyment of his term" shall have the same effect as a covenant*
 7190 *that the lessee, or the lessee's personal representative or lawful assigns, paying the rent reserved and*
 7191 *performing his covenants, shall peaceably possess and enjoy the demised premises, for the term granted,*
 7192 *without any interruption or disturbance from any person.*

7193 **§ 55.1-1605. Effect of provision for reentry by lessor.**

7194 *If a deed of lease provides that "the lessor may reenter for default of _____ days in the payment of rent, or*
 7195 *for the breach of covenants," it has the effect of an agreement that if the rent reserved, or any part of such rent,*
 7196 *is unpaid for such number of days after the day on which it was due, or if any of the other covenants on the part*
 7197 *of the lessee or his personal representative or assigns is broken, then, in either of such cases, the lessor, or*
 7198 *those entitled in the lessor's place, at any time afterwards may reenter into and upon the demised premises, or*
 7199 *any part of such premises, in the name of the whole, and the same again have, repossess, and enjoy, as of his*
 7200 *former estate.*

7201 **CHAPTER 17.**
 7202 **EMBLEMENTS.**

7203 **§ 55.1-1700. Law of emblements.**

7204 *In all cases, the right to emblements shall be as at common law, provided, however, that in any sale of land*
 7205 *under a deed of trust or mortgage, such sale shall be made subject to the right and interest of a tenant in any*
 7206 *crop planted by him under a bona fide lease for no more than one year, entered into by him with the mortgagor*
 7207 *after the execution of such deed of trust or mortgage, but during such time as the mortgagor is allowed to*
 7208 *remain in possession of the mortgaged premises and before the premises is advertised for sale under such deed*
 7209 *of trust, or under an order in an action brought for the foreclosure of such deed of trust or mortgage.*

7210 **§ 55.1-1701. What rent tenant entitled to emblements to pay.**

7211 *The tenant who is entitled to emblements, or his personal representative, shall pay a reasonable rent for*
 7212 *the land occupied by the emblements in the same proportion as such land bears in quantity and value to the*
 7213 *entire premises. Such rent shall be apportioned among the owners of the reversion, if there is more than one,*
 7214 *according to their respective interests.*

7215 § 55.1-1702. Compensation to outgoing tenant for preparation of land for crop.

7216 *In the case of an outgoing tenant, those who succeed to the land shall pay such outgoing tenant reasonable*
7217 *compensation for any preparation of such land by the tenant for the purpose of planting a crop if the outgoing*
7218 *tenant, or his personal representative, would have been entitled to emblements had the crop been planted by*
7219 *him.*

7220 § 55.1-1703. Lessee of life tenant may hold land through end of year on death of tenant; apportionment
7221 of rent.

7222 *If there is a tenant for life or other uncertain interest in land that is leased to another, upon the death of*
7223 *such tenant for life or termination of such other uncertain interest, the lessee may hold the land through the*
7224 *end of the current year of the tenancy, paying rent. The rent, if it is reserved in money, shall be apportioned*
7225 *between the tenant for life or other uncertain interest, or his personal representative, and those who succeed to*
7226 *the land. If rent is reserved in kind, it shall be paid to the tenant for life or other uncertain interest, or his*
7227 *personal representative, and the tenant or his personal representative, as the case may be, shall pay to those*
7228 *who succeed to the land a reasonable rent, in money, from the expiration of the life estate or other uncertain*
7229 *interest to the end of the current year of the tenancy. The rent to be paid to those who succeed to the land shall*
7230 *be a charge in preference to other claims on the rent received in kind by such tenant or his personal*
7231 *representative.*

7232 SUBTITLE IV.**7233 COMMON INTEREST COMMUNITIES.****7234 CHAPTER 18.****7235 PROPERTY OWNERS' ASSOCIATION ACT.****7236 Article 1.****7237 General Provisions.****7238 § 55.1-1800. Definitions.**

7239 *As used in this chapter, unless the context requires a different meaning:*

7240 *"Association" means the property owners' association.*

7241 *"Board of directors" means the executive body of a property owners' association or a committee that is*
7242 *exercising the power of the executive body by resolution or bylaw.*

7243 *"Capital components" means those items, whether or not a part of the common area, for which the*
7244 *association has the obligation for repair, replacement, or restoration and for which the board of directors*
7245 *determines funding is necessary.*

7246 *"Common area" means property within a development which is owned, leased, or required by the*
7247 *declaration to be maintained or operated by a property owners' association for the use of its members and*
7248 *designated as a common area in the declaration.*

7249 *"Common interest community" means the same as that term is defined in § 54.1-2345.*

7250 *"Common interest community manager" means the same as that term is defined in § 54.1-2345.*

7251 *"Declarant" means the person or entity signing the declaration and its successors or assigns who may*
7252 *submit property to a declaration.*

7253 *"Declaration" means any instrument, however denominated, recorded among the land records of the county*
7254 *or city in which the development or any part of such development is located, that either (i) imposes on the*
7255 *association maintenance or operational responsibilities for the common area or (ii) creates the authority in the*
7256 *association to impose on lots, on the owners or occupants of such lots, or on any other entity any mandatory*
7257 *payment of money in connection with the provision of maintenance or services for the benefit of some or all of*
7258 *the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or*
7259 *supplement to the instruments described in this definition. "Declaration" does not include a declaration of a*
7260 *condominium, real estate cooperative, time-share project, or campground.*

7261 *"Development" means real property located within the Commonwealth subject to a declaration which*
7262 *contains both lots, at least some of which are residential or are occupied for recreational purposes, and*
7263 *common areas with respect to which any person, by virtue of ownership of a lot, is a member of an association*
7264 *and is obligated to pay assessments provided for in a declaration.*

7265 *"Disclosure packet update" means an update of the financial information referenced in subdivisions A 2*
7266 *through 9 of § 55.1-1809. The update shall include a copy of the original disclosure packet.*

7267 *"Electronic means" means any form of communication, not directly involving the physical transmission of*
7268 *paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication.*

7269 Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act shall
7270 have the meaning set forth in such section.

7271 "Financial update" means an update of the financial information referenced in subdivisions A 2 through 7
7272 of § 55.1-1809.

7273 "Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown on a
7274 recorded subdivision plat for a development or the boundaries of which are described in the declaration or in
7275 a recorded instrument referred to or expressly contemplated by the declaration, other than a common area,
7276 and (ii) a unit in a condominium association or a unit in a real estate cooperative if the condominium or
7277 cooperative is a part of a development.

7278 "Lot owner" means one or more persons who own a lot, including any purchaser of a lot at a foreclosure
7279 sale, regardless of whether the deed is recorded in the land records where the lot is located. "Lot owner" does
7280 not include any person holding an interest in a lot solely as security for a debt.

7281 "Professionally managed" means a common interest community that has engaged (i) a common interest
7282 community manager to provide management services to the community or (ii) a person as an employee for
7283 compensation to provide management services to the community, other than a resident of the community who
7284 provides bookkeeping, billing, or recordkeeping services for that community.

7285 "Property owners' association" or "association" means an incorporated or unincorporated entity upon
7286 which responsibilities are imposed and to which authority is granted in the declaration.

7287 "Settlement agent" means the same as that term is defined in § 55.1-1000.

7288 **§ 55.1-1801. Applicability.**

7289 A. This chapter applies to developments subject to a declaration initially recorded after January 1, 1959,
7290 associations incorporated or otherwise organized after such date, and all subdivisions created under the
7291 Subdivided Land Sales Act (§ 55.1-2300 et seq.). For the purposes of this chapter, as used in the Subdivided
7292 Land Sales Act, the terms:

7293 "Covenants," "deed restrictions," or "other recorded instruments" for the management, regulation, and
7294 control of a development are deemed to correspond with the term "declaration."

7295 "Developer" is deemed to correspond with the term "declarant."

7296 "Subdivision" is deemed to correspond with the term "development."

7297 B. This chapter supersedes the Subdivided Land Sales Act (§ 55.1-2300 et seq.), and no development shall
7298 be subject to the Subdivided Land Sales Act on or after July 1, 1998.

7299 This chapter shall not be construed to affect the validity of any provision of any declaration recorded prior
7300 to July 1, 1998, provided, however, that this chapter shall be applicable to any development established prior
7301 to the enactment of the Subdivided Land Sales Act (§ 55.1-2300 et seq.) (i) located in a county with an urban
7302 county executive form of government, (ii) containing 500 or more lots, (iii) each lot of which is located within
7303 the boundaries of a watershed improvement district established pursuant to Article 3 (§ 10.1-614 et seq.) of
7304 Chapter 6 of Title 10.1, and (iv) each lot of which is subject to substantially similar deed restrictions, which
7305 shall be considered a declaration under this chapter.

7306 In addition, any development established prior to July 1, 1978, may specifically provide for the applicability
7307 of the provisions of this chapter.

7308 C. This chapter shall not be construed to affect the validity of any provision of any prior declaration;
7309 however, to the extent that the declaration is silent, the provisions of this chapter shall apply. If any one lot in
7310 a development is subject to the provisions of this chapter, all lots in the development shall be subject to the
7311 provisions of this chapter notwithstanding the fact that such lots would otherwise be excluded from the
7312 provisions of this chapter. Notwithstanding any provisions of this chapter, a declaration may specifically
7313 provide for the applicability of the provisions of this chapter. The granting of rights in this chapter shall not be
7314 construed to imply that such rights did not exist with respect to any development created in the Commonwealth
7315 before July 1, 1989.

7316 D. This chapter shall not apply to the (i) provisions of documents of, (ii) operations of any association
7317 governing, or (iii) relationship of a member to any association governing condominiums created pursuant to
7318 the Condominium Act (§ 55.1-1900 et seq.), cooperatives created pursuant to the Virginia Real Estate
7319 Cooperative Act (§ 55.1-2100 et seq.), time-shares created pursuant to the Virginia Real Estate Time-Share Act
7320 (§ 55.1-2200 et seq.), or membership campgrounds created pursuant to the Virginia Membership Camping Act
7321 (§ 59.1-311 et seq.). This chapter shall not apply to any nonstock, nonprofit, taxable corporation with

7322 nonmandatory membership which, as its primary function, makes available golf, ski, and other recreational
 7323 facilities both to its members and to the general public.

7324 **§ 55.1-1802. Developer to register and file annual report; payment of real estate taxes attributable to the**
 7325 **common area.**

7326 A. (Effective July 1, 2019) Unless control of the association has been transferred to the members, the
 7327 developer shall register the association with the Common Interest Community Board within 30 days after
 7328 recordation of the declaration and thereafter shall ensure that the report required pursuant to § 55.1-1835 has
 7329 been filed.

7330 B. Upon the transfer of the common area to the association, the developer shall pay all real estate taxes
 7331 attributable to the open or common space as defined in § 58.1-3284.1 through the date of the transfer to the
 7332 association.

7333 **§ 55.1-1803. Limitation on certain contracts and leases by declarant.**

7334 A. If entered into any time prior to the expiration of the period of declarant control contemplated by the
 7335 declaration, no contract or lease entered into with the declarant or any entity controlled by the declarant,
 7336 management contract, or employment contract that is directly or indirectly made by or on behalf of the
 7337 association, its board of directors, or the lot owners as a group shall be entered into for a period in excess of
 7338 five years. Any such contract or agreement may be terminated without penalty by the association or its board
 7339 of directors upon not less than 90 days' written notice to the other party given no later than 60 days after the
 7340 expiration of the period of declarant control contemplated by the declaration.

7341 B. If entered into any time prior to the expiration of the period of declarant control contemplated by the
 7342 declaration, any contract or lease entered into with the declarant or any entity controlled by the declarant,
 7343 management contract, or employment contract that is directly or indirectly made by or on behalf of the
 7344 association, its board of directors, or the lot owners as a group may be renewed for periods not in excess of
 7345 five years; however, at the end of any five-year period, the association or its board of directors may terminate
 7346 any further renewals or extensions of such contract or lease.

7347 C. If entered into at any time prior to the expiration of the period of declarant control contemplated by the
 7348 declaration, any contract, lease, or agreement, other than those subject to the provisions of subsection A or B,
 7349 may be entered into by or on behalf of the association, its board of directors, or the lot owners as a group if
 7350 such contract, lease, or agreement is bona fide and is commercially reasonable to the association at the time
 7351 entered into under the circumstances.

7352 D. This section shall be strictly construed to protect the rights of the lot owners.

7353 **§ 55.1-1804. Documents to be provided by declarant upon transfer of control.**

7354 Unless previously provided to the board of directors of the association, once the majority of the members
 7355 of the board of directors other than the declarant are owners of improved lots in the association and the
 7356 declarant no longer holds a majority of the votes in the association, the declarant shall provide to the board of
 7357 directors or its designated agent the following: (i) all association books and records held by or controlled by
 7358 the declarant, including minute books and rules and regulations and all amendments to such rules and
 7359 regulations that may have been promulgated; (ii) a statement of receipts and expenditures from the date of the
 7360 recording of the association documents to the end of the regular accounting period immediately succeeding the
 7361 first election of the board of directors by the lot owners, not to exceed 60 days after the date of the election,
 7362 such statement being prepared in an accurate and complete manner, utilizing the accrual method of accounting;
 7363 (iii) the number of lots subject to the declaration; (iv) the number of lots that may be subject to the declaration
 7364 upon completion of development; (v) a copy of the latest available approved plans and specifications for all
 7365 improvements in the project or as-built plans if available; (vi) all association insurance policies that are
 7366 currently in force; (vii) written unexpired warranties of the contractors, subcontractors, suppliers, and
 7367 manufacturers, if any, relative to all common area improvements; (viii) any contracts in which the association
 7368 is a contracting party; (ix) a list of manufacturers of paints, roofing materials, and other similar materials if
 7369 specified for use on the association property; and (x) the number of members of the board of directors and
 7370 number of such directors appointed by the declarant together with names and contact information of members
 7371 of the board of directors.

7372 If the association is managed by a common interest community manager in which the declarant, or its
 7373 principals, has no pecuniary interest or management role, then such common interest community manager shall
 7374 have the responsibility to provide the documents and information required by clauses (i), (ii), (vi), and (viii).

7375 **§ 55.1-1805. Association charges.**

7376 Except as expressly authorized in this chapter, in the declaration, or otherwise provided by law, no
 7377 association shall (i) make an assessment or impose a charge against a lot or a lot owner unless the charge is a
 7378 fee for services provided or related to use of the common area or (ii) charge a fee related to the provisions set
 7379 out in § 55.1-1810 or 55.1-1811 that is not expressly authorized in those sections. Nothing in this chapter shall
 7380 be construed to authorize an association or common interest community manager to charge an inspection fee
 7381 for an unimproved or improved lot except as provided in § 55.1-1810 or 55.1-1811. The Common Interest
 7382 Community Board may assess a monetary penalty for a violation of this section against any (a) association
 7383 pursuant to § 54.1-2351 or (b) common interest community manager pursuant to § 54.1-2349, and may issue a
 7384 cease and desist order against the violator pursuant to § 54.1-2349 or 54.1-2352, as applicable.

7385 **§ 55.1-1806. Rental of lots.**

7386 A. Except as expressly authorized in this chapter, in the declaration, or as otherwise provided by law, no
 7387 association shall:

7388 1. Condition or prohibit the rental to a tenant of a lot by a lot owner or make an assessment or impose a
 7389 charge except as provided in § 55.1-1805;

7390 2. Charge a rental fee, application fee, or other processing fee of any kind in excess of \$50 during the term
 7391 of any lease;

7392 3. Charge an annual or monthly rental fee or any other fee not expressly authorized in § 55.1-1805;

7393 4. Require the lot owner to use a lease or an addendum to the lease prepared by the association;

7394 5. Charge any deposit from the lot owner or the tenant of the lot owner; or

7395 6. Have the authority to evict a tenant of any lot owner or to require any lot owner to execute a power of
 7396 attorney authorizing the association to evict such a tenant. However, if the lot owner designates a person
 7397 licensed under the provisions of § 54.1-2106.1 as the lot owner's authorized representative with respect to any
 7398 lease, the association shall recognize such representation without a formal power of attorney, provided that the
 7399 association is given a written authorization signed by the lot owner designating such representative.
 7400 Notwithstanding the foregoing, the requirements of § 55.1-1828 and the declaration shall be satisfied before
 7401 any such representative may exercise a vote on behalf of a lot owner as a proxy.

7402 B. The association may require the lot owner to provide the association with (i) the names and contact
 7403 information of and vehicle information for the tenants and authorized occupants under such lease and (ii) the
 7404 name and contact information of any authorized agent of the lot owner. The association may require the lot
 7405 owner to provide the association with the tenant's acknowledgment of and consent to any rules and regulations
 7406 of the association.

7407 C. The provisions of this section shall not apply to lots owned by the association.

7408 **§ 55.1-1807. Statement of lot owner rights.**

7409 Every lot owner who is a member in good standing of a property owners' association shall have the
 7410 following rights:

7411 1. The right of access to all books and records kept by or on behalf of the association according to and
 7412 subject to the provisions of § 55.1-1815, including records of all financial transactions;

7413 2. The right to cast a vote on any matter requiring a vote by the association's membership in proportion to
 7414 the lot owner's ownership interest, unless the declaration provides otherwise;

7415 3. The right to have notice of any meeting of the board of directors, to make a record of any such meeting
 7416 by audio or visual means, and to participate in any such meeting in accordance with the provisions of subsection
 7417 G of § 55.1-1815 and § 55.1-1816;

7418 4. The right to have (i) notice of any proceeding conducted by the board of directors or other tribunal
 7419 specified in the declaration against the lot owner to enforce any rule or regulation of the association and (ii)
 7420 the opportunity to be heard and represented by counsel at such proceeding, as provided in § 55.1-1819, and
 7421 the right of due process in the conduct of that hearing; and

7422 5. The right to serve on the board of directors if duly elected and a member in good standing of the
 7423 association, unless the declaration provides otherwise.

7424 The rights enumerated in this section shall be enforceable by any such lot owner pursuant to the provisions
 7425 of § 55.1-1828.

7426 Article 2.

7427 Disclosure Requirements; Authorized Fees.

7428 **§ 55.1-1808. Contract disclosure statement; right of cancellation.**

7429 A. For purposes of this article, unless the context requires a different meaning:

7430 *"Delivery" means that the disclosure packet is delivered to the purchaser or purchaser's authorized agent*
7431 *by one of the methods specified in this section.*

7432 *"Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate*
7433 *contract for purchase and sale of residential real property or other writing designating such agent.*

7434 *"Receives," "received," or "receiving" the disclosure packet means that the purchaser or purchaser's*
7435 *authorized agent has received the disclosure packet by one of the methods specified in this section.*

7436 *"Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for*
7437 *purchase and sale of residential real property or other writing designating such agent.*

7438 *B. Subject to the provisions of subsection A of § 55.1-1814, an owner selling a lot shall disclose in the*
7439 *contract that (i) the lot is located within a development that is subject to the Property Owners' Association Act*
7440 *(§ 55.1-1800 et seq.); (ii) the Property Owners' Association Act (§ 55.1-1800 et seq.) requires the seller to*
7441 *obtain from the property owners' association an association disclosure packet and provide it to the purchaser;*
7442 *(iii) the purchaser may cancel the contract within three days after receiving the association disclosure packet*
7443 *or being notified that the association disclosure packet will not be available; (iv) if the purchaser has received*
7444 *the association disclosure packet, the purchaser has a right to request an update of such disclosure packet in*
7445 *accordance with subsection H of § 55.1-1810 or subsection D of § 55.1-1811, as appropriate; and (v) the right*
7446 *to receive the association disclosure packet and the right to cancel the contract are waived conclusively if not*
7447 *exercised before settlement.*

7448 *For purposes of clause (iii), the association disclosure packet shall be deemed not to be available if (a) a*
7449 *current annual report has not been filed by the association with either the State Corporation Commission*
7450 *pursuant to § 13.1-936 or the Common Interest Community Board pursuant to § 55.1-1835, (b) the seller has*
7451 *made a written request to the association that the packet be provided and no such packet has been received*
7452 *within 14 days in accordance with subsection A of § 55.1-1809, or (c) written notice has been provided by the*
7453 *association that a packet is not available.*

7454 *C. If the contract does not contain the disclosure required by subsection B, the purchaser's sole remedy is*
7455 *to cancel the contract prior to settlement.*

7456 *D. The information contained in the association disclosure packet shall be current as of a date specified on*
7457 *the association disclosure packet prepared in accordance with this section; however, a disclosure packet update*
7458 *or financial update may be requested in accordance with subsection G of § 55.1-1810 or subsection D of §*
7459 *55.1-1811, as appropriate. The purchaser may cancel the contract (i) within three days after the date of the*
7460 *contract if, on or before the date that the purchaser signs the contract, the purchaser receives the association*
7461 *disclosure packet or is notified that the association disclosure packet will not be available; (ii) within three*
7462 *days after receiving the association disclosure packet if the association disclosure packet or notice that the*
7463 *association disclosure packet will not be available is hand delivered, delivered by electronic means, or*
7464 *delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt is*
7465 *obtained; or (iii) within six days after the postmark date if the association disclosure packet or notice that the*
7466 *association disclosure packet will not be available is sent to the purchaser by United States mail. The purchaser*
7467 *also may cancel the contract at any time prior to settlement if the purchaser has not been notified that the*
7468 *association disclosure packet will not be available and the association disclosure packet is not delivered to the*
7469 *purchaser.*

7470 *Notice of cancellation shall be provided to the lot owner or his agent by one of the following methods:*

7471 *1. Hand delivery;*

7472 *2. United States mail, postage prepaid, provided that the sender retains sufficient proof of mailing in the*
7473 *form of a certificate of service prepared by the sender confirming such mailing;*

7474 *3. Electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may*
7475 *be in the form of an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a*
7476 *certificate of service prepared by the sender confirming the electronic delivery; or*

7477 *4. Overnight delivery using a commercial service or the United States Postal Service.*

7478 *In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of*
7479 *cancellation. Such cancellation shall be without penalty, and the seller shall cause any deposit to be returned*
7480 *promptly to the purchaser.*

7481 *E. Whenever any contract is canceled based on a failure to comply with subsection B or D or pursuant to*
7482 *subsection C, any deposit or escrowed funds shall be returned within 30 days of the cancellation, unless the*
7483 *parties to the contract specify in writing a shorter period.*

7484 F. Any rights of the purchaser to cancel the contract provided by this chapter are waived if not exercised
7485 prior to settlement.

7486 G. Except as expressly provided in this chapter, the provisions of this section and § 55.1-1809 may not be
7487 varied by agreement, and the rights conferred by this section and § 55.1-1809 may not be waived.

7488 H. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's
7489 authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the
7490 disclosure packet may be made by the lot owner or the lot owner's authorized agent.

7491 I. If the lot is governed by more than one association, the purchaser's right of cancellation may be exercised
7492 within the required time frames following delivery of the last disclosure packet or resale certificate.

7493 **§ 55.1-1809. Contents of association disclosure packet; delivery of packet.**

7494 A. Within 14 days after receipt of a written request and instructions by a seller or the seller's authorized
7495 agent, the association shall deliver an association disclosure packet as directed in the written request. The
7496 information contained in the association disclosure packet shall be current as of a date specified on the
7497 association disclosure packet. If hand or electronically delivered, the written request is deemed received on the
7498 date of delivery. If sent by United States mail, the request is deemed received six days after the postmark date.
7499 An association disclosure packet shall contain the following:

7500 1. The name of the association and, if incorporated, the state in which the association is incorporated and
7501 the name and address of its registered agent in the Commonwealth;

7502 2. A statement of any expenditure of funds approved by the association or the board of directors that
7503 requires an assessment in addition to the regular assessment during the current year or the immediately
7504 succeeding fiscal year;

7505 3. A statement, including the amount of all assessments and any other mandatory fees or charges currently
7506 imposed by the association, together with any post-closing fee charged by the common interest community
7507 manager, if any, and associated with the purchase, disposition, and maintenance of the lot and to the right of
7508 use of common areas, and the status of the account;

7509 4. A statement of whether there is any other entity or facility to which the lot owner may be liable for fees
7510 or other charges;

7511 5. The current reserve study report or summary of such report, a statement of the status and amount of any
7512 reserve or replacement fund, and any portion of the fund allocated by the board of directors for a specified
7513 project;

7514 6. A copy of the association's current budget or a summary of such budget, prepared by the association,
7515 and a copy of its statement of income and expenses or statement of its financial position (balance sheet) for the
7516 last fiscal year for which such statement is available, including a statement of the balance due of any
7517 outstanding loans of the association;

7518 7. A statement of the nature and status of any pending action or unpaid judgment (i) to which the association
7519 is a party and (ii) that could or would have a material impact on the association or its members or that relates
7520 to the lot being purchased;

7521 8. A statement setting forth the insurance coverage that is provided for all lot owners by the association,
7522 including the fidelity coverage maintained by the association, and any additional insurance that is required or
7523 recommended for each lot owner;

7524 9. A statement that any improvement or alteration made to the lot, or uses made of the lot or common area
7525 assigned to such lot, is or is not in violation of the declaration, bylaws, rules and regulations, architectural
7526 guidelines, and articles of incorporation, if any, of the association;

7527 10. A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to place
7528 a sign on the owner's lot advertising the lot for sale;

7529 11. A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to display
7530 any flag on the owner's lot, including reasonable restrictions as to the size, place, and manner of placement or
7531 display of such flag and the installation of any flagpole or similar structure necessary to display such flag;

7532 12. A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to install
7533 or use solar energy collection devices on the owner's property;

7534 13. A copy of the current declaration, the association's articles of incorporation and bylaws, and any rules
7535 and regulations or architectural guidelines adopted by the association;

7536 14. A copy of any approved minutes of the board of directors and association meetings for the six calendar
7537 months preceding the request for the disclosure packet;

7538 15. A copy of the notice given to the lot owner by the association of any current or pending rule or
7539 architectural violation;

7540 16. A copy of the fully completed form developed by the Common Interest Community Board pursuant to §
7541 54.1-2350;

7542 17. Certification that the association has filed with the Common Interest Community Board the annual
7543 report required by § 55.1-1835. Such certification shall indicate the filing number assigned by the Common
7544 Interest Community Board and the expiration date of such filing; and

7545 18. A statement indicating any known project approvals currently in effect issued by secondary mortgage
7546 market agencies.

7547 B. Failure to receive copies of an association disclosure packet shall not excuse any failure to comply with
7548 the provisions of the declaration, articles of incorporation, bylaws, or rules or regulations.

7549 C. The disclosure packet shall be delivered in accordance with the written request and instructions of the
7550 seller or the seller's authorized agent, including whether the disclosure packet shall be delivered electronically
7551 or in hard copy, and shall specify the complete contact information for the parties to whom the disclosure
7552 packet shall be delivered. The disclosure packet required by this section shall not, in and of itself, be deemed a
7553 security as defined in § 13.1-501.

7554 D. The seller or the seller's authorized agent may request that the disclosure packet be provided in hard
7555 copy or in electronic form. An association or common interest community manager may provide the disclosure
7556 packet electronically; however, the seller or the seller's authorized agent shall have the right to request that
7557 the association disclosure packet be provided in hard copy. The seller or the seller's authorized agent shall
7558 continue to have the right to request a hard copy of the disclosure packet in person at the principal place of
7559 business of the association. If the seller or the seller's authorized agent requests that the disclosure packet be
7560 provided in electronic format, neither the association nor its common interest community manager may require
7561 the seller or the seller's authorized agent to pay any fees to use the provider's electronic network or system. The
7562 disclosure packet shall not be delivered in hard copy if the requester has requested delivery of such disclosure
7563 packet electronically. If the disclosure packet is provided electronically by a website link, the preparer shall
7564 not cause the website link to expire within the subsequent 90-day period. The preparer shall not charge another
7565 fee during the subsequent 12-month period, except that the preparer may charge an update fee for a financial
7566 update or for an inspection as provided in § 55.1-1810. If the seller or the seller's authorized agent asks that
7567 the disclosure packet be provided in electronic format, the seller or the seller's authorized agent may request
7568 that an electronic copy be provided to each of the following named in the request: the seller, the seller's
7569 authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person
7570 designated by the requester. If so requested, the property owners' association or its common interest community
7571 manager may require the seller or the seller's authorized agent to pay the fee specified in § 55.1-1810.
7572 Regardless of whether the disclosure packet is delivered in paper form or electronically, the preparer of the
7573 disclosure packet shall provide such disclosure packet directly to the persons designated by the requester to
7574 the addresses or, if applicable, the email addresses provided by the requester.

7575 **§ 55.1-1810. Fees for disclosure packet; professionally managed associations.**

7576 A. A professionally managed association or its common interest community manager may charge certain
7577 fees as authorized by this section for the inspection of the property, the preparation and issuance of the
7578 disclosure packet required by § 55.1-1809, and for such other services as set out in this section. The seller or
7579 the seller's authorized agent shall specify in writing whether the disclosure packet shall be delivered
7580 electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the
7581 complete contact information for the parties to whom the disclosure packet shall be delivered.

7582 B. A reasonable fee may be charged by the preparer as follows:

7583 1. For the inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration and
7584 as required to prepare the association disclosure packet, a fee not to exceed \$100;

7585 2. For the preparation and delivery of the disclosure packet in (i) paper format, a fee not to exceed \$150
7586 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125 for an electronic
7587 copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the
7588 purchaser's authorized agent, and not more than one other person designated by the requester. The preparer
7589 of the disclosure packet shall provide the disclosure packet directly to the designated persons. Only one fee
7590 shall be charged for the preparation and delivery of the disclosure packet;

7591 3. At the option of the seller or the seller's authorized agent, with the consent of the association or the
7592 common interest community manager, for expediting the inspection, preparation, and delivery of the disclosure
7593 packet, an additional expedite fee not to exceed \$50;

7594 4. At the option of the seller or the seller's authorized agent, for an additional hard copy of the disclosure
7595 packet, a fee not to exceed \$25 per hard copy;

7596 5. At the option of the seller or the seller's authorized agent, for hand delivery or overnight delivery of the
7597 overnight disclosure packet, a fee not to exceed an amount equal to the actual cost paid to a third-party
7598 commercial delivery service; and

7599 6. A post-closing fee to the purchaser of the property, collected at settlement, for the purpose of establishing
7600 the purchaser as the owner of the property in the records of the association, a fee not to exceed \$50.

7601 Except as otherwise provided in subsection E, neither the association nor its common interest community
7602 manager shall require cash, check, certified funds, or credit card payments at the time the request for the
7603 disclosure packet is made. The disclosure packet shall state that all fees and costs for the disclosure packet
7604 shall be the personal obligation of the lot owner and shall be an assessment against the lot and collectible as
7605 any other assessment in accordance with the provisions of the declaration and § 55.1-1833, if not paid at
7606 settlement or within 60 days of the delivery of the disclosure packet, whichever occurs first.

7607 For purposes of this section, an expedite fee shall be charged only if the inspection and preparation of
7608 delivery of the disclosure packet are completed within five business days of the request for a disclosure packet.

7609 C. No fees other than those specified in this section, and as limited by this section, shall be charged by the
7610 association or its common interest community manager for compliance with the duties and responsibilities of
7611 the association under this chapter. No additional fee shall be charged for access to the association's or common
7612 interest community manager's website. The association or its common interest community manager shall
7613 publish and make available in paper or electronic format, or both, a schedule of the applicable fees so the seller
7614 or the seller's authorized agent will know such fees at the time of requesting the packet.

7615 D. Any fees charged pursuant to this section shall be collected at the time of settlement on the sale of the
7616 lot and shall be due and payable out of the settlement proceeds in accordance with this section. The settlement
7617 agent shall escrow a sum sufficient to pay such costs of the seller at settlement. The seller shall be responsible
7618 for all costs associated with the preparation and delivery of the association disclosure packet, except for the
7619 costs of any disclosure packet update or financial update, which costs shall be the responsibility of the
7620 requester, payable at settlement. Neither the association nor its common interest community manager shall
7621 require cash, check, certified funds, or credit card payments at the time the request is made for the association
7622 disclosure packet.

7623 E. If settlement does not occur within 60 days of the delivery of the disclosure packet, or funds are not
7624 collected at settlement and disbursed to the association or the common interest community manager, all fees,
7625 including those costs that would have otherwise been the responsibility of the purchaser or settlement agent,
7626 shall be (i) assessed within one year after delivery of the disclosure packet against the lot owner, (ii) the
7627 personal obligation of the lot owner, and (iii) an assessment against the lot and collectible as any other
7628 assessment in accordance with the provisions of the declaration and § 55.1-1834. The seller may pay the
7629 association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the
7630 association. The association shall pay the common interest community manager the amount due from the lot
7631 owner within 30 days after invoice.

7632 F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of
7633 January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States
7634 Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor
7635 Statistics of the U.S. Department of Labor.

7636 G. If an association disclosure packet has been issued for a lot within the preceding 12-month period, a
7637 person specified in the written instructions of the seller or the seller's authorized agent, including the seller or
7638 the seller's authorized agent, or the purchaser or his authorized agent may request a disclosure packet update.
7639 The requester shall specify whether the disclosure packet update shall be delivered electronically or in hard
7640 copy and shall specify the complete contact information of the parties to whom the update shall be delivered.
7641 The disclosure packet update shall be delivered within 10 days of the written request.

7642 H. The settlement agent may request a financial update. The requester shall specify whether the financial
7643 update shall be delivered electronically or in hard copy and shall specify the complete contact information of

7644 *the parties to whom the update shall be delivered. The financial update shall be delivered within three business*
7645 *days of the written request.*

7646 *I. A reasonable fee for the disclosure packet update or financial update may be charged by the preparer*
7647 *not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request*
7648 *that the association or the common interest community manager perform an additional inspection of the*
7649 *exterior of the dwelling unit and the lot, as authorized in the declaration, for a fee not to exceed \$100. Any fees*
7650 *charged for the specified update shall be collected at the time settlement occurs on the sale of the property. The*
7651 *settlement agent shall escrow a sum sufficient to pay such costs of the seller at settlement. Neither the*
7652 *association nor its common interest community manager, if any, shall require cash, check, certified funds, or*
7653 *credit card payments at the time the request is made for the disclosure packet update. The requester may request*
7654 *that the specified update be provided in hard copy or in electronic form.*

7655 *J. No association or common interest community manager may require the requester to request the*
7656 *specified update electronically. The seller or the seller's authorized agent shall continue to have the right to*
7657 *request a hard copy of the specified update in person at the principal place of business of the association. If the*
7658 *requester asks that the specified update be provided in electronic format, neither the association nor its common*
7659 *interest community manager may require the requester to pay any fees to use the provider's electronic network*
7660 *or system. A copy of the specified update shall be provided to the seller or the seller's authorized agent.*

7661 *K. When an association disclosure packet has been delivered as required by § 55.1-1809, the association*
7662 *shall, as to the purchaser, be bound by the statements set forth in the disclosure packet as to the status of the*
7663 *assessment account and the status of the lot with respect to any violation of the declaration, bylaws, rules and*
7664 *regulations, architectural guidelines, and articles of incorporation, if any, of the association as of the date of*
7665 *the statement unless the purchaser had actual knowledge that the contents of the disclosure packet were in*
7666 *error.*

7667 *L. If the association or its common interest community manager has been requested in writing to furnish*
7668 *the association disclosure packet required by § 55.1-1809, failure to provide the association disclosure packet*
7669 *substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent*
7670 *assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines*
7671 *existing as of the date of the request with respect to the subject lot. The preparer of the association disclosure*
7672 *packet shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount*
7673 *not to exceed \$1,000. The purchaser shall nevertheless be obligated to abide by the declaration, bylaws, rules*
7674 *and regulations, and architectural guidelines of the association as to all matters arising after the date of the*
7675 *settlement of the sale.*

7676 *M. The Common Interest Community Board may assess a monetary penalty for failure to deliver the*
7677 *association disclosure packet within 14 days against any (i) property owners' association pursuant to § 54.1-*
7678 *2351 or (ii) common interest community manager pursuant to § 54.1-2349 and regulations promulgated*
7679 *thereto, and may issue a cease and desist order pursuant to § 54.1-2349 or 54.1-2352, as applicable.*

7680 *N. No association may collect fees authorized by this section unless the association (i) is registered with*
7681 *the Common Interest Community Board, (ii) is current in filing the most recent annual report with the Common*
7682 *Interest Community Board, (iii) is current in paying the annual payment to the Common Interest Community*
7683 *Board pursuant to § 55.1-1835 and any assessment made by the Common Interest Community Board pursuant*
7684 *to § 54.1-2354.5, and (iv) provides the disclosure packet electronically if so requested by the requester.*

7685 **§ 55.1-1811. Fees for disclosure packet; associations not professionally managed.**

7686 *A. An association that is not professionally managed may charge a fee for the preparation and issuance of*
7687 *the association disclosure packet required by § 55.1-1809. Any fee shall reflect the actual cost of the*
7688 *preparation of the association disclosure packet, but shall not exceed \$0.10 per page of copying costs or a total*
7689 *of \$100 for all costs incurred in preparing the association disclosure packet. The seller or his authorized agent*
7690 *shall specify whether the association disclosure packet shall be delivered electronically or in hard copy and*
7691 *shall specify the complete contact information of the parties to whom the disclosure packet shall be delivered.*
7692 *If the seller or his authorized agent specifies that delivery shall be made to the purchaser or his authorized*
7693 *agent, the preparer shall provide the disclosure packet directly to the designated persons at the same time it is*
7694 *delivered to the seller or his authorized agent. The association shall advise the requester if electronic delivery*
7695 *of the disclosure packet or the disclosure packet update or financial update is not available, if electronic*
7696 *delivery has been requested by the seller or his authorized agent.*

7697 B. At the option of the seller or the seller's authorized agent, with the consent of the association, a
7698 reasonable fee may be charged for (i) expediting the inspection, preparation, and delivery of the disclosure
7699 packet, if completed within five business days of the request, not to exceed \$50; (ii) an additional hard copy of
7700 the disclosure packet not to exceed \$25 per hard copy; and (iii) third-party commercial delivery service for
7701 hand delivery or overnight delivery of the association disclosure packet not to exceed an amount equal to the
7702 actual cost paid.

7703 C. No fees other than those specified in this section shall be charged by the association for compliance with
7704 duties and responsibilities under this section. Any fees charged pursuant to this section shall be collected at the
7705 time of delivery of the disclosure packet. If unpaid, any such fees shall be an assessment against the lot and
7706 collectible as any other assessment in accordance with the provisions of the declaration and § 55.1-1833. The
7707 seller may pay the association by cash, check, certified funds, or credit card, if credit card payment is an option
7708 offered by the association.

7709 D. If an association disclosure packet has been issued for a lot within the preceding 12-month period, a
7710 person specified in the written instructions of the seller or his authorized agent, including the seller or his
7711 authorized agent, or the purchaser or his authorized agent may request a disclosure packet update. The
7712 requester shall specify whether the disclosure packet update shall be delivered electronically or in hard copy
7713 and shall specify the complete contact information of the parties to whom the specified update shall be
7714 delivered. The disclosure packet update shall be delivered within 10 days of the written request for such
7715 disclosure packet update.

7716 E. The settlement agent may request a financial update. The requester shall specify whether the financial
7717 update shall be delivered electronically or in hard copy, and shall specify the complete contact information of
7718 the parties to whom the update shall be delivered. The financial update shall be delivered within three business
7719 days of the written request for such financial update.

7720 F. A reasonable fee for the disclosure packet update or a financial update may be charged by the preparer
7721 not to exceed \$50. At the option of the purchaser or his authorized agent, the requester may request that the
7722 association perform an additional inspection of the exterior of the dwelling unit and the lot, as authorized in
7723 the declaration, for a fee not to exceed \$50. Any fees charged for the specified update shall be collected at the
7724 time of delivery of the update. The association shall not require cash, check, certified funds, or credit card
7725 payments at the time the request is made for the disclosure packet update. The requester may request that the
7726 specified update be provided in hard copy or in electronic form.

7727 G. No association may require the requester to request the specified update electronically. The seller or
7728 his authorized agent shall continue to have the right to request a hard copy of the specified update in person at
7729 the association's principal place of business. If the requester asks that the specified update be provided in
7730 electronic format, the association shall not require the requester to pay any fees to use the provider's electronic
7731 network or system. If the requester asks that the specified update be provided in electronic format, the requester
7732 may designate no more than two additional recipients to receive the specified update in electronic format at no
7733 additional charge. A copy of the specified update shall be provided to the seller or his authorized agent.

7734 H. When a disclosure packet has been delivered as required by § 55.1-1809, the association shall, as to the
7735 purchaser, be bound by the statements set forth in the disclosure packet as to the status of the assessment
7736 account and the status of the lot with respect to any violation of the declaration, bylaws, rules and regulations,
7737 architectural guidelines, and articles of incorporation, if any, of the association as of the date of the statement
7738 unless the purchaser had actual knowledge that the contents of the disclosure packet were in error.

7739 I. If the association has been requested to furnish the association disclosure packet required by this section,
7740 failure to provide the association disclosure packet substantially in the form provided in this section shall be
7741 deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules
7742 and regulations, or architectural guidelines existing as of the date of the request with respect to the subject lot.
7743 The association shall be liable to the seller in an amount equal to the actual damages sustained by the seller in
7744 an amount not to exceed \$500. The purchaser shall nevertheless be obligated to abide by the declaration,
7745 bylaws, rules and regulations, and architectural guidelines of the association as to all matters arising after the
7746 date of the settlement of the sale.

7747 J. No association may collect fees authorized by this section unless the association (i) is registered with the
7748 Common Interest Community Board, (ii) is current in filing the most recent annual report with the Common
7749 Interest Community Board, and (iii) is current in paying the annual payment to the Common Interest

7750 Community Board pursuant to § 55.1-1835 and any assessment made by the Common Interest Community
7751 Board pursuant to § 54.1-2354.5.

7752 K. An association that is not professionally managed may charge and collect fees for inspection of the
7753 property, the preparation and issuance of an association disclosure packet, and such other services as set out
7754 in § 55.1-1810, provided that the association provides the disclosure packet electronically if so requested by
7755 the requester and otherwise complies with § 55.1-1810.

7756 **§ 55.1-1812. Properties subject to more than one declaration.**

7757 If the lot is subject to more than one declaration, the association or its common interest community manager
7758 may charge the fees authorized by § 55.1-1810 or 55.1-1811 for each of the applicable associations, provided,
7759 however, that no association shall charge inspection fees unless the association has architectural control over
7760 the lot.

7761 **§ 55.1-1813. Requests by settlement agents.**

7762 A. The settlement agent may request a financial update from the preparer of the disclosure packet. The
7763 preparer of the disclosure packet shall, upon request from the settlement agent, provide the settlement agent
7764 with written escrow instructions directing the amount of any funds to be paid from the settlement proceeds to
7765 the association or the common interest community manager. There shall be no fees charged for a response by
7766 the association or its common interest community manager to a request from the settlement agent for written
7767 escrow instructions. However, a fee may be charged for a financial update pursuant to this chapter.

7768 B. The settlement agent, when transmitting funds to the association or the common interest community
7769 manager, shall, unless otherwise directed in writing, provide the preparer of the disclosure packet with (i) the
7770 complete record name of the seller; (ii) the address of the subject lot, (iii) the complete name of the purchaser,
7771 (iv) the date of settlement, and (v) a brief explanation of the application of any funds transmitted or by providing
7772 a copy of a settlement statement, unless otherwise prohibited.

7773 **§ 55.1-1814. Exceptions to disclosure requirements.**

7774 A. The contract disclosures required by § 55.1-1808 and the association disclosure packet required by §
7775 55.1-1809 shall not be provided in the case of:

- 7776 1. A disposition of a lot by gift;
- 7777 2. A disposition of a lot pursuant to court order if the court so directs;
- 7778 3. A disposition of a lot by foreclosure or deed in lieu of foreclosure;
- 7779 4. A disposition of a lot by a sale at an auction, where the association disclosure packet was made available
7780 as part of an auction package for prospective purchasers prior to the auction sale; or
- 7781 5. A disposition of a lot to a person or entity who is not acquiring the lot for his own residence or for the
7782 construction thereon of a dwelling unit to be occupied as his own residence, unless requested by such person
7783 or entity. If such disclosures are not requested, a statement in the contract of sale that the purchaser is not
7784 acquiring the lot for such purpose shall be conclusive and may be relied upon by the seller of the lot. The person
7785 or entity acquiring the lot shall nevertheless be obligated to abide by the declaration, bylaws, rules and
7786 regulations, and architectural guidelines of the association as to all matters.

7787 B. In any transaction in which an association disclosure packet is required and a trustee acts as the seller
7788 in the sale or resale of a lot, the trustee shall obtain the association disclosure packet from the association and
7789 provide the packet to the purchaser.

7790 C. In the case of an initial disposition of a lot by the declarant, the association disclosure packet required
7791 by § 55.1-1809 need not include the information referenced in subdivisions A 2, 3, 5, or 9 of § 55.1-1809, and
7792 it shall include the information referenced in subdivision A 17 of § 55.1-1809 only if the association has filed
7793 an annual report prior to the date of such disclosure packet.

7794 Article 3.

7795 Operation and Management of Association.

7796 **§ 55.1-1815. Access to association records; association meetings; notice.**

7797 A. The association shall keep detailed records of receipts and expenditures affecting the operation and
7798 administration of the association. All financial books and records shall be kept in accordance with generally
7799 accepted accounting practices.

7800 B. Subject to the provisions of subsection C and so long as the request is for a proper purpose related to
7801 his membership in the association, all books and records kept by or on behalf of the association shall be
7802 available for examination and copying by a member in good standing or his authorized agent, including:

7803 1. The association's membership list and addresses, which shall not be used for purposes of pecuniary gain
7804 or commercial solicitation; and

7805 2. The actual salary of the six highest compensated employees of the association earning over \$75,000 and
7806 aggregate salary information of all other employees of the association; however, individual salary information
7807 shall not be available for examination and copying during the declarant control period.

7808 Notwithstanding any provision of law to the contrary, this right of examination shall exist without reference
7809 to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually
7810 convenient time and location and (ii) upon five business days' written notice for an association managed by a
7811 common interest community manager and 10 business days' written notice for a self-managed association,
7812 which notice reasonably identifies the purpose for the request and the specific books and records of the
7813 association requested.

7814 C. Books and records kept by or on behalf of an association may be withheld from inspection and copying
7815 to the extent that they concern:

7816 1. Personnel matters relating to specific, identified persons or a person's medical records;

7817 2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently
7818 in or under negotiation;

7819 3. Pending or probable litigation. For purposes of this subdivision, "probable litigation" means those
7820 instances where there has been a specific threat of litigation from a person having standing to bring legal action
7821 or the legal counsel of such person;

7822 4. Matters involving state or local administrative or other formal proceedings before a government tribunal
7823 for enforcement of the association documents or rules and regulations promulgated pursuant to § 55.1-1819;

7824 5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the
7825 attorney-client privilege or the attorney work product doctrine;

7826 6. Disclosure of information in violation of law;

7827 7. Meeting minutes or other confidential records of an executive session of the board of directors held in
7828 accordance with subsection C of § 55.1-1816;

7829 8. Documentation, correspondence, or management or board reports compiled for or on behalf of the
7830 association or the board by its agents or committees for consideration by the board in executive session; or

7831 9. Individual lot owner or member files, other than those of the requesting lot owner, including any
7832 individual lot owner's or member's files kept by or on behalf of the association.

7833 D. Books and records kept by or on behalf of an association shall be withheld from inspection and copying
7834 in their entirety only to the extent that an exclusion from disclosure under subsection C applies to the entire
7835 content of such books and records. Otherwise, only those portions of the books and records containing
7836 information subject to an exclusion under subsection C may be withheld or redacted, and all portions of the
7837 books and records that are not so excluded shall be available for examination and copying, provided that the
7838 requesting member shall be responsible to the association for paying or reimbursing the association for any
7839 reasonable costs incurred by the association in responding to the request for the books and records and review
7840 for redaction of the same.

7841 E. Prior to providing copies of any books and records to a member in good standing under this section, the
7842 association may impose and collect a charge, reflecting the reasonable costs of materials and labor, not to
7843 exceed the actual costs of such materials and labor. Charges may be imposed only in accordance with a cost
7844 schedule adopted by the board of directors in accordance with this subsection. The cost schedule shall (i)
7845 specify the charges for materials and labor, (ii) apply equally to all members in good standing, and (iii) be
7846 provided to such requesting member at the time the request is made.

7847 F. Notwithstanding the provisions of subsections B and C, all books and records of the association,
7848 including individual salary information for all employees and payments to independent contractors, shall be
7849 available for examination and copying upon request by a member of the board of directors in the discharge of
7850 his duties as a director.

7851 G. Meetings of the association shall be held in accordance with the provisions of the bylaws at least once
7852 each year after the formation of the association. The bylaws shall specify an officer or his agent who shall, at
7853 least 14 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of
7854 any other meeting, send to each member notice of the time, place, and purposes of such meeting. In the event
7855 of cancellation of any annual meeting of the association at which directors are elected, the seven-day notice of

7856 any subsequent meeting scheduled to elect such directors shall include a statement that the meeting is scheduled
7857 for the purpose of the election of directors.

7858 Notice shall be sent by United States mail to all members at the address of their respective lots unless the
7859 member has provided to such officer or his agent an address other than the address of the member's lot. Notice
7860 may instead be hand delivered by the officer or his agent, provided that the officer or his agent certifies in
7861 writing that notice was delivered to the member. Except as provided in subdivision C 7, draft minutes of the
7862 board of directors shall be open for inspection and copying (i) within 60 days from the conclusion of the meeting
7863 to which such minutes appertain or (ii) when such minutes are distributed to board members as part of an
7864 agenda package for the next meeting of the board of directors, whichever occurs first.

7865 **§ 55.1-1816. Meetings of the board of directors.**

7866 A. All meetings of the board of directors, including any subcommittee or other committee of the board of
7867 directors, where the business of the association is discussed or transacted shall be open to all members of
7868 record. The board of directors shall not use work sessions or other informal gatherings of the board of directors
7869 to circumvent the open meeting requirements of this section. Minutes of the meetings of the board of directors
7870 shall be recorded and shall be available as provided in subsection B of § 55.1-1815.

7871 B. Notice of the time, date, and place of each meeting of the board of directors or of any subcommittee or
7872 other committee of the board of directors shall be published where it is reasonably calculated to be available
7873 to a majority of the lot owners.

7874 A lot owner may make a request to be notified on a continual basis of any such meetings. Such request shall
7875 be made at least once a year in writing and include the lot owner's name, address, zip code, and any email
7876 address as appropriate. Notice of the time, date, and place shall be sent to any lot owner requesting notice (i)
7877 by first-class mail or email in the case of meetings of the board of directors or (ii) by email in the case of
7878 meetings of any subcommittee or other committee of the board of directors.

7879 Notice, reasonable under the circumstances, of special or emergency meetings shall be given
7880 contemporaneously with the notice provided to members of the association's board of directors or any
7881 subcommittee or other committee of the board of directors conducting the meeting.

7882 Unless otherwise exempt as relating to an executive session pursuant to subsection C, at least one copy of
7883 all agenda packets and materials furnished to members of an association's board of directors or subcommittee
7884 or other committee of the board of directors for a meeting shall be made available for inspection by the
7885 membership of the association at the same time such documents are furnished to the members of the board of
7886 directors or any subcommittee or committee of the board of directors.

7887 Any member may record any portion of a meeting that is required to be open. The board of directors or
7888 subcommittee or other committee of the board of directors conducting the meeting may adopt rules (a)
7889 governing the placement and use of equipment necessary for recording a meeting to prevent interference with
7890 the proceedings and (b) requiring the member recording the meeting to provide notice that the meeting is being
7891 recorded.

7892 If a meeting is conducted by telephone conference or video conference or similar electronic means, at least
7893 two members of the board of directors shall be physically present at the meeting place included in the notice.
7894 The audio equipment shall be sufficient for any member in attendance to hear what is said by any member of
7895 the board of directors participating in the meeting who is not physically present.

7896 Except for the election of officers, voting by secret or written ballot in an open meeting shall be a violation
7897 of this chapter.

7898 C. The board of directors or any subcommittee or other committee of the board of directors may (i) convene
7899 in executive session to consider personnel matters; (ii) consult with legal counsel; (iii) discuss and consider
7900 contracts, pending or probable litigation, and matters involving violations of the declaration or rules and
7901 regulations adopted pursuant to such declaration for which a member or his family members, tenants, guests,
7902 or other invitees are responsible; or (iv) discuss and consider the personal liability of members to the
7903 association, upon the affirmative vote in an open meeting to assemble in executive session. The motion shall
7904 state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the
7905 executive session shall be included in the minutes. The board of directors shall restrict the consideration of
7906 matters during such portions of meetings to only those purposes specifically exempted and stated in the motion.
7907 No contract, motion, or other action adopted, passed, or agreed to in executive session shall become effective
7908 unless the board of directors or subcommittee or other committee of the board of directors, following the
7909 executive session, reconvenes in open meeting and takes a vote on such contract, motion, or other action, which

7910 shall have its substance reasonably identified in the open meeting. The requirements of this section shall not
7911 require the disclosure of information in violation of law.

7912 D. Subject to reasonable rules adopted by the board of directors, the board of directors shall provide a
7913 designated period of time during a meeting to allow members an opportunity to comment on any matter relating
7914 to the association. During a meeting at which the agenda is limited to specific topics or at a special meeting,
7915 the board of directors may limit the comments of members to the topics listed on the meeting agenda.

7916 **§ 55.1-1817. Distribution of information by members.**

7917 The board of directors shall establish a reasonable, effective, and free method, appropriate to the size and
7918 nature of the association, for lot owners to communicate among themselves and with the board of directors
7919 regarding any matter concerning the association.

7920 **§ 55.1-1818. Common areas; notice of pesticide application.**

7921 The association shall post notice of all pesticide applications in or upon the common areas. Such notice
7922 shall consist of conspicuous signs placed in or upon the common areas where the pesticide will be applied at
7923 least 48 hours prior to the application.

7924 **§ 55.1-1819. Adoption and enforcement of rules.**

7925 A. Except as otherwise provided in this chapter, the board of directors shall have the power to establish,
7926 adopt, and enforce rules and regulations with respect to use of the common areas and with respect to such other
7927 areas of responsibility assigned to the association by the declaration, except where expressly reserved by the
7928 declaration to the members. Rules and regulations may be adopted by resolution and shall be reasonably
7929 published or distributed throughout the development. A majority of votes cast, in person or by proxy, at a
7930 meeting convened in accordance with the provisions of the association's bylaws and called for that purpose
7931 shall repeal or amend any rule or regulation adopted by the board of directors. Rules and regulations may be
7932 enforced by any method normally available to the owner of private property in Virginia, including application
7933 for injunctive relief or actual damages, during which the court may award to the prevailing party court costs
7934 and reasonable attorney fees.

7935 B. The board of directors shall also have the power, to the extent the declaration or rules and regulations
7936 duly adopted pursuant to such declaration expressly so provide, to (i) suspend a member's right to use facilities
7937 or services, including utility services, provided directly through the association for nonpayment of assessments
7938 that are more than 60 days past due, to the extent that access to the lot through the common areas is not
7939 precluded and provided that such suspension shall not endanger the health, safety, or property of any owner,
7940 tenant, or occupant, and (ii) assess charges against any member for any violation of the declaration or rules
7941 and regulations for which the member or his family members, tenants, guests, or other invitees are responsible.

7942 C. Before any action authorized in this section is taken, the member shall be given a reasonable opportunity
7943 to correct the alleged violation after written notice of the alleged violation to the member at the address
7944 required for notices of meetings pursuant to § 55.1-1815. If the violation remains uncorrected, the member
7945 shall be given an opportunity to be heard and to be represented by counsel before the board of directors or
7946 other tribunal specified in the documents.

7947 Notice of a hearing, including the actions that may be taken by the association in accordance with this
7948 section, shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the
7949 member at the address of record with the association at least 14 days prior to the hearing. Within seven days
7950 of the hearing, the hearing result shall be hand delivered or mailed by registered or certified mail, return receipt
7951 requested, to the member at the address of record with the association.

7952 D. The amount of any charges so assessed shall not be limited to the expense or damage to the association
7953 caused by the violation, but shall not exceed \$50 for a single offense or \$10 per day for any offense of a
7954 continuing nature, and shall be treated as an assessment against the member's lot for the purposes of § 55.1-
7955 1833. However, the total charges for any offense of a continuing nature shall not be assessed for a period
7956 exceeding 90 days.

7957 E. The board of directors may file or defend legal action in general district or circuit court that seeks relief,
7958 including injunctive relief arising from any violation of the declaration or duly adopted rules and regulations.

7959 F. After the date an action is filed in the general district or circuit court by (i) the association, by and
7960 through its counsel, to collect the charges or obtain injunctive relief and correct the violation or (ii) the lot
7961 owner challenging any such charges, no additional charges shall accrue. If the court rules in favor of the
7962 association, the association shall be entitled to collect such charges from the date the action was filed as well
7963 as all other charges assessed pursuant to this section against the lot owner prior to the action. In addition, if

7964 *the court finds that the violation remains uncorrected, the court may order the lot owner to abate or remedy*
7965 *the violation.*

7966 *G. In any action filed in general district court pursuant to this section, the court may enter default judgment*
7967 *against the lot owner on the association's sworn affidavit.*

7968 **§ 55.1-1820. Display of the flag of the United States; necessary supporting structures; affirmative**
7969 **defense.**

7970 *A. In accordance with the federal Freedom to Display the American Flag Act of 2005 (P.L. 109-243), no*
7971 *association shall prohibit any lot owner from displaying upon property to which the lot owner has a separate*
7972 *ownership interest or a right to exclusive possession or use the flag of the United States whenever such display*
7973 *is in compliance with Chapter 1 of Title 4 of the United States Code (4 U.S.C. § 1 et seq.), or any rule or custom*
7974 *pertaining to the proper display of the flag. The association may, however, establish reasonable restrictions as*
7975 *to the size, place, duration, and manner of placement or display of the flag on such property, provided that such*
7976 *restrictions are necessary to protect a substantial interest of the association.*

7977 *B. The association may restrict the display of such flag in the common areas.*

7978 *C. In any action brought by the association under § 55.1-1819 for violation of a flag restriction, the*
7979 *association shall bear the burden of proof that the restrictions as to the size, place, duration, and manner of*
7980 *placement or display of such flag are necessary to protect a substantial interest of the association.*

7981 *D. In any action brought by the association under § 55.1-1819, the lot owner shall be entitled to assert as*
7982 *an affirmative defense that the required disclosure of any limitations pertaining to the display of flags or any*
7983 *flagpole or similar structure necessary to display such flags was not contained in the disclosure packet required*
7984 *pursuant to § 55.1-1809.*

7985 **§ 55.1-1821. Home-based businesses permitted; compliance with local ordinances.**

7986 *Except to the extent that the declaration provides otherwise, no association shall prohibit any lot owner*
7987 *from operating a home-based business within his personal residence. The association may, however, establish*
7988 *(i) reasonable restrictions as to the time, place, and manner of the operation of a home-based business and (ii)*
7989 *reasonable restrictions as to the size, place, duration, and manner of the placement or display of any signs on*
7990 *the owner's lot related to such home-based business. Any home-based business shall comply with all applicable*
7991 *local ordinances.*

7992 **§ 55.1-1822. Use of for sale signs in connection with sale.**

7993 *Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no*
7994 *property owners' association shall require the use of any for sale sign that is (i) an association sign or (ii) a*
7995 *real estate sign that does not comply with the requirements of the Virginia Real Estate Board. An association*
7996 *may, however, prohibit the placement of signs in the common area and establish reasonable rules and*
7997 *regulations that regulate (a) the number of real estate signs to be located on real property upon which the*
7998 *owner has a separate ownership interest or a right of exclusive possession, so long as at least one real estate*
7999 *sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a*
8000 *separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs*
8001 *complies with the requirements of the Virginia Real Estate Board; (c) the manner in which real estate signs are*
8002 *affixed to real property; and (d) the period of time after settlement when the real estate signs on such real*
8003 *property shall be removed.*

8004 **§ 55.1-1823. Designation of authorized representative.**

8005 *Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no*
8006 *property owners' association shall require any lot owner to execute a formal power of attorney if the lot owner*
8007 *designates a person licensed under the provisions of § 54.1-2106.1 as the lot owner's authorized representative,*
8008 *and the association shall recognize such representation without a formal power of attorney, provided that the*
8009 *association is given a written authorization signed by the lot owner designating such representative.*
8010 *Notwithstanding the foregoing, the requirements of § 13.1-849 of the Virginia Nonstock Corporation Act (§*
8011 *13.1-801 et seq.) and the association's declaration, bylaws, and articles of incorporation shall be satisfied*
8012 *before any such representative may exercise a vote on behalf of a lot owner as a proxy.*

8013 **§ 55.1-1824. Assessments; late fees.**

8014 *Except to the extent that the declaration or any rules or regulations promulgated pursuant to such*
8015 *declaration provide otherwise, the board may impose a late fee that does not exceed the penalty provided in §*
8016 *58.1-3915 for any assessment or installment that is not paid within 60 days of the due date for payment of such*
8017 *assessment.*

8018 **§ 55.1-1825. Authority to levy special assessments.**

8019 A. In addition to all other assessments that are authorized in the declaration, the board of directors shall
8020 have the power to levy a special assessment against its members if (i) the purpose in so doing is found by the
8021 board to be in the best interests of the association and (ii) the proceeds of the assessment are used primarily
8022 for the maintenance and upkeep of the common area and such other areas of association responsibility
8023 expressly provided for in the declaration, including capital expenditures. A majority of votes cast, in person or
8024 by proxy, at a meeting of the membership convened in accordance with the provisions of the association's
8025 bylaws within 60 days of promulgation of the notice of the assessment shall rescind or reduce the special
8026 assessment. No director or officer of the association shall be liable for failure to perform his fiduciary duty if
8027 a special assessment for the funds necessary for the director or officer to perform his fiduciary duty is rescinded
8028 by the owners pursuant to this section, and the association shall indemnify such director or officer against any
8029 damage resulting from any such claimed breach of fiduciary duty.

8030 B. The failure of a member to pay the special assessment allowed by subsection A shall entitle the
8031 association to the lien provided by § 55.1-1833 as well as any other rights afforded a creditor under law.

8032 C. The failure of a member to pay the special assessment allowed by subsection A will provide the
8033 association with the right to deny the member access to any or all of the common areas. However, the member
8034 shall not be denied direct access to the member's lot over any road within the development that is a common
8035 area.

8036 **§ 55.1-1826. Reserves for capital components.**

8037 A. Except to the extent otherwise provided in the declaration and unless the declaration imposes more
8038 stringent requirements, the board of directors shall:

8039 1. Conduct at least once every five years a study to determine the necessity and amount of reserves required
8040 to repair, replace, and restore the capital components;

8041 2. Review the results of that study at least annually to determine if reserves are sufficient; and

8042 3. Make any adjustments the board of directors deems necessary to maintain reserves, as appropriate.

8043 B. To the extent that the reserve study conducted in accordance with this section indicates a need to budget
8044 for reserves, the association budget shall include:

8045 1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital
8046 components;

8047 2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated
8048 cash reserves set aside to repair, replace, or restore capital components and the amount of the expected
8049 contribution to the reserve fund for that year; and

8050 3. A general statement describing the procedures used for the estimation and accumulation of cash reserves
8051 pursuant to this section and the extent to which the association is funding its reserve obligations consistent with
8052 the study currently in effect.

8053 **§ 55.1-1827. Deposit of funds; fidelity bond.**

8054 A. All funds deposited with a managing agent shall be handled in a fiduciary capacity and shall be kept in
8055 a fiduciary trust account in a federally insured financial institution separate from other assets of the managing
8056 agent. The funds shall be the property of the association and shall be segregated for each account in the
8057 managing agent's records in a manner that permits the funds to be identified on an individual association basis.

8058 B. Any association collecting assessments for common expenses shall obtain and maintain a blanket fidelity
8059 bond or employee dishonesty insurance policy insuring the association against losses resulting from theft or
8060 dishonesty committed by the officers, directors, or persons employed by the association or committed by any
8061 managing agent or employees of the managing agent. Such bond or insurance policy shall provide coverage in
8062 an amount equal to the lesser of \$1 million or the amount of the reserve balances of the association plus one-
8063 fourth of the aggregate annual assessment income of such association. The minimum coverage amount shall be
8064 \$10,000. The board of directors or managing agent may obtain such bond or insurance on behalf of the
8065 association.

8066 **§ 55.1-1828. Compliance with declaration.**

8067 A. Every lot owner, and all those entitled to occupy a lot, shall comply with all lawful provisions of this
8068 chapter and all provisions of the declaration. Any lack of such compliance shall be grounds for an action to
8069 recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity,
8070 maintainable by the association or by its board of directors or any managing agent on behalf of such association
8071 or, in any proper case, by one or more aggrieved lot owners on their own behalf or as a class action. Except

8072 as provided in subsection B, the prevailing party shall be entitled to recover reasonable attorney fees, costs
 8073 expended in the matter, and interest on the judgment as provided in § 8.01-382. This section shall not preclude
 8074 an action against the association and authorizes the recovery by the prevailing party in any such action of
 8075 reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in § 8.01-382
 8076 in such actions.

8077 B. In actions against a lot owner for nonpayment of assessments in which the lot owner has failed to pay
 8078 assessments levied by the association on more than one lot or in which such lot owner has had legal actions
 8079 taken against him for nonpayment of any prior assessment, and the prevailing party is the association or its
 8080 board of directors or any managing agent on behalf of the association, the prevailing party shall be awarded
 8081 reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in subsection
 8082 A, even if the proceeding is settled prior to judgment. The delinquent owner shall be personally responsible for
 8083 reasonable attorney fees and costs expended in the matter by the association, whether any judicial proceedings
 8084 are filed.

8085 C. A declaration may provide for arbitration of disputes or other means of alternative dispute resolution.
 8086 Any such arbitration held in accordance with this subsection shall be consistent with the provisions of this
 8087 chapter and Chapter 21 (§ 8.01-577 et seq.) of Title 8.01. The place of any such arbitration or alternative
 8088 dispute resolution shall be in the county or city in which the development is located, or as mutually agreed to
 8089 by the parties.

8090 **§ 55.1-1829. Amendment to declaration and bylaws; consent of mortgagee.**

8091 A. In the event that any provision in the declaration requires the written consent of a mortgagee in order
 8092 to amend the bylaws or the declaration, the association shall be deemed to have received the written consent
 8093 of a mortgagee if the association sends the text of the proposed amendment by certified mail, return receipt
 8094 requested, or by regular mail with proof of mailing to the mortgagee at the address supplied by such mortgagee
 8095 in a written request to the association to receive notice of proposed amendments to the declaration and receives
 8096 no written objection to the adoption of the amendment from the mortgagee within 60 days of the date that the
 8097 notice of amendment is sent by the association, unless the declaration expressly provides otherwise. If the
 8098 mortgagee has not supplied an address to the association, the association shall be deemed to have received the
 8099 written consent of a mortgagee if the association sends the text of the proposed amendment by certified mail,
 8100 return receipt requested, to the mortgagee at the address filed in the land records or with the local tax assessor's
 8101 office and receives no written objection to the adoption of the amendment from the mortgagee within 60 days
 8102 of the date that the notice of amendment is sent by the association, unless the declaration expressly provides
 8103 otherwise.

8104 B. Subsection A shall not apply to amendments that alter the priority of the lien of the mortgagee or that
 8105 materially impair or affect a lot as collateral or the right of the mortgagee to foreclose on a lot as collateral.

8106 C. Where the declaration is silent on the need for mortgagee consent, no mortgagee consent shall be
 8107 required if the amendment to the declaration does not specifically affect mortgagee rights.

8108 D. Except as otherwise provided in the declaration, a declaration may be amended by a two-thirds vote of
 8109 the lot owners.

8110 E. An action to challenge the validity of an amendment adopted by the association may not be brought more
 8111 than one year after the amendment is effective.

8112 F. Agreement of the required majority of lot owners to any amendment of the declaration adopted pursuant
 8113 to subsection D shall be evidenced by their execution of the amendment, or ratifications of such amendment,
 8114 and the same shall become effective when a copy of the amendment is recorded together with a certification,
 8115 signed by the principal officer of the association or by such other officer or officers as the declaration may
 8116 specify, that the requisite majority of the lot owners signed the amendment or ratifications of such amendment.

8117 G. Subsections D and F shall not be construed to affect the validity of any amendment recorded prior to
 8118 July 1, 2017.

8119 **§ 55.1-1830. Validity of declaration; corrective amendments.**

8120 A. All provisions of a declaration shall be deemed severable, and any unlawful provision of the declaration
 8121 shall be void.

8122 B. No provision of a declaration shall be deemed void by reason of the rule against perpetuities.

8123 C. No restraint on alienation shall discriminate or be used to discriminate on any basis prohibited under
 8124 the Virginia Fair Housing Law (§ 36-96.1 et seq.).

8125 *D. Subject to the provisions of subsection C, the rule of property law known as the rule restricting*
 8126 *unreasonable restraints on alienation shall not be applied to defeat any provision of a declaration restraining*
 8127 *the alienation of lots other than such lots as may be restricted to residential use only.*

8128 *E. The rule of property law known as the doctrine of merger shall not apply to any easement included in or*
 8129 *granted pursuant to a right reserved in a declaration.*

8130 *F. The declarant may unilaterally execute and record a corrective amendment or supplement to the*
 8131 *declaration to correct a mathematical mistake, an inconsistency, or a scrivener's error or clarify an ambiguity*
 8132 *in the declaration with respect to an objectively verifiable fact, including recalculating the liability for*
 8133 *assessments or the number of votes in the association appertaining to a lot, within five years after the*
 8134 *recordation of the declaration containing or creating such mistake, inconsistency, error, or ambiguity. No such*
 8135 *amendment or supplement may materially reduce what the obligations of the declarant would have been if the*
 8136 *mistake, inconsistency, error, or ambiguity had not occurred. Regardless of the date of recordation of the*
 8137 *declaration, the principal officer of the association may also unilaterally execute and record such a corrective*
 8138 *amendment or supplement upon a vote of two-thirds of the members of the board of directors. All corrective*
 8139 *amendments and supplements recorded prior to July 1, 1997, are hereby validated to the extent that such*
 8140 *corrective amendments and supplements would have been permitted by this subsection.*

8141 **§ 55.1-1831. Reformation of declaration; judicial procedure.**

8142 *A. An association may petition the circuit court in the county or city in which the development or the greater*
 8143 *part of the development is located to reform a declaration where the association, acting through its board of*
 8144 *directors, has attempted to amend the declaration regarding ownership of legal title of the common areas or*
 8145 *real property using provisions outlined in such declaration to resolve (i) ambiguities or inconsistencies in the*
 8146 *declaration that are the source of legal and other disputes pertaining to the legal rights and responsibilities of*
 8147 *the association or individual lot owners or (ii) scrivener's errors, including incorrectly identifying the*
 8148 *association, incorrectly identifying an entity other than the association, or errors arising from oversight or*
 8149 *from an inadvertent omission or mathematical mistake.*

8150 *B. The court shall have jurisdiction over matters set forth in subsection A regarding ownership of legal title*
 8151 *of the common areas or real property to:*

8152 *1. Reform, in whole or in part, any provision of a declaration; and*

8153 *2. Correct any mistake or other error in the declaration that may exist with respect to the declaration for*
 8154 *any other purpose.*

8155 *C. A petition filed by the association with the court setting forth any inconsistency or error made in the*
 8156 *declaration, or the necessity for any change in the declaration, shall be deemed sufficient basis for the*
 8157 *reformation, in whole or in part, of the declaration, provided that:*

8158 *1. The association has made three good faith attempts to convene a duly called meeting of the association*
 8159 *to present for consideration amendments to the declaration for the reasons specified in subsection A, which*
 8160 *attempts have proven unsuccessful as evidenced by an affidavit verified by oath of the principal officer of the*
 8161 *association;*

8162 *2. There is no adequate remedy at law as practical and effective to attain the ends of justice as may be*
 8163 *accomplished in the circuit court;*

8164 *3. Where the declarant of the development still owns a lot or other property in the development, the*
 8165 *declarant joins in the petition of the association;*

8166 *4. A copy of the petition is sent to all owners at least 30 days before the petition is filed as evidenced by an*
 8167 *affidavit verified by oath of the principal officer of the association; and*

8168 *5. A copy of the petition is sent to all mortgagees at least 30 days before the petition is filed as evidenced*
 8169 *by an affidavit verified by oath of the principal officer of the association.*

8170 *D. Any mortgagee of a lot in the development shall have standing to participate in the reformation*
 8171 *proceedings before the court. No reformation pursuant to this section shall affect mortgagee rights, alter the*
 8172 *priority of the lien of any mortgage, materially impair or affect any lot as collateral for a mortgage, or affect a*
 8173 *mortgagee's right to foreclose on a lot as collateral without the prior written consent of the mortgagee. Consent*
 8174 *of a mortgagee required by this section may be deemed received pursuant to § 55.1-1829.*

8175 **§ 55.1-1832. Use of technology.**

8176 *A. Unless the declaration expressly provides otherwise, (i) any notice required to be sent or received or (ii)*
 8177 *any signature, vote, consent, or approval required to be obtained under any declaration or bylaw provision or*
 8178 *any provision of this chapter may be accomplished using electronic means.*

8179 *B. The association, the lot owners, and those entitled to occupy a lot may perform any obligation or exercise*
 8180 *any right under any declaration or bylaw provision or any provision of this chapter by use of electronic means.*

8181 *C. An electronic signature meeting the requirements of applicable law shall satisfy any requirement for a*
 8182 *signature under any declaration or bylaw provision or any provision of this chapter.*

8183 *D. Voting on, consent to, and approval of any matter under any declaration or bylaw provision or any*
 8184 *provision of this chapter may be accomplished by electronic means, provided that a record is created as*
 8185 *evidence of such vote, consent, or approval and maintained as long as such record would be required to be*
 8186 *maintained in nonelectronic form.*

8187 *E. Subject to other provisions of law, no action required or permitted by any declaration or bylaw provision*
 8188 *or any provision of this chapter need be acknowledged before a notary public if the identity and signature of*
 8189 *such person can otherwise be authenticated to the satisfaction of the executive board.*

8190 *F. If any person does not have the capability or desire to conduct business using electronic means, the*
 8191 *association shall make reasonable accommodation, at its expense, for such person to conduct business with the*
 8192 *association without use of such electronic means.*

8193 *G. This section shall not apply to any notice related to an enforcement action by the association, an*
 8194 *assessment lien, or foreclosure proceedings in enforcement of an assessment lien.*

8195 **§ 55.1-1833. Lien for assessments.**

8196 *A. The association shall have a lien, once perfected, on every lot for unpaid assessments levied against that*
 8197 *lot in accordance with the provisions of this chapter and all lawful provisions of the declaration. The lien, once*
 8198 *perfected, shall be prior to all other subsequent liens and encumbrances except (i) real estate tax liens on that*
 8199 *lot, (ii) liens and encumbrances recorded prior to the recordation of the declaration, and (iii) sums unpaid on*
 8200 *and owing under any mortgage or deed of trust recorded prior to the perfection of such lien. The provisions of*
 8201 *this subsection shall not affect the priority of mechanics' and materialmen's liens. Notice of a memorandum of*
 8202 *lien to a holder of a credit line deed of trust under § 55.1-318 shall be given in the same fashion as if the*
 8203 *association's lien were a judgment.*

8204 *B. The association, in order to perfect the lien given by this section, shall file, before the expiration of 12*
 8205 *months from the time the first such assessment became due and payable in the clerk's office of the circuit court*
 8206 *in the county or city in which such development is situated, a memorandum, verified by the oath of the principal*
 8207 *officer of the association or such other officer or officers as the declaration may specify, which contains the*
 8208 *following:*

- 8209 1. *The name of the development;*
- 8210 2. *A description of the lot;*
- 8211 3. *The name or names of the persons constituting the owners of that lot;*
- 8212 4. *The amount of unpaid assessments currently due or past due relative to such lot together with the date*
 8213 *when each fell due;*
- 8214 5. *The date of issuance of the memorandum;*
- 8215 6. *The name of the association and the name and current address of the person to contact to arrange for*
 8216 *payment or release of the lien; and*
- 8217 7. *A statement that the association is obtaining a lien in accordance with the provisions of the Property*
 8218 *Owners' Association Act as set forth in Chapter 18 (§ 55.1-1800 et seq.) of Title 55.1.*

8219 *It shall be the duty of the clerk in whose office such memorandum is filed as provided in this section to*
 8220 *record and index the same as provided in subsection D, in the names of the persons identified in such*
 8221 *memorandum as well as in the name of the association. The cost of recording and releasing the memorandum*
 8222 *shall be taxed against the person found liable in any judgment or order enforcing such lien.*

8223 *C. Prior to filing a memorandum of lien, a written notice shall be sent to the property owner by certified*
 8224 *mail, at the property owner's last known address, informing the property owner that a memorandum of lien will*
 8225 *be filed in the circuit court clerk's office of the applicable county or city. The notice shall be sent at least 10*
 8226 *days before the actual filing date of the memorandum of lien.*

8227 *D. Notwithstanding any other provision of this section or any other provision of law requiring documents*
 8228 *to be recorded in the miscellaneous lien books or the deed books in the clerk's office of any court, on or after*
 8229 *July 1, 1989, all memoranda of liens arising under this section shall be recorded in the deed books in the clerk's*
 8230 *office. Any memorandum shall be indexed in the general index to deeds, and the general index shall identify the*
 8231 *lien as a lien for lot assessments.*

8232 *E. No action to enforce any lien perfected under subsection B shall be brought or action to foreclose any*
8233 *lien perfected under subsection I shall be initiated after 36 months from the time when the memorandum of lien*
8234 *was recorded; however, the filing of a petition to enforce any such lien in any action in which the petition may*
8235 *be properly filed shall be regarded as the institution of an action under this section. Nothing in this subsection*
8236 *shall extend the time within which any such lien may be perfected.*

8237 *F. The judgment or order in an action brought pursuant to this section shall include reimbursement for*
8238 *costs and reasonable attorney fees of the prevailing party. If the association prevails, it may also recover*
8239 *interest at the legal rate for the sums secured by the lien from the time each such sum became due and payable.*

8240 *G. When payment or satisfaction is made of a debt secured by the lien perfected by subsection B, the lien*
8241 *shall be released in accordance with the provisions of § 55.1-339. Any lien that is not so released shall subject*
8242 *the lien creditor to the penalty set forth in subdivision B 1 of § 55.1-339. For the purposes of § 55.1-339, the*
8243 *principal officer of the association, or any other officer or officers as the declaration may specify, shall be*
8244 *deemed the duly authorized agent of the lien creditor.*

8245 *H. Nothing in this section shall be construed to prohibit actions at law to recover sums for which subsection*
8246 *A creates a lien, maintainable pursuant to § 55.1-1828.*

8247 *I. At any time after perfecting the lien pursuant to this section, the property owners' association may sell*
8248 *the lot at public sale, subject to prior liens. For purposes of this section, the association shall have the power*
8249 *both to sell and convey the lot and shall be deemed the lot owner's statutory agent for the purpose of transferring*
8250 *title to the lot. A nonjudicial foreclosure sale shall be conducted in compliance with the following:*

8251 *1. The association shall give notice to the lot owner prior to advertisement required by subdivision 4. The*
8252 *notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the debt secured*
8253 *by the perfected lien; (iii) the date, not less than 60 days from the date the notice is given to the lot owner, by*
8254 *which the debt secured by the lien must be satisfied; and (iv) that failure to satisfy the debt secured by the lien*
8255 *on or before the date specified in the notice may result in the sale of the lot. The notice shall further inform the*
8256 *lot owner of the right to bring a court action in the circuit court of the county or city where the lot is located to*
8257 *assert the nonexistence of a debt or any other defense of the lot owner to the sale.*

8258 *2. After expiration of the 60-day notice period specified in subdivision 1, the association may appoint a*
8259 *trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the circuit court*
8260 *in the county or city in which such development is situated. It shall be the duty of the clerk in whose office such*
8261 *appointment is filed to record and index the same as provided in subsection D, in the names of the persons*
8262 *identified in such appointment as well as in the name of the association. The association, at its option, may*
8263 *from time to time remove the trustee and appoint a successor trustee.*

8264 *3. If the lot owner meets the conditions specified in this subdivision prior to the date of the foreclosure sale,*
8265 *the lot owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the*
8266 *lot. Those conditions are that the lot owner (i) satisfy the debt secured by lien that is the subject of the*
8267 *nonjudicial foreclosure sale and (ii) pay all expenses and costs incurred in perfecting and enforcing the lien,*
8268 *including advertising costs and reasonable attorney fees.*

8269 *4. In addition to the advertisement required by subdivision 5, the association shall give written notice of*
8270 *the time, date, and place of any proposed sale in execution of the lien, including the name, address, and*
8271 *telephone number of the trustee, by hand delivery or by mail to (i) the present owner of the property to be sold*
8272 *at his last known address as such owner and address appear in the records of the association, (ii) any lienholder*
8273 *who holds a note against the property secured by a deed of trust recorded at least 30 days prior to the proposed*
8274 *sale and whose address is recorded with the deed of trust, and (iii) any assignee of such a note secured by a*
8275 *deed of trust, provided that the assignment and address of the assignee are likewise recorded at least 30 days*
8276 *prior to the proposed sale. Mailing a copy of the advertisement or the notice containing the same information*
8277 *to the owner by certified or registered mail no less than 14 days prior to such sale and to lienholders and their*
8278 *assigns, at the addresses noted in the memorandum of lien, by United States mail, postage prepaid, no less than*
8279 *14 days prior to such sale, shall be a sufficient compliance with the requirement of notice.*

8280 *5. The advertisement of sale by the association shall be in a newspaper having a general circulation in the*
8281 *county or city in which the property to be sold, or any portion of such property, is located pursuant to the*
8282 *following provisions:*

8283 *a. The association shall advertise once a week for four successive weeks; however, if the property or some*
8284 *portion of such property is located in a city or in a county immediately contiguous to a city, publication of the*
8285 *advertisement on five different days, which may be consecutive days, shall be deemed adequate. The sale shall*

8286 *be held on any day following the day of the last advertisement that is no earlier than eight days following the*
8287 *first advertisement nor more than 30 days following the last advertisement.*

8288 *b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where*
8289 *the type of property being sold is generally advertised for sale. The advertisement of sale, in addition to such*
8290 *other matters as the association finds appropriate, shall set forth a description of the property to be sold, which*
8291 *description need not be as extensive as that contained in the deed of trust but shall identify the property by*
8292 *street address, if any, or, if none, shall give the general location of the property with reference to streets, routes,*
8293 *or known landmarks. Where available, tax map identification may be used but is not required. The*
8294 *advertisement shall also include the date, time, place, and terms of sale and the name of the association. It shall*
8295 *set forth the name, address, and telephone number of the representative, agent, or attorney who may be able to*
8296 *respond to inquiries concerning the sale.*

8297 *c. In addition to the advertisement required by subdivisions a and b, the association may further advertise*
8298 *as the association finds appropriate.*

8299 *6. In the event of postponement of sale, which postponement shall be at the discretion of the association,*
8300 *advertisement of such postponed sale shall be in the same manner as the original advertisement of sale.*

8301 *7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition,*
8302 *render a sale of the property voidable by the court.*

8303 *8. The association shall have the following powers and duties upon a sale:*

8304 *a. Written one-price bids may be made and shall be received by the trustee from the association or any*
8305 *person for entry by announcement at the sale. Any person other than the trustee may bid at the foreclosure sale,*
8306 *including a person who has submitted a written one-price bid. Upon request to the trustee, any other bidder in*
8307 *attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise provided in the*
8308 *declaration, the association may bid to purchase the lot at a foreclosure sale. The association may own, lease,*
8309 *encumber, exchange, sell, or convey the lot. Whenever the written bid of the association is the highest bid*
8310 *submitted at the sale, such written bid shall be filed by the trustee with his account of sale required under*
8311 *subdivision I 10 and § 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the*
8312 *association, its agent, or its attorney.*

8313 *b. The association may require any bidder at any sale to post a cash deposit of as much as 10 percent of*
8314 *the sale price before his bid is received, which shall be refunded to him if the property is not sold to him. The*
8315 *deposit of the successful bidder shall be applied to his credit at settlement, or, if such bidder fails to complete*
8316 *his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale, and the balance,*
8317 *if any, shall be retained by the association in connection with that sale.*

8318 *c. The property owners' association shall receive and receipt for the proceeds of sale, no purchaser being*
8319 *required to see to the application of the proceeds, and apply the same in the following order: first, to the*
8320 *reasonable expenses of sale, including attorney fees; second, to the satisfaction of all taxes, levies, and*
8321 *assessments, with costs and interest; third, to the satisfaction of the lien for the owners' assessments; fourth, to*
8322 *the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay the residue*
8323 *of the proceeds to the owner or his assigns, provided, however, that, as to the payment of such residue, the*
8324 *association shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the*
8325 *owner's equity, without actual notice thereof prior to distribution.*

8326 *9. The trustee shall deliver to the purchaser a trustee's deed conveying the lot with special warranty of title.*
8327 *The trustee shall not be required to take possession of the property prior to the sale of such property or to*
8328 *deliver possession of the lot to the purchaser at the sale.*

8329 *10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to § 64.2-*
8330 *1309, and every account of a sale shall be recorded pursuant to § 64.2-1310. In addition, the accounting shall*
8331 *be made available for inspection and copying pursuant to § 55.1-1815 upon the written request of the prior lot*
8332 *owner, the current lot owner, or any holder of a recorded lien against the lot at the time of the sale. The*
8333 *association shall maintain a copy of the accounting for at least 12 months following the foreclosure sale.*

8334 *11. If the sale of a lot is made pursuant to subsection I and the accounting is made by the trustee, the title*
8335 *of the purchaser at such sale shall not be disturbed unless within 12 months from the confirmation of the*
8336 *accounting by the commissioner of accounts the sale is set aside by the court or an appeal is allowed by the*
8337 *Supreme Court of Virginia and an order is entered requiring such sale to be set aside.*

8338 **§ 55.1-1834. Notice of sale under deed of trust.**

8339 *In accordance with the provisions of § 15.2-979, the association shall be given notice whenever a lot*
 8340 *becomes subject to a sale under a deed of trust. Upon receipt of such notice, the board of directors, on behalf*
 8341 *of the association, shall exercise whatever due diligence it deems necessary with respect to the lot subject to a*
 8342 *sale under a deed of trust to protect the interests of the association.*

8343 **§ 55.1-1835. Annual report by association.**

8344 *A. The association shall file an annual report in a form and at such time as prescribed by regulations of*
 8345 *the Common Interest Community Board. The annual report shall be accompanied by a fixed fee in an amount*
 8346 *established by the Board.*

8347 *B. The association shall also remit to the agency an annual payment as follows:*

8348 *1. The lesser of:*

8349 *a. \$1,000 or such other amount as established by agency regulation; or*

8350 *b. Five hundredths of one percent (0.05%) of the association's gross assessment income during the*
 8351 *preceding year.*

8352 *2. For the purposes of subdivision 1 b, no minimum payment shall be less than \$10.*

8353 *C. The annual payment shall be remitted to the State Treasurer and shall be credited to the Common Interest*
 8354 *Community Management Information Fund established pursuant to § 54.1-2354.2.*

8355 **§ 55.1-1836. Condemnation of common area; procedure.**

8356 *When any portion of the common area is taken or damaged under the power of eminent domain, any award*
 8357 *or payment for such portion shall be paid to the association, which shall be a party in interest in the*
 8358 *condemnation proceeding. The common area that is affected shall be valued on the basis of the common area's*
 8359 *highest and best use as though it were free from restriction to sole use as a common area.*

8360 *Except to the extent that the declaration or any rules and regulations duly adopted pursuant to such*
 8361 *declaration otherwise provide, the board of directors shall have the authority to negotiate with the condemning*
 8362 *authority, agree to an award or payment amount with the condemning authority without instituting*
 8363 *condemnation proceedings, and, upon such agreement, convey the subject common area to the condemning*
 8364 *authority. Thereafter, the president of the association may unilaterally execute and record the deed of*
 8365 *conveyance to the condemning authority.*

8366 *A member of the association, by virtue of his membership, shall be estopped from contesting the action of*
 8367 *the association in any proceeding held pursuant to this section.*

8368 CHAPTER 19.

8369 VIRGINIA CONDOMINIUM ACT.

8370 Article 1.

8371 General Provisions.

8372 **§ 55.1-1900. Definitions.**

8373 *As used in this chapter, unless the context requires a different meaning:*

8374 *"Capital components" means those items, whether or not a part of the common elements, for which the unit*
 8375 *owners' association has the obligation for repair, replacement, or restoration and for which the executive board*
 8376 *determines funding is necessary.*

8377 *"Common elements" means all portions of the condominium other than the units.*

8378 *"Common expenses" means all expenditures lawfully made or incurred by or on behalf of the unit owners'*
 8379 *association, together with all funds lawfully assessed for the creation or maintenance of reserves pursuant to*
 8380 *the provisions of the condominium instruments.*

8381 *"Common interest community manager" means the same as that term is defined in § 54.1-2345.*

8382 *"Condominium" means real property, and any incidents to or interests in such real property, lawfully*
 8383 *subject to this chapter by the recordation of condominium instruments pursuant to the provisions of this chapter.*
 8384 *No project shall be deemed a condominium within the meaning of this chapter unless the undivided interests in*
 8385 *the common elements are vested in the unit owners.*

8386 *"Condominium instruments" means, collectively, the declaration, bylaws, and plats and plans recorded*
 8387 *pursuant to the provisions of this chapter. Any exhibit, schedule, or certification recorded with a condominium*
 8388 *instrument shall be deemed an integral part of that condominium instrument. Once recorded, any amendment*
 8389 *or certification of any condominium instrument shall be deemed an integral part of the affected condominium*
 8390 *instrument if such amendment or certification was made in accordance with the provisions of this chapter.*

8391 *"Condominium unit" means a unit together with the undivided interest in the common elements*
 8392 *appertaining to that unit.*

8393 *"Contractable condominium" means a condominium from which one or more portions of the submitted land*
8394 *may be withdrawn in accordance with the provisions of the declaration and of this chapter. If such withdrawal*
8395 *can occur only by the expiration or termination of one or more leases, then the condominium shall not be*
8396 *deemed a contractable condominium.*

8397 *"Conversion condominium" means a condominium containing structures that before the recording of the*
8398 *declaration were wholly or partially occupied by persons other than those who have contracted for the purchase*
8399 *of condominium units and those who occupy with the consent of such purchasers.*

8400 *"Convertible land" means a portion of the common elements within which additional units or limited*
8401 *common elements may be created in accordance with the provisions of this chapter.*

8402 *"Convertible space" means a portion of a structure within the condominium that a declarant may convert*
8403 *into one or more units or common elements, including limited common elements, in accordance with the*
8404 *provisions of the declaration and this chapter.*

8405 *"Declarant" means any person, or group of persons acting in concert, that (i) offers to dispose of its interest*
8406 *in a condominium unit not previously disposed of, including an institutional lender that may not have succeeded*
8407 *to or accepted any special declarant rights pursuant to § 55.1-1947; (ii) reserves or succeeds to any special*
8408 *declarant right; or (iii) applies for registration of the condominium. However, for the purposes of clauses (i)*
8409 *and (iii), "declarant" does not include an institutional lender that acquires title by foreclosure or deed in lieu*
8410 *of foreclosure unless such lender offers to dispose of its interest in a condominium unit not previously disposed*
8411 *of to anyone not in the business of selling real estate for his own account, except as otherwise provided in §*
8412 *55.1-1947. "Declarant" does not include an individual who acquires title to a condominium unit at a foreclosure*
8413 *sale.*

8414 *"Dispose" or "disposition" refers to any voluntary transfer of a legal or equitable interest in a condominium*
8415 *unit to a purchaser, but does not include the transfer or release of security for a debt.*

8416 *"Electronic means" means any form of communication, not directly involving the physical transmission of*
8417 *paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication.*
8418 *Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act has*
8419 *the meaning set forth in that section.*

8420 *"Executive board" means an executive and administrative entity, by whatever name denominated,*
8421 *designated in the condominium instruments as the governing body of the unit owners' association.*

8422 *"Expandable condominium" means a condominium to which additional land may be added in accordance*
8423 *with the provisions of the declaration and this chapter.*

8424 *"Future common expenses" means common expenses for which assessments are not yet due and payable.*

8425 *"Identifying number" means one or more letters or numbers that identify only one unit in the condominium.*

8426 *"Institutional lender" means one or more commercial or savings banks, savings and loan associations, trust*
8427 *companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts,*
8428 *including real estate investment trusts, any other lender regularly engaged in financing the purchase,*
8429 *construction, or improvement of real estate, or any assignee of loans made by such a lender, or any combination*
8430 *of any of the foregoing entities.*

8431 *"Land" is a three-dimensional concept and includes parcels with upper or lower boundaries, or both upper*
8432 *and lower boundaries, as well as parcels extending ab solo usque ad coelum. Parcels of airspace constitute*
8433 *land within the meaning of this chapter. Any requirement in this chapter of a legally sufficient description shall*
8434 *be deemed to include a requirement that the upper or lower boundaries, if any, of the parcel in question be*
8435 *identified with reference to established datum.*

8436 *"Leasehold condominium" means a condominium in all or any portion of which each unit owner owns an*
8437 *estate for years in his unit, or in the land within which that unit is situated, or both, with all such leasehold*
8438 *interests due to expire naturally at the same time. A condominium including leased land, or an interest in such*
8439 *land, within which no units are situated or to be situated is not a leasehold condominium within the meaning*
8440 *of this chapter.*

8441 *"Limited common element" means a portion of the common elements reserved for the exclusive use of those*
8442 *entitled to the use of one or more, but less than all, of the units.*

8443 *"Nonbinding reservation agreement" means an agreement between the declarant and a prospective*
8444 *purchaser that is in no way binding on the prospective purchaser and that may be canceled without penalty at*
8445 *the sole discretion of the prospective purchaser.*

8446 "Offer" means any inducement, solicitation, or attempt to encourage any person to acquire any legal or
 8447 equitable interest in a condominium unit, except as security for a debt. Nothing that expressly states that the
 8448 condominium has not been registered with the Common Interest Community Board and that no unit in the
 8449 condominium can or will be offered for sale until such time as the condominium has been so registered shall
 8450 be considered an "offer."

8451 "Officer" means any member of the executive board or official of the unit owners' association.

8452 "Par value" means a number of dollars or points assigned to each unit by the declaration. Substantially
 8453 identical units shall be assigned the same par value, but units located at substantially different heights above
 8454 the ground, or having substantially different views, or having substantially different amenities or other
 8455 characteristics that might result in differences in market value may be considered substantially identical within
 8456 the meaning of §§ 55.1-1917 and 55.1-1918.

8457 "Person" means a natural person, corporation, partnership, association, trust, or other entity capable of
 8458 holding title to real property, or any combination thereof.

8459 "Purchaser" means any person, other than a declarant, that acquires by means of a voluntary transfer a
 8460 legal or equitable interest in a condominium unit, other than (i) a leasehold interest, including renewal options,
 8461 of less than 20 years or (ii) as security for a debt.

8462 "Settlement agent" means the same as that term is defined in § 55.1-1000.

8463 "Size" means the number of cubic feet, or the number of square feet of ground or floor space, within each
 8464 unit as computed by reference to the plat and plans and rounded to the nearest whole number. Certain spaces
 8465 within the units, including attic, basement, or garage space, may be omitted from such calculation or partially
 8466 discounted by the use of a ratio, so long as the same basis of calculation is employed for all units in the
 8467 condominium and so long as that basis is described in the declaration.

8468 "Special declarant rights" means any right reserved for the benefit of a declarant, or of a person or group
 8469 of persons that becomes a declarant, to (i) expand an expandable condominium; (ii) contract a contractable
 8470 condominium; (iii) convert convertible land or convertible space or both; (iv) appoint or remove any officers
 8471 of the unit owners' association or the executive board pursuant to subsection A of § 55.1-1943; (v) exercise any
 8472 power or responsibility otherwise assigned by any condominium instrument or by this chapter to the unit
 8473 owners' association, any officer, or the executive board; or (vi) maintain sales offices, management offices,
 8474 model units, and signs pursuant to § 55.1-1929.

8475 "Unit" means a portion of the condominium designed and intended for individual ownership and use. For
 8476 the purposes of this chapter, a convertible space shall be treated as a unit in accordance with subsection D of
 8477 § 55.1-1925.

8478 "Unit owner" means one or more persons that own a condominium unit or, in the case of a leasehold
 8479 condominium, whose leasehold interest in the condominium extends for the entire balance of the unexpired
 8480 term. "Unit owner" includes any purchaser of a condominium unit at a foreclosure sale, regardless of whether
 8481 the deed is recorded in the land records where the unit is located. "Unit owner" does not include any person
 8482 holding an interest in a condominium unit solely as security for a debt.

8483 **§ 55.1-1901. Application and construction of chapter.**

8484 A. This chapter applies to all condominiums and to all horizontal property regimes or condominium
 8485 projects. This chapter supersedes the Horizontal Property Act (§ 55.1-2000 et seq.), and no condominium shall
 8486 be established under the Horizontal Property Act on or after July 1, 1974. This chapter shall not be construed
 8487 to affect the validity of any provision of any condominium instrument recorded prior to July 1, 1974. For the
 8488 purposes of this chapter, as used in the Horizontal Property Act (§ 55.1-2000 et seq.):

8489 "Apartment" corresponds to the term "unit."

8490 "Co-owner" corresponds to the term "unit owner."

8491 "Council of co-owners" corresponds to the term "unit owners' association."

8492 "Developer" corresponds to the term "declarant."

8493 "General common elements" corresponds to the term "common elements."

8494 "Horizontal property regime" and "condominium project" correspond to the term "condominium."

8495 "Master deed" and "master lease" correspond to the term "declaration" and are included in the term
 8496 "condominium instruments."

8497 B. This chapter does not apply to condominiums located outside the Commonwealth. Sections 55.1-1971,
 8498 55.1-1974 through 55.1-1982, and 55.1-1985 through 55.1-1989 apply to all contracts for the disposition of
 8499 condominium units signed in the Commonwealth by any person, unless exempt under § 55.1-1972.

8500 *C. Subsection B of § 55.1-1955 and § 55.1-1982 do not apply to the declarant of a conversion condominium*
8501 *if that declarant is a proprietary lessees' association that, immediately before the creation of the condominium,*
8502 *owned fee simple title to or a fee simple reversionary interest in the real estate described pursuant to subdivision*
8503 *A 3 of § 55.1-1916.*

8504 **§ 55.1-1902. Variation by agreement.**

8505 *Except as expressly provided in this chapter, provisions of this chapter shall not be varied by agreement,*
8506 *and rights conferred by this chapter shall not be waived. A declarant shall not act under power of attorney or*
8507 *use any other device to evade the limitations or prohibitions of this chapter or of the condominium instruments.*

8508 **§ 55.1-1903. Separate assessments, titles, and taxation.**

8509 *Except as otherwise provided in this section, each condominium unit constitutes a separate parcel of real*
8510 *estate. If there is any unit owner other than the declarant, each unit, together with its common element interest,*
8511 *but excluding its common element interest in convertible land and in any withdrawable land within which the*
8512 *declarant has the right to create units or limited common elements, shall be separately assessed and taxed.*
8513 *Each convertible land and withdrawable land within which the declarant has the right to create units or limited*
8514 *common elements shall be separately assessed and taxed against the declarant.*

8515 **§ 55.1-1904. Association charges.**

8516 *Except as expressly authorized in this chapter, in the condominium instruments, or as otherwise provided*
8517 *by law, no unit owners' association may make an assessment or impose a charge against a unit owner unless*
8518 *the charge is (i) authorized under § 55.1-1964, (ii) a fee for services provided, or (iii) related to the provisions*
8519 *set out in § 55.1-1992. The Common Interest Community Board may assess a monetary penalty for a violation*
8520 *of this section against any (a) unit owners' association pursuant to § 54.1-2351 or (b) common interest*
8521 *community manager pursuant to § 54.1-2349 and may issue a cease and desist order pursuant to § 54.1-2349*
8522 *or 54.1-2352, as applicable.*

8523 **§ 55.1-1905. Local ordinances; nonconforming conversion condominiums; applicability of Uniform**
8524 **Statewide Building Code; other regulations.**

8525 *A. No zoning or other land use ordinance shall prohibit condominiums solely on the basis of the form of*
8526 *ownership, nor shall any condominium be treated differently by any zoning or other land use ordinance that*
8527 *would permit a physically identical project or development under a different form of ownership. Except as*
8528 *provided in subsection E, no local government may require further review or approval to record condominium*
8529 *instruments when a property has previously complied with subdivision, site plan, zoning, or other applicable*
8530 *land use regulations.*

8531 *B. Subdivision and site plan ordinances in any locality shall apply to any condominium in the same manner*
8532 *as such ordinances would apply to a physically identical project or development under a different form of*
8533 *ownership; however, the declarant need not apply for or obtain subdivision approval to record condominium*
8534 *instruments if site plan approval for the land being submitted to the condominium has first been obtained.*

8535 *C. During development of a condominium containing additional land or withdrawable land, phase lines*
8536 *created by the condominium instruments shall not be considered property lines for purposes of subdivision. If*
8537 *the condominium can no longer be expanded by the addition of additional land, then the owner of the land not*
8538 *part of the condominium shall subdivide such land prior to its conveyance, unless such land is subject to an*
8539 *approved site plan as provided in subsection B, or prior to modification of such approved site plan. In the event*
8540 *of any conveyance of land within phase lines of the condominium, the condominium and any lot created by such*
8541 *conveyance shall be deemed to comply with the local subdivision ordinance, provided that such land is subject*
8542 *to an approved site plan.*

8543 *D. During the period of declarant control and as long as the declarant has the right to create additional*
8544 *units or to complete the common elements, the declarant has the authority to execute, file, and process any*
8545 *subdivision, site plan, zoning, or other land use applications or disclosures, including related conditional*
8546 *zoning proffers and agreements that do not create an affirmative obligation on the unit owners' association*
8547 *without its consent, with respect to the common elements or applications affecting more than one unit,*
8548 *notwithstanding that the declarant is not the owner of the land.*

8549 *In accordance with subsection B of § 55.1-1956, once the declarant no longer has such authority, the*
8550 *executive board of the unit owners' association, if any, and if not, then a representative duly appointed by the*
8551 *unit owners' association, shall have the authority to execute, file, and process any subdivision, site plan, zoning,*
8552 *or other land use applications or disclosures, including related conditional zoning proffers and agreements*
8553 *that do not create an affirmative obligation on the declarant without its consent, with respect to the common*

8554 elements or applications affecting more than one unit, notwithstanding that the unit owners' association is not
8555 the owner of the land. Such applications shall not adversely affect the rights of the declarant to develop
8556 additional land. For purposes of obtaining building and occupancy permits, the unit owner, including the
8557 declarant if the declarant is the unit owner, shall apply for permits for the unit, and the unit owners' association
8558 shall apply for permits for the common elements, except that the declarant shall apply for permits for
8559 convertible land.

8560 E. Localities may provide by ordinance that the declarant of a proposed conversion condominium that does
8561 not conform to the zoning, land use, and site plan regulations of the respective locality in which the property is
8562 located shall secure a special use permit, a special exception, or a variance, as the case may be, prior to such
8563 property's becoming a conversion condominium. The local authority shall grant a request for such a special
8564 use permit, special exception, or variance filed on or after July 1, 1982, if the applicant can demonstrate to the
8565 reasonable satisfaction of the local authority that the nonconformities are not likely to be adversely affected by
8566 the proposed conversion. The local authority shall not unreasonably delay action on any such request. In the
8567 event of an approved conversion to condominium ownership, a locality, sanitary district, or other political
8568 subdivision may impose such charges and fees as are lawfully imposed by such locality, sanitary district, or
8569 political subdivision as a result of construction of new structures to the extent that such charges and fees, or
8570 portions of such charges and fees, imposed upon property subject to such conversions may be reasonably
8571 related to greater or additional services provided by the locality, sanitary district, or political subdivision as a
8572 result of the conversion.

8573 F. Nothing in this section shall be construed to permit application of any provision of the Uniform Statewide
8574 Building Code (§ 36-97 et seq.) or any local ordinances regulating design and construction of roads, sewer
8575 and water lines, stormwater management facilities, and other public infrastructure to a condominium in a
8576 manner different from the manner in which such provision is applied to other buildings of similar physical form
8577 and nature of occupancy.

8578 **§ 55.1-1906. Eminent domain.**

8579 A. If any portion of the common elements is taken by eminent domain, the award for such taking shall be
8580 paid to the unit owners' association, provided, however, that the portion of the award attributable to the taking
8581 of any permanently assigned limited common element shall be allocated by the order to the unit owner of the
8582 unit to which that limited common element was so assigned at the time of the taking. If that limited common
8583 element was permanently assigned to more than one unit at the time of the taking, then the portion of the award
8584 attributable to the taking of such limited common element shall be allocated in equal shares to the unit owners
8585 of the units to which it was so assigned or in such other shares as the condominium instruments may specify for
8586 this express purpose. A permanently assigned limited common element is a limited common element that cannot
8587 be reassigned or that can be reassigned only with the consent of the unit owner of the unit to which it is assigned
8588 in accordance with § 55.1-1919.

8589 B. If one or more units are taken by eminent domain, the undivided interest in the common elements
8590 appertaining to any such unit shall thenceforth appertain to the remaining units, being allocated to them in
8591 proportion to their respective undivided interests in the common elements. The court shall enter an order
8592 reflecting the reallocation of undivided interests produced by such taking, and the award shall include just
8593 compensation to the unit owner of any unit taken for his undivided interest in the common elements as well as
8594 for his unit.

8595 C. 1. If portions of any unit are taken by eminent domain, the court shall determine the fair market value
8596 of the portions of such unit not taken, and the undivided interest in the common elements appertaining to any
8597 such units shall be reduced, in the case of each such unit, in proportion to the diminution in the fair market
8598 value of such unit resulting from the taking.

8599 2. The portions of undivided interest in the common elements thereby divested from the unit owners of any
8600 such units shall be reallocated among those units and the other units in the condominium in proportion to their
8601 respective undivided interests in the common elements, with any units partially taken participating in such
8602 reallocation on the basis of their undivided interests as reduced in accordance with subdivision 1.

8603 3. The court shall enter an order reflecting the reallocation of undivided interests produced thereby, and
8604 the award shall include just compensation to the unit owner of any unit partially taken for that portion of his
8605 undivided interest in the common elements divested by operation of subdivision 1 and not divested by operation
8606 of subdivision 2, as well as for that portion of his unit taken by eminent domain.

8607 *D. If, however, the taking of a portion of any unit makes it impractical to use the remaining portion of that*
 8608 *unit for any lawful purpose permitted by the condominium instruments, then the entire undivided interest in the*
 8609 *common elements appertaining to that unit shall thenceforth appertain to the remaining units, being allocated*
 8610 *to them in proportion to their respective undivided interests in the common elements, and the remaining portion*
 8611 *of that unit shall thenceforth be a common element. The court shall enter an order reflecting the reallocation*
 8612 *of undivided interests produced thereby, and the award shall include just compensation to the unit owner of*
 8613 *such unit for his entire undivided interest in the common elements and for his entire unit.*

8614 *E. Votes in the unit owners' association, rights to future common profits, and liabilities for future common*
 8615 *expenses not specially assessed, appertaining to any unit taken or partially taken by eminent domain, shall*
 8616 *thenceforth appertain to the remaining units, being allocated to them in proportion to their relative voting*
 8617 *strength in the unit owners' association, with any units partially taken participating in such reallocation as*
 8618 *though their voting strength in the unit owners' association had been reduced in proportion to the reduction in*
 8619 *their undivided interests in the common elements, and the order of the court shall provide accordingly.*

8620 *F. The order of the court shall require the recordation of such order among the land records of the county*
 8621 *or city in which the condominium is located.*

8622 Article 2.

8623 Creation, Alteration, and Termination of Condominiums.

8624 § 55.1-1907. **How condominium may be created.**

8625 *No condominium shall come into existence except by the recordation of condominium instruments pursuant*
 8626 *to the provisions of this chapter. No condominium instruments shall be recorded unless all units located or to*
 8627 *be located on any portion of the submitted land, other than within the boundaries of any convertible lands, are*
 8628 *depicted on plats and plans that comply with the provisions of subsections A and B of § 55.1-1920.*

8629 § 55.1-1908. **Release of liens.**

8630 *A. At the time of the conveyance to the first purchaser of a condominium unit following the recordation of*
 8631 *the declaration, every mortgage, deed of trust, any other perfected lien, or any mechanics' or materialmen's*
 8632 *liens affecting all of the condominium or a greater portion of the condominium than the condominium unit*
 8633 *conveyed shall be paid and satisfied of record, or the declarant shall forthwith have such condominium unit*
 8634 *released of record from all such liens not so paid and satisfied. The provisions of this subsection shall not apply,*
 8635 *however, to any withdrawable land in a contractable condominium, nor shall any provision of this subsection*
 8636 *be construed to prohibit the unit owners' association from mortgaging or causing a deed of trust to be placed*
 8637 *on any portion of the condominium within which no units are located, so long as the period of declarant control*
 8638 *specified in § 55.1-1943 has expired and so long as the bylaws authorize such action. This subsection does not*
 8639 *apply to any lien on more than one condominium unit in a condominium in which all units are restricted to*
 8640 *nonresidential use and in which all unit owners whose condominium units will be subject to such lien expressly*
 8641 *agree to assume or take subject to such lien.*

8642 *B. If any lien, other than a deed of trust or mortgage, becomes effective against two or more condominium*
 8643 *units subsequent to the creation of the condominium, any unit owner may remove his condominium unit from*
 8644 *that lien by payment of the amount attributable to his condominium unit. Such amount shall be computed by*
 8645 *reference to the liability for common expenses appertaining to that condominium unit pursuant to subsection*
 8646 *D of § 55.1-1964. Subsequent to such payment, discharge, or other satisfaction, the unit owner of that*
 8647 *condominium unit shall be entitled to have that lien released as to his condominium unit in accordance with*
 8648 *the provisions of § 55.1-341, and the unit owners' association shall not assess, or have a valid lien against, that*
 8649 *condominium unit for any portion of the common expenses incurred in connection with that lien,*
 8650 *notwithstanding anything to the contrary in §§ 55.1-1964 and 55.1-1966.*

8651 § 55.1-1909. **Description of condominium units.**

8652 *After the creation of the condominium, no description of a condominium unit shall be deemed vague,*
 8653 *uncertain, or otherwise insufficient or infirm if it sets forth the identifying number of that unit, the name of the*
 8654 *condominium, the name of the county or city in which the condominium is situated, and either the deed book*
 8655 *and page number where the first page of the declaration is recorded or the document number assigned to the*
 8656 *declaration by the clerk. Any such description shall be deemed to include the undivided interest in the common*
 8657 *elements appertaining to such unit even if such interest is not defined or referred to in the description.*

8658 § 55.1-1910. **Execution of condominium instruments.**

8659 *The declaration and bylaws, and any amendments to either made pursuant to § 55.1-1934, shall be duly*
 8660 *executed by or on behalf of all of the owners and lessees of the submitted land. The phrase "owners and lessees"*

8661 in this section and in § 55.1-1926 does not include, in their capacity as such, any mortgagee, any trustee or
8662 beneficiary under a deed of trust, any other lien holder, any person having an equitable interest under any
8663 contract for the sale or lease of a condominium unit, any lessee whose leasehold interest does not extend to any
8664 portion of the common elements, any person whose land is subject to an easement included in the condominium,
8665 or, in the case of a leasehold condominium subject to any lease executed before July 1, 1962, any lessor of the
8666 submitted land who is not a declarant.

8667 **§ 55.1-1911. Recordation of condominium instruments.**

8668 All amendments and certifications of condominium instruments shall set forth the name of the county or
8669 city in which the condominium is located and the deed book and page number where the first page of the
8670 declaration is recorded. All condominium instruments and all amendments and certifications of such
8671 condominium instruments shall be recorded in every county and city in which any portion of the condominium
8672 is located. The condominium instruments, amendments, and certifications shall set forth the name of the
8673 condominium and either the deed book and page number where the first page of the declaration is recorded or
8674 the document number assigned to the declaration by the clerk.

8675 **§ 55.1-1912. Construction of condominium instruments.**

8676 Except to the extent otherwise provided by the condominium instruments:

8677 1. The terms defined in § 55.1-1900 shall be deemed to have the meanings therein specified wherever they
8678 appear in the condominium instruments unless the context requires a different meaning.

8679 2. To the extent that walls, floors, or ceilings are designated as the boundaries of the units or of any
8680 specified units, all lath, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, and finished flooring
8681 and any other materials constituting any part of the finished surfaces of such walls, floors, or ceilings are part
8682 of such units, while all other portions of such walls, floors, or ceilings are a part of the common elements.

8683 3. If any chutes, flues, ducts, conduits, wires, bearing walls, bearing columns, or other apparatus lies
8684 partially within and partially outside of the designated boundaries of a unit, any portions serving only that unit
8685 are a part of that unit, while any portions serving more than one unit or any portion of the common elements
8686 are a part of the common elements.

8687 4. Subject to the provisions of subdivision 3, all space, interior partitions, and other fixtures and
8688 improvements within the boundaries of a unit are a part of that unit.

8689 5. Any shutters, awnings, doors, windows, window boxes, doorsteps, porches, balconies, patios, or other
8690 apparatus designed to serve a single unit, but located outside the boundaries of such unit, are limited common
8691 elements appertaining to that unit exclusively, except that if a single unit's electrical master switch is located
8692 outside the designated boundaries of the unit, the switch and its cover are a part of the common elements.

8693 **§ 55.1-1913. Complementarity of condominium instruments; controlling construction.**

8694 The condominium instruments shall be construed together and shall be deemed to incorporate one another
8695 to the extent that any requirement of this chapter as to the content of one shall be deemed satisfied if the
8696 deficiency can be cured by reference to any of the others. In the event of any conflict between the condominium
8697 instruments, the declaration shall control; but particular provisions shall control more general provisions,
8698 except that a construction consistent with the statute shall in all cases control over any inconsistent
8699 construction.

8700 **§ 55.1-1914. Validity of condominium instruments; discrimination prohibited.**

8701 A. All provisions of the condominium instruments shall be deemed severable, and any unlawful provision
8702 of such condominium instruments shall be void.

8703 B. No provision of the condominium instruments shall be deemed void by reason of the rule against
8704 perpetuities.

8705 C. No restraint on alienation shall discriminate or be used to discriminate on any basis prohibited under
8706 the Virginia Fair Housing Law (§ 36-96.1 et seq.).

8707 D. Subject to the provisions of subsection C, the rule of property law known as the rule restricting
8708 unreasonable restraints on alienation shall not be applied to defeat any provision of the condominium
8709 instruments restraining the alienation of condominium units other than such units as may be restricted to
8710 residential use only.

8711 **§ 55.1-1915. Compliance with condominium instruments.**

8712 A. The declarant, every unit owner, and all those entitled to occupy a unit shall comply with all lawful
8713 provisions of this chapter and all provisions of the condominium instruments. Any lack of such compliance shall
8714 be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available

8715 *at law or in equity, maintainable by the unit owners' association or by its executive board or any managing*
 8716 *agent on behalf of such association or, in any proper case, by one or more aggrieved unit owners on their own*
 8717 *behalf or as a class action. A unit owners' association shall have standing to sue in its own name for any claims*
 8718 *or actions related to the common elements as provided in subsection B of § 55.1-1956. Except as provided in*
 8719 *subsection B, the prevailing party shall be entitled to recover reasonable attorney fees, costs expended in the*
 8720 *matter, and interest on the judgment as provided in § 8.01-382. This section does not preclude an action against*
 8721 *the unit owners' association and authorizes the recovery, by the prevailing party in any such action, of*
 8722 *reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in § 8.01-382*
 8723 *in such actions.*

8724 *B. In actions against a unit owner for nonpayment of assessments in which the unit owner has failed to pay*
 8725 *assessments levied by the unit owners' association on more than one unit or such unit owner has had legal*
 8726 *actions taken against him for nonpayment of any prior assessment and the prevailing party is the association*
 8727 *or its executive board or any managing agent on behalf of the association, the prevailing party shall be awarded*
 8728 *reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in subsection*
 8729 *A, even if the proceeding is settled prior to judgment. The delinquent unit owner shall be personally responsible*
 8730 *for reasonable attorney fees and costs expended in the matter by the unit owners' association, whether any*
 8731 *judicial proceedings are filed.*

8732 *C. The condominium instruments may provide for arbitration of disputes or other means of alternative*
 8733 *dispute resolution. Any such arbitration held in accordance with this subsection shall be consistent with the*
 8734 *provisions of this chapter and Chapter 21 (§ 8.01-577 et seq.) of Title 8.01. The place of any such arbitration*
 8735 *or alternative dispute resolution shall be in the county or city in which the condominium is located or as*
 8736 *mutually agreed by the parties.*

8737 **§ 55.1-1916. Contents of declaration.**

8738 *A. The declaration for every condominium shall contain the following:*

8739 *1. The name of the condominium, which name shall include the word "condominium" or be followed by the*
 8740 *words "a condominium."*

8741 *2. The name of the county or city in which the condominium is located.*

8742 *3. A legal description by metes and bounds of the land submitted in accordance with this chapter.*

8743 *4. A description or delineation of the boundaries of the units, including the horizontal (upper and lower)*
 8744 *boundaries, if any, as well as the vertical (lateral or perimeter) boundaries.*

8745 *5. A description or delineation of any limited common elements, other than those that are limited common*
 8746 *elements by virtue of subdivision 5 of § 55.1-1912, showing or designating the unit or units to which each is*
 8747 *assigned.*

8748 *6. A description or delineation of all common elements not within the boundaries of any convertible lands*
 8749 *that may subsequently be assigned as limited common elements, together with a statement that (i) they may be*
 8750 *so assigned and a description of the method by which any such assignments shall be made in accordance with*
 8751 *the provisions of § 55.1-1919 or (ii) once assigned, the conditions under which they may be unassigned and*
 8752 *converted to common elements in accordance with § 55.1-1919.*

8753 *7. The allocation to each unit of an undivided interest in the common elements in accordance with the*
 8754 *provisions of § 55.1-1917.*

8755 *8. A statement of the extent of the declarant's obligation to complete improvements labeled "NOT YET*
 8756 *COMPLETED" or to begin and complete improvements labeled "NOT YET BEGUN" on plats recorded*
 8757 *pursuant to the requirements of this chapter. Such statement shall be specific as to the type and quality of*
 8758 *materials to be used, the size or capacity of the improvements when material, and the time by which such*
 8759 *improvements shall be completed.*

8760 *9. Such other matters as the declarant deems appropriate.*

8761 *B. If the condominium contains any convertible land, the declaration shall also contain the following:*

8762 *1. A legal description by metes and bounds of each convertible land within the condominium.*

8763 *2. A statement of the maximum number of units that may be created within each such convertible land.*

8764 *3. A statement, with respect to each such convertible land, of the maximum percentage of the aggregate*
 8765 *land and floor area of all units that may be created in such convertible land that may be occupied by units not*
 8766 *restricted exclusively to residential use. Such statement is not required if none of the units on other portions of*
 8767 *the submitted land are restricted exclusively to residential use.*

8768 4. A statement of the extent to which any structure erected on any convertible land will be compatible with
8769 structures on other portions of the submitted land in terms of quality of construction, the principal materials to
8770 be used, and architectural style.

8771 5. A description of all other improvements that may be made on each convertible land within the
8772 condominium.

8773 6. A statement that any units created within each convertible land will be substantially identical to the units
8774 on other portions of the submitted land, or a statement describing in detail what other types of units may be
8775 created in such convertible land.

8776 7. A description of the declarant's reserved right, if any, to create limited common elements within any
8777 convertible land or to designate common elements in such convertible land that may subsequently be assigned
8778 as limited common elements, in terms of the types, sizes, and maximum number of such elements within each
8779 such convertible land.

8780 Plats and plans may be recorded as exhibits to the declaration to supplement information furnished
8781 pursuant to subdivisions 1, 4, 5, 6, and 7.

8782 C. If the condominium is an expandable condominium, the declaration shall also contain the following:

8783 1. The explicit reservation of an option to expand the condominium.

8784 2. A statement of any limitations on that option, including a statement as to whether the consent of any unit
8785 owners shall be required, and, if so, a statement as to the method by which such consent shall be ascertained,
8786 or a statement that there are no such limitations.

8787 3. A time limit, not exceeding 10 years after the recording of the declaration, upon which the option to
8788 expand the condominium shall expire, together with a statement of the circumstances, if any, that will terminate
8789 that option prior to the expiration of the time limit so specified. After the expiration of any period of declarant
8790 control reserved pursuant to subsection A of § 55.1-1943, such time limit may be extended by an amendment to
8791 the declaration made pursuant to § 55.1-1934.

8792 4. A legal description by metes and bounds of all land that may be added to the condominium, henceforth
8793 referred to as "additional land."

8794 5. A statement as to whether, if any of the additional land is added to the condominium, all of it or any
8795 particular portion of it must be added and, if not, a statement of any limitations as to what portions may be
8796 added, or a statement that there are no such limitations.

8797 6. A statement as to whether portions of the additional land may be added to the condominium at different
8798 times, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth
8799 the metes and bounds of such portions or regulating the order in which they may be added to the condominium.

8800 7. A statement of any limitations as to the locations of any improvements that may be made on any portions
8801 of the additional land added to the condominium, or a statement that no assurances are made in that regard.

8802 8. A statement of the maximum number of units that may be created on the additional land. If portions of
8803 the additional land may be added to the condominium and the boundaries of those portions are fixed in
8804 accordance with subdivision 6, the declaration shall also state the maximum number of units that may be
8805 created on each such portion added to the condominium. If portions of the additional land may be added to the
8806 condominium and the boundaries of those portions are not fixed in accordance with subdivision 6, then the
8807 declaration shall also state the maximum number of units per acre that may be created on any such portion
8808 added to the condominium.

8809 9. A statement, with respect to the additional land and to any portion of such additional land that may be
8810 added to the condominium, of the maximum percentage of the aggregate land and floor area of all units that
8811 may be created on such additional land that may be occupied by units not restricted exclusively to residential
8812 use. Such statement is not required if none of the units on the submitted land are restricted exclusively to
8813 residential use.

8814 10. A statement of the extent to which any structures erected on any portion of the additional land added to
8815 the condominium will be compatible with structures on the submitted land in terms of quality of construction,
8816 the principal materials to be used, and architectural style, or a statement that no assurances are made in those
8817 regards.

8818 11. A description of all other improvements that will be made on any portion of the additional land added
8819 to the condominium, or a statement of any limitations as to what other improvements may be made on such
8820 additional land, or a statement that no assurances are made in that regard.

8821 12. A statement that any units created on any portion of the additional land added to the condominium will
8822 be substantially identical to the units on the submitted land, or a statement of any limitations as to what types
8823 of units may be created on such additional land, or a statement that no assurances are made in that regard.

8824 13. A description of the declarant's reserved right, if any, to create limited common elements within any
8825 portion of the additional land added to the condominium or to designate common elements in such additional
8826 land that may subsequently be assigned as limited common elements, in terms of the types, sizes, and maximum
8827 number of such elements within each such portion, or a statement that no assurances are made in those regards.

8828 Plats and plans may be recorded as exhibits to the declaration to supplement information furnished
8829 pursuant to subdivisions 4, 5, 6, 7, 10, 11, 12, and 13.

8830 D. If the condominium is a contractable condominium, the declaration shall also contain the following:

8831 1. The explicit reservation of an option to contract the condominium.

8832 2. A statement of any limitations on that option, including a statement as to whether the consent of any unit
8833 owners shall be required, and, if so, a statement as to the method whereby such consent shall be ascertained,
8834 or a statement that there are no such limitations.

8835 3. A time limit, not exceeding 10 years after the recording of the declaration, upon which the option to
8836 contract the condominium shall expire, together with a statement of the circumstances, if any, that will
8837 terminate that option prior to the expiration of the time limit so specified.

8838 4. A legal description by metes and bounds of all land that may be withdrawn from the condominium,
8839 hereinafter referred to as "withdrawable land."

8840 5. A statement as to whether portions of the withdrawable land may be withdrawn from the condominium
8841 at different times, together with any limitations fixing the boundaries of those portions by legal descriptions
8842 setting forth the metes and bounds or regulating the order in which they may be withdrawn from the
8843 condominium.

8844 6. A legal description by metes and bounds of all of the submitted land to which the option to contract the
8845 condominium does not extend. This subdivision shall not be construed in derogation of any right the declarant
8846 may have to terminate the condominium in accordance with the provisions of § 55.1-1937.

8847 Plats may be recorded as exhibits to the declaration to supplement information furnished pursuant to
8848 subdivisions 4, 5, and 6.

8849 E. If the condominium is a leasehold condominium, then with respect to any ground lease or other leases
8850 the expiration or termination of which will or may terminate or contract the condominium, the declaration shall
8851 set forth the county or city in which such lease is recorded and the deed book and page number where the first
8852 page of each such lease is recorded, and the declaration shall also contain the following:

8853 1. The date upon which each such lease is due to expire.

8854 2. A statement as to whether any land or improvements will be owned by the unit owners in fee simple and,
8855 if so, either (i) a description of the same, including a legal description by metes and bounds of any such land,
8856 or (ii) a statement of any rights the unit owners shall have to remove such improvements within a reasonable
8857 time after the expiration or termination of the lease involved, or a statement that they shall have no such rights.

8858 3. A statement of the rights the unit owners shall have to redeem any reversion, or a statement that they
8859 shall have no such rights.

8860 After the recording of the declaration, no lessor who executed such declaration, and no successor in interest
8861 to such lessor, shall have any right or power to terminate any part of the leasehold interest of any unit owner
8862 who makes timely payment of his share of the rent to the person designated in the declaration for the receipt of
8863 such rent and who otherwise complies with all covenants that, if violated, would entitle the lessor to terminate
8864 the lease. Acquisition or reacquisition of such a leasehold interest by the owner of the reversion or remainder
8865 does not cause a merger of the leasehold and fee simple interests unless all leasehold interests in the
8866 condominium are thus acquired or reacquired.

8867 F. Wherever this section requires a legal description by metes and bounds of land that is submitted pursuant
8868 to this chapter or that may be added to or withdrawn from the condominium, such requirement shall be deemed
8869 satisfied by any legally sufficient description and shall be deemed to require a legally sufficient description of
8870 any easements that are submitted pursuant to this chapter or that may be added to or withdrawn from the
8871 condominium, as appropriate. In the case of each such easement, the declaration shall contain the following:

8872 1. A description of the permitted use or uses.

8873 2. If less than all of those entitled to the use of all of the units may utilize such easement, a statement of the
8874 relevant restrictions and limitations on utilization.

8875 3. If any persons other than those entitled to the use of the units may utilize such easement, a statement of
 8876 the rights of others to utilization of the easement.

8877 G. Wherever this section requires a legal description by metes and bounds of land that is submitted pursuant
 8878 to this chapter or that may be added to or withdrawn from the condominium, an added requirement shall be a
 8879 separate legally sufficient description of all lands in which the unit owners shall or may be tenants in common
 8880 or joint tenants with any other persons and a separate legally sufficient description of all lands in which the
 8881 unit owners shall or may be life tenants. No units shall be situated on any such lands, however, and the
 8882 declaration shall describe the nature of the unit owners' estate in such lands. No such lands shall be shown on
 8883 the same plat or plats showing other portions of the condominium but shall be shown instead on separate plats.

8884 **§ 55.1-1917. Allocation of interests in the common elements.**

8885 A. The declaration may allocate to each unit depicted on plats and plans that comply with subsections A
 8886 and B of § 55.1-1920 an undivided interest in the common elements proportionate to either the size or par value
 8887 of each unit. If par value is stated in terms of dollars, that statement shall not be deemed to reflect or control
 8888 the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a
 8889 different figure shall affect the par value of any unit or any undivided interest in the common elements, voting
 8890 rights in the unit owners' association, or liability for common expenses assigned on the basis of such par value.

8891 B. If the basis for allocation provided in subsection A is not used, then the declaration shall allocate to
 8892 each such unit an equal undivided interest in the common elements, subject to the following exception: Each
 8893 convertible space so depicted shall be allocated an undivided interest in the common elements proportionate
 8894 to the size of each such space, vis-a-vis the aggregate size of all units so depicted, while the remaining undivided
 8895 interest in the common elements shall be allocated equally to the other units so depicted.

8896 C. The undivided interests in the common elements allocated in accordance with subsection A or B shall
 8897 add up to 1 if stated as fractions or 100 percent if stated as percentages.

8898 D. If, in accordance with subsection A or B, an equal undivided interest in the common elements is allocated
 8899 to each unit, the declaration may state that fact and need not express the fraction or percentage so allocated.

8900 E. Unless an equal undivided interest in the common elements is allocated to each unit, the undivided
 8901 interest allocated to each unit in accordance with subsection A or B shall be reflected by a table in the
 8902 declaration, or by an exhibit to the declaration, containing three columns. The first column shall identify the
 8903 units, listing them serially or grouping them together in the case of units to which identical undivided interests
 8904 are allocated. Corresponding figures in the second and third columns shall set forth the respective areas or par
 8905 values of those units and the fraction or percentage of undivided interest in the common elements allocated to
 8906 such units.

8907 F. Except to the extent otherwise expressly provided by this chapter, the undivided interest in the common
 8908 elements allocated to any unit shall not be altered, and any purported transfer, encumbrance, or other
 8909 disposition of that interest without the unit to which it appertains is void.

8910 G. The common elements shall not be subject to any action for partition until and unless the condominium
 8911 is terminated.

8912 **§ 55.1-1918. Reallocation of interests in common elements.**

8913 A. If a condominium contains any convertible land or is an expandable condominium, then the declaration
 8914 shall not allocate undivided interests in the common elements on the basis of par value unless the declaration:

8915 1. Prohibits the creation of any units not substantially identical to the units depicted on the plats and plans
 8916 recorded pursuant to subsections A and B of § 55.1-1920; or

8917 2. Prohibits the creation of any units not described pursuant to subdivision B 6 of § 55.1-1916, in the case
 8918 of convertible lands, and subdivision C 12 of § 55.1-1916, in the case of additional land, and contains from the
 8919 outset a statement of the par value that shall be assigned to every such unit that may be created.

8920 B. Interests in the common elements shall not be allocated to any units to be created within any convertible
 8921 land or within any additional land until plats and plans depicting the same are recorded pursuant to subsection
 8922 C of § 55.1-1920. But simultaneously with the recording of such plats and plans, the declarant shall execute
 8923 and record an amendment to the declaration reallocating undivided interests in the common elements so that
 8924 the units depicted on such plats and plans shall be allocated undivided interests in the common elements on the
 8925 same basis as the units depicted on the plats and plans recorded simultaneously with the declaration pursuant
 8926 to subsections A and B of § 55.1-1920.

8927 C. If all of a convertible space is converted into common elements, including limited common elements,
 8928 then the undivided interest in the common elements appertaining to such space shall then appertain to the

8929 remaining units, being allocated among them in proportion to their undivided interests in the common elements.
8930 The principal officer of the unit owners' association, or such other officer as the condominium instruments may
8931 specify, shall forthwith prepare, execute, and record an amendment to the declaration reflecting the
8932 reallocation of undivided interests produced by such conversion.

8933 D. In the case of a leasehold condominium, if the expiration or termination of any lease causes a contraction
8934 of the condominium that reduces the number of units, then the undivided interest in the common elements
8935 appertaining to any units withdrawn from the condominium shall then appertain to the remaining units, being
8936 allocated among them in proportion to their undivided interests in the common elements. The principal officer
8937 of the unit owners' association, or such other officer as the condominium instruments may specify, shall
8938 forthwith prepare, execute, and record an amendment to the declaration reflecting the reallocation of undivided
8939 interests produced by such contraction.

8940 **§ 55.1-1919. Assignments of limited common elements; conversion to common element.**

8941 A. All assignments and reassignments of limited common elements shall be reflected by the condominium
8942 instruments. No limited common element shall be assigned or reassigned except in accordance with the
8943 provisions of this chapter. No amendment to any condominium instrument shall alter any rights or obligations
8944 with respect to any limited common elements without the consent of all unit owners adversely affected by such
8945 amendment as evidenced by their execution of such amendment, except to the extent that the condominium
8946 instruments expressly provided otherwise prior to the first assignment of that limited common element.

8947 B. Unless expressly prohibited by the condominium instruments, a limited common element may be
8948 reassigned or converted to a common element upon written application of the unit owners concerned to the
8949 principal officer of the unit owners' association, or to such other officer as the condominium instruments may
8950 specify. The officer to whom such application is duly made shall forthwith prepare and execute an amendment
8951 to the declaration reassigning all rights and obligations with respect to the limited common element involved.
8952 Such amendment shall be executed by all of the unit owners concerned and recorded by an officer of the unit
8953 owners' association or his agent following payment by the unit owners of the units concerned of all reasonable
8954 costs for the preparation, acknowledgment, and recordation of such amendment. The amendment is effective
8955 when recorded.

8956 C. A common element not previously assigned as a limited common element shall be so assigned only
8957 pursuant to subdivision A 6 of § 55.1-1916. The amendment to the declaration making such an assignment shall
8958 be prepared and executed by the declarant, the principal officer of the unit owners' association, or by such
8959 other officer as the condominium instruments may specify. Such amendment shall be recorded by the declarant
8960 or his agent, without charge to any unit owner, or by an officer of the unit owners' association or his agent
8961 following payment by all of the unit owners of the units concerned of all reasonable costs for the preparation,
8962 acknowledgment, and recordation of such amendment. The amendment is effective when recorded, and the
8963 recordation of such amendment shall be conclusive evidence that the method prescribed pursuant to subdivision
8964 A 6 of § 55.1-1916 was adhered to. A copy of the amendment shall be delivered to the unit owners of the units
8965 concerned. If executed by the declarant, such an amendment recorded prior to July 1, 1983, shall not be invalid
8966 because it was not prepared by an officer of the unit owners' association.

8967 D. If the declarant does not prepare and record an amendment to the declaration to effect the assignment
8968 of common elements as limited common elements in accordance with rights reserved in the condominium
8969 instruments, but has reflected an intention to make such assignments in deeds conveying units, then the principal
8970 officer of the unit owners' association may prepare, execute, and record such an amendment at any time after
8971 the declarant ceases to be a unit owner.

8972 E. The declarant may unilaterally record an amendment to the declaration converting a limited common
8973 element appurtenant to a unit owned by the declarant into a common element as long as the declarant continues
8974 to own the unit.

8975 **§ 55.1-1920. Contents of plats and plans.**

8976 A. There shall be recorded simultaneously with the declaration one or more plats of survey showing the
8977 location and dimensions of the submitted land, the location and dimensions of any convertible lands within the
8978 submitted land, the location and dimensions of any existing improvements, the intended location and dimensions
8979 of any contemplated improvements that are to be located on any portion of the submitted land other than within
8980 the boundaries of any convertible lands, and, to the extent feasible, the location and dimensions of all easements
8981 appurtenant to the submitted land or otherwise subject to this chapter as a part of the common elements. If the
8982 submitted land is not contiguous, then the plats shall indicate the distances between the parcels constituting the

8983 submitted land. The plats shall label every convertible land as a convertible land, and if there is more than one
8984 such land, the plats shall label each such land with one or more letters or numbers different from those
8985 designating any other convertible land and different also from the identifying number of any unit. The plats
8986 shall show the location and dimensions of any withdrawable lands and shall label each such land as a
8987 withdrawable land. The plats shall show the location and dimensions of any additional lands and shall label
8988 each such land as an additional land. If, with respect to any portion, but less than all, of the submitted land, the
8989 unit owners are to own only an estate for years, the plats shall show the location and dimensions of any such
8990 portion, and shall label each such portion as a leased land. If there is more than one withdrawable land, or
8991 more than one leased land, the plats shall label each such land with one or more letters or numbers different
8992 from those designating any convertible land or other withdrawable or leased land, and different also from the
8993 identifying number of any unit. The plats shall show all easements to which the submitted land or any portion
8994 of such submitted land is subject and shall show the location and dimensions of all such easements to the extent
8995 feasible. The plats shall also show all encroachments by or on any portion of the condominium. In the case of
8996 any improvements located or to be located on any portion of the submitted land other than within the boundaries
8997 of any convertible lands, the plats shall indicate which, if any, have not been begun by the use of the phrase
8998 "NOT YET BEGUN" and which, if any, have been begun but have not been substantially completed by the use
8999 of the phrase "NOT YET COMPLETED." In the case of any units the vertical boundaries of which lie wholly
9000 or partially outside of structures for which plans pursuant to subsection B are simultaneously recorded, the
9001 plats shall show the location and dimensions of such vertical boundaries to the extent that they are not shown
9002 on such plans, and the units or portions thereof thus depicted shall bear their identifying numbers. Each plat
9003 shall be certified in a recorded document as to its accuracy and compliance with the provisions of this
9004 subsection by a licensed land surveyor, and the surveyor shall certify in such document or on the face of the
9005 plat that all units or portions of such units depicted on such plat pursuant to the preceding sentence of this
9006 subsection have been substantially completed. The specification within this subsection of items that shall be
9007 shown on the plats shall not be construed to mean that the plats shall not also show all other items customarily
9008 shown or hereafter required for land title surveys.

9009 B. Plans shall also be recorded with the declaration. Such plans shall show every structure that contains
9010 or constitutes all or part of any unit and that is located on any portion of the submitted land other than within
9011 the boundaries of any convertible lands. The plans shall show the location and dimensions of the vertical
9012 boundaries of each unit to the extent that such boundaries lie within or coincide with the boundaries of such
9013 structures, and the units or portions of the submitted units so depicted shall bear their identifying numbers. In
9014 addition, each convertible space so depicted shall be labeled as convertible space. The horizontal boundaries
9015 of each unit having horizontal boundaries shall be identified on the plans with reference to established datum.
9016 Unless the condominium instruments expressly provide otherwise, it shall be presumed that in the case of any
9017 unit not wholly contained within or constituting one or more such structures, the horizontal boundaries thus
9018 identified extend, in the case of each such unit, at the same elevation with regard to any part of such unit, lying
9019 outside of such structures, subject to the following exception: In the case of any such unit that does not lie over
9020 any other unit other than basement units, it shall be presumed that the lower horizontal boundary, if any, of
9021 that unit lies at the level of the ground with regard to any part of that unit lying outside of such structures. The
9022 plans shall be certified on their face or in another recorded document as to their accuracy and compliance with
9023 the provisions of this subsection by a licensed architect, licensed engineer, or licensed land surveyor, and such
9024 architect, engineer, or land surveyor shall certify on the plans or in the recorded document that all units or
9025 portions of the submitted units depicted on such plans have been substantially completed.

9026 C. When converting all or any portion of any convertible land, or adding additional land to an expandable
9027 condominium, the declarant shall record, with regard to any structures on the land being converted or added,
9028 either plats of survey conforming to the requirements of subsection A and plans conforming to the requirements
9029 of subsection B, or certifications conforming to the certification requirements of such subsections of plats and
9030 plans previously recorded pursuant to § 55.1-1922.

9031 D. Notwithstanding the provisions of subsections A and B, a time-share interest in a unit that has been
9032 subjected to a time-share instrument pursuant to § 55.1-2208 may be conveyed prior to substantial completion
9033 of that unit if (i) a completion bond has been filed in compliance with subsection B of § 55.1-1921 and remains
9034 in full force and effect until the unit is certified as substantially complete in accordance with subsections A and
9035 B and (ii) the settlement agent or title insurance company insuring the time-share estate in the unit certifies to

9036 the purchaser in writing, based on information provided by the Common Interest Community Board, that the
9037 bond has been filed with the Common Interest Community Board.

9038 E. When converting all or any portion of any convertible space into one or more units or limited common
9039 elements, the declarant shall record, with regard to the structure or portion of such structure constituting that
9040 convertible space, plans showing the location and dimensions of the vertical boundaries of each unit or limited
9041 common elements formed out of such space. Such plans shall be certified as to their accuracy and compliance
9042 with the provisions of this subsection by a licensed architect, licensed engineer, or licensed land surveyor.

9043 F. For the purposes of subsections A, B, and C, all provisions and requirements relating to units shall be
9044 deemed equally applicable to limited common elements. The limited common elements shall be labeled as such,
9045 and each limited common element depicted on the plats and plans shall show the identifying number of the unit
9046 to which it is assigned, if it has been assigned, unless the provisions of subdivision 5 of § 55.1-1912 make such
9047 designations unnecessary.

9048 **§ 55.1-1921. Bond to insure completion of improvements.**

9049 A. The declarant shall file with the Common Interest Community Board a bond entered into by the declarant
9050 in the sum of 100 percent of the estimated cost of completion, to the extent of the declarant's obligation as stated
9051 in the declaration, of all improvements to the common elements of the condominium labeled in the plat or plats
9052 as "NOT YET COMPLETED" or "NOT YET BEGUN" located upon submitted land and which the declarant
9053 reasonably believes will not be substantially complete at the time of conveyance of the first condominium unit.
9054 Such bond shall be conditioned upon the faithful performance of the declarant's obligation to complete such
9055 improvements in strict conformity with the plans and specifications for the same as described in the declaration.

9056 B. The declarant shall file with the Common Interest Community Board a bond entered into by the declarant
9057 in the sum of 100 percent of the estimated cost of completion of a unit in which a time-share interest is conveyed
9058 before the unit has been certified as substantially complete in accordance with subsections A and B of § 55.1-
9059 1920. The bond required by this subsection shall be conditioned upon the faithful performance of the declarant's
9060 obligation to complete such improvements in strict conformity with the plans and specifications for the same as
9061 described in the declaration.

9062 C. All bonds required in this section shall be executed by a surety company authorized to transact business
9063 in the Commonwealth or by such other surety as is satisfactory to the Board.

9064 D. The Board may promulgate reasonable regulations that govern the return of bonds submitted in
9065 accordance with this section.

9066 **§ 55.1-1922. Preliminary recordation of plats and plans.**

9067 Plats and plans previously recorded pursuant to subsections A, B, and C of § 55.1-1916 may be used in
9068 lieu of new plats and plans to satisfy in whole or in part the requirements of subsection B of § 55.1-1918,
9069 subsection B of § 55.1-1924, or § 55.1-1926 if certifications of such plats and plans are recorded by the
9070 declarant in accordance with subsections A and B of § 55.1-1920; and if such certifications are recorded, the
9071 plats and plans that they certify shall be deemed recorded pursuant to subsection C of § 55.1-1920 within the
9072 meaning of §§ 55.1-1918, 55.1-1924, and 55.1-1926. All condominium instruments for condominiums created
9073 prior to July 1, 1991, are hereby validated notwithstanding that the plats were prerecorded as if in compliance
9074 with this section and not recorded with amendments converting convertible land or adding additional land if
9075 the plats or subsequent amendments contained the required certifications.

9076 **§ 55.1-1923. Easement for encroachments.**

9077 To the extent that any unit or common element encroaches on any other unit or common element, whether
9078 by reason of any deviation from the plats and plans in the construction, repair, renovation, restoration, or
9079 replacement of any improvement or by reason of the settling or shifting of any land or improvement, a valid
9080 easement for such encroachment shall exist. The purpose of this section is to protect the unit owners, except in
9081 cases of willful and intentional misconduct by them or their agents or employees, and not to relieve the declarant
9082 or any contractor, subcontractor, or materialman of any liability which any of them may have by reason of any
9083 failure to adhere strictly to the plats and plans.

9084 **§ 55.1-1924. Conversion of convertible lands.**

9085 A. The declarant may convert all or any portion of any convertible land into one or more units or limited
9086 common elements subject to any restrictions and limitations that the condominium instruments may specify.
9087 Any such conversion shall be deemed to have occurred at the time of the recordation of appropriate instruments
9088 pursuant to subsection B of this section and subsection C of § 55.1-1920.

9089 *B. Simultaneously with the recording of plats and plans pursuant to subsection C of § 55.1-1920, the*
9090 *declarant shall prepare, execute, and record an amendment to the declaration describing the conversion. Such*
9091 *amendment shall assign an identifying number to each unit formed out of a convertible land and shall reallocate*
9092 *undivided interests in the common elements in accordance with subsection B of § 55.1-1918. Such amendment*
9093 *shall describe or delineate any limited common elements formed out of the convertible land, showing or*
9094 *designating the unit to which each is assigned.*

9095 *C. All convertible lands shall be deemed a part of the common elements except for such portions of such*
9096 *convertible lands as are converted in accordance with the provisions of this section. Until the expiration of the*
9097 *period during which conversion may occur or until actual conversion, whichever occurs first, the declarant*
9098 *alone shall be liable for real estate taxes assessed against the convertible land and any improvements on such*
9099 *convertible land and all other expenses in connection with that real estate, and no other unit owner and no*
9100 *other portion of the condominium shall be subject to a claim for payment of those taxes or expenses, and, unless*
9101 *the declaration provides otherwise, any income or proceeds from the convertible land and any improvements*
9102 *on such convertible land shall inure to the declarant. No such conversion shall occur after 10 years from the*
9103 *recordation of the declaration, or such shorter period of time as the declaration may specify.*

9104 **§ 55.1-1925. Conversion of convertible spaces.**

9105 *A. The declarant may convert all or any portion of any convertible space into one or more units or common*
9106 *elements, including limited common elements, subject to any restrictions and limitations that the condominium*
9107 *instruments may specify. Any such conversion shall be deemed to have occurred at the time of the recordation*
9108 *of appropriate instruments pursuant to subsection B and subsection B of § 55.1-1920.*

9109 *B. Simultaneously with the recording of plats and plans pursuant to subsection E of § 55.1-1920, the*
9110 *declarant shall prepare, execute, and record an amendment to the declaration describing the conversion. Such*
9111 *amendment shall assign an identifying number to each unit formed out of a convertible space and shall allocate*
9112 *to each unit a portion of the undivided interest in the common elements appertaining to that space. Such*
9113 *amendment shall describe or delineate any limited common elements formed out of the convertible space,*
9114 *showing or designating the unit to which each is assigned.*

9115 *C. If all or any portion of any convertible space is converted into one or more units in accordance with this*
9116 *section, the declarant shall prepare and execute, and record simultaneously with the amendment to the*
9117 *declaration, an amendment to the bylaws. The amendment to the bylaws shall reallocate votes in the unit*
9118 *owners' association, rights to future common profits, and liabilities for future common expenses not specially*
9119 *assessed, all as in the case of the subdivision of a unit in accordance with subsection D of § 55.1-1933.*

9120 *D. Any convertible space not converted in accordance with the provisions of this section, or any portion of*
9121 *such convertible space not so converted, shall be treated for all purposes as a single unit until and unless it is*
9122 *so converted, and the provisions of this chapter shall be deemed applicable to any such convertible space, or*
9123 *portion of such convertible space, as though the same were a unit.*

9124 **§ 55.1-1926. Expansion of condominium.**

9125 *No condominium shall be expanded except in accordance with the provisions of the declaration and of this*
9126 *chapter. Any such expansion shall be deemed to have occurred at the time of the recordation of plats and plans*
9127 *pursuant to subsection C of § 55.1-1920, together with an amendment to the declaration, duly executed by the*
9128 *declarant, including all of the owners and lessees of the additional land added to the condominium. Such*
9129 *amendment shall contain a legal description by metes and bounds of the land added to the condominium and*
9130 *shall reallocate undivided interests in the common elements in accordance with the provisions of subsection B*
9131 *of § 55.1-1918. Such amendment may create convertible or withdrawable lands or both within the land added*
9132 *to the condominium, but this provision shall not be construed in derogation of the time limits imposed by or*
9133 *pursuant to subdivision D 3 of § 55.1-1916 and subsection C of § 55.1-1924.*

9134 **§ 55.1-1927. Contraction of condominium.**

9135 *No condominium shall be contracted except in accordance with the provisions of the declaration and of*
9136 *this chapter. Any such contraction shall be deemed to have occurred at the time of the recordation of an*
9137 *amendment to the declaration, executed by the declarant, containing a legal description by metes and bounds*
9138 *of the land withdrawn from the condominium. If portions of the withdrawable land were described pursuant to*
9139 *subdivision D 5 of § 55.1-1916, then no such portion shall be so withdrawn after the conveyance of any unit on*
9140 *such portion. If no such portions were described, then none of the withdrawable land shall be withdrawn after*
9141 *the first conveyance of any unit.*

9142 **§ 55.1-1928. Easement to facilitate conversion and expansion.**

9143 Subject to any restrictions and limitations the condominium instruments may specify, the declarant shall
 9144 have a transferable easement over and on the common elements for the purpose of making improvements on
 9145 the submitted land and any additional land pursuant to the provisions of those instruments and of this chapter
 9146 and for the purpose of doing all things reasonably necessary and proper in connection with making such
 9147 improvements.

9148 **§ 55.1-1929. Easement to facilitate sales.**

9149 The declarant and his duly authorized agents, representatives, and employees may maintain sales offices
 9150 or model units on the submitted land if and only if the condominium instruments provide for maintaining such
 9151 sales offices or model units and specify the rights of the declarant with regard to the number, size, location,
 9152 and relocation of such sales offices or model units. Any such sales office or model unit that is not designated a
 9153 unit by the condominium instruments shall become a common element as soon as the declarant ceases to be a
 9154 unit owner, and the declarant shall cease to have any rights with regard to such sales office or model unit
 9155 unless it is removed forthwith from the submitted land in accordance with a right reserved in the condominium
 9156 instruments to make such removal.

9157 **§ 55.1-1930. Declarant's obligation to complete and restore.**

9158 A. No covenants, restrictions, limitations, or other representations or commitments in the condominium
 9159 instruments with regard to anything that is or is not to be done on the additional land, the withdrawable land,
 9160 or any portion of either shall be binding as to any portion of either lawfully withdrawn from the condominium
 9161 or never added to the condominium, except to the extent that the condominium instruments so provide. But in
 9162 the case of any covenant, restriction, limitation, or other representation or commitment in the condominium
 9163 instruments or in any other agreement requiring the declarant to add all or any portion of the additional land
 9164 or to withdraw any portion of the withdrawable land, or imposing any obligations with regard to anything that
 9165 is or is not to be done on such land or with regard to such land, or imposing any obligations with regard to
 9166 anything that is or is not to be done on or with regard to the condominium or any portion of such condominium,
 9167 this subsection shall not be construed to nullify, limit, or otherwise affect any such obligation.

9168 B. The declarant shall complete all improvements labeled "NOT YET COMPLETED" on plats recorded
 9169 pursuant to the requirements of this chapter unless the condominium instruments expressly exempt the declarant
 9170 from such obligation and shall, in the case of every improvement labeled "NOT YET BEGUN" on such plats,
 9171 state in the declaration either the extent of the obligation to complete the same or that there is no such
 9172 obligation.

9173 C. To the extent that damage is inflicted on any part of the condominium by any person utilizing the
 9174 easements reserved by the condominium instruments or created by §§ 55.1-1928 and 55.1-1929, the declarant
 9175 together with any person causing the same shall be jointly and severally liable for the prompt repair of such
 9176 damage and for the restoration of the same to a condition compatible with the remainder of the condominium.

9177 **§ 55.1-1931. Alterations within units.**

9178 A. Except to the extent prohibited, restricted, or limited by the condominium instruments, any unit owner
 9179 may make any improvements or alterations within his unit that do not impair the structural integrity of any
 9180 structure or otherwise lessen the support of any portion of the condominium. However, no unit owner shall do
 9181 anything that would change the exterior appearance of his unit or of any other portion of the condominium
 9182 except to such extent and subject to such conditions as the condominium instruments may specify.

9183 B. If a unit owner acquires an adjoining unit, or an adjoining part of an adjoining unit, then such unit
 9184 owner shall have the right to remove all or any part of any intervening partition or to create doorways or other
 9185 apertures in such unit, notwithstanding the fact that such partition may in whole or in part be a common
 9186 element, so long as no portion of any bearing wall or bearing column is weakened or removed and no portion
 9187 of any common element other than that partition is damaged, destroyed, or endangered. Such creation of
 9188 doorways or other apertures shall not be deemed an alteration of boundaries within the meaning of § 55.1-
 9189 1932.

9190 **§ 55.1-1932. Relocation of boundaries between units.**

9191 A. If the condominium instruments expressly permit the relocation of boundaries between adjoining units,
 9192 then the boundaries between such units may be relocated in accordance with (i) the provisions of this section
 9193 and (ii) any restrictions and limitations not otherwise unlawful that the condominium instruments may specify.
 9194 The boundaries between adjoining units shall not be relocated unless the condominium instruments expressly
 9195 permit it.

9196 *B. If the unit owners of adjoining units whose mutual boundaries may be relocated desire to relocate such*
9197 *boundaries, then the principal officer of the unit owners' association, or such other officer as the condominium*
9198 *instruments may specify, shall, upon written application of such unit owners, forthwith prepare and execute*
9199 *appropriate instruments pursuant to subsections C, D, and E.*

9200 *C. An amendment to the declaration shall identify the units involved and shall state that the boundaries*
9201 *between those units are being relocated by agreement of the unit owners of such units, and the amendment shall*
9202 *contain conveyancing between those unit owners. If the unit owners of the units involved have specified in their*
9203 *written application a reasonable reallocation as between the units involved of the aggregate undivided interest*
9204 *in the common elements appertaining to those units, the amendment to the declaration shall reflect that*
9205 *reallocation.*

9206 *D. If the unit owners of the units involved have specified in their written application a reasonable*
9207 *reallocation as between the units involved of the aggregate number of votes in the unit owners' association*
9208 *allocated to those units, an amendment to the bylaws shall reflect that reallocation and a proportionate*
9209 *reallocation of liability for common expenses as between those units.*

9210 *E. Such plats and plans as may be necessary to show the altered boundaries between the units involved*
9211 *together with their other boundaries shall be prepared, and the units depicted on such plats and plans shall*
9212 *bear their identifying numbers. Such plats and plans shall indicate the new dimensions of the units involved,*
9213 *and any change in the horizontal boundaries of either as a result of the relocation of their boundaries shall be*
9214 *identified with reference to established datum. Such plats and plans shall be certified as to their accuracy and*
9215 *compliance with the provisions of this subsection (i) by a licensed land surveyor in the case of any plat and (ii)*
9216 *by a licensed architect, licensed engineer, or licensed land surveyor in the case of any plan.*

9217 *F. When appropriate instruments in accordance with this section have been prepared, executed, and*
9218 *acknowledged, they shall be recorded by an officer of the unit owners' association following payment by the*
9219 *unit owners of the units involved of all reasonable costs for the preparation, acknowledgment, and recordation*
9220 *of such instruments. Such instruments are effective when executed by the unit owners of the units involved and*
9221 *recorded, and the recordation of such instruments is conclusive evidence that the relocation of boundaries so*
9222 *effectuated did not violate any restrictions or limitations specified by the condominium instruments and that*
9223 *any reallocations made pursuant to subsections C and D were reasonable.*

9224 *G. Any relocation of boundaries between adjoining units shall be governed by this section and not by §*
9225 *55.1-1933. Section 55.1-1933 shall apply only to such subdivisions of units as are intended to result in the*
9226 *creation of two or more new units in place of the subdivided unit.*

9227 **§ 55.1-1933. Subdivision of units.**

9228 *A. If the condominium instruments expressly permit the subdivision of any units, then such units may be*
9229 *subdivided in accordance with (i) the provisions of this section and (ii) any restrictions and limitations not*
9230 *otherwise unlawful that the condominium instruments may specify. No unit shall be subdivided unless the*
9231 *condominium instruments expressly permit it.*

9232 *B. If the unit owner of any unit that may be subdivided desires to subdivide such unit, then the principal*
9233 *officer of the unit owners' association, or such other officer as the condominium instruments may specify, shall,*
9234 *upon written application of the subdivider, as such unit owner shall hereinafter be referred to in this section,*
9235 *forthwith prepare and execute appropriate instruments pursuant to subsections C, D, and E.*

9236 *C. An amendment to the declaration shall assign new identifying numbers to the new units created by the*
9237 *subdivision of a unit and shall allocate to those units, on a reasonable basis acceptable to the subdivider, all of*
9238 *the undivided interest in the common elements appertaining to the subdivided unit. The new units shall jointly*
9239 *share all rights, and shall be equally liable jointly and severally for all obligations, with regard to any limited*
9240 *common elements assigned to the subdivided unit except to the extent that the subdivider may have specified in*
9241 *his written application that all or any portions of any limited common element assigned to the subdivided unit*
9242 *exclusively should be assigned to one or more, but less than all of the new units, in which case the amendment*
9243 *to the declaration shall reflect the desires of the subdivider as expressed in such written application.*

9244 *D. An amendment to the bylaws shall allocate to the new units, on a reasonable basis acceptable to the*
9245 *subdivider, the votes in the unit owners' association allocated to the subdivided unit and shall reflect a*
9246 *proportionate allocation to the new units of the liability for common expenses formerly appertaining to the*
9247 *subdivided unit.*

9248 *E. Such plats and plans as may be necessary to show the boundaries separating the new units together with*
9249 *their other boundaries shall be prepared, and the new units depicted on such plats and plans shall bear their*

9250 new identifying numbers. Such plats and plans shall indicate the dimensions of the new units, and the horizontal
9251 boundaries of such units, if any, shall be identified on such plats and plans with reference to established datum.
9252 Such plats and plans shall be certified as to their accuracy and compliance with the provisions of this subsection
9253 (i) by a licensed land surveyor in the case of any plat and (ii) by a licensed architect, licensed engineer, or
9254 licensed land surveyor in the case of any plan.

9255 F. When appropriate instruments in accordance with this section have been prepared, executed, and
9256 acknowledged, they shall be recorded by an officer of the unit owners' association following payment by the
9257 subdivider of all reasonable costs for the preparation, acknowledgment, and recordation of such instruments.
9258 Such instruments are effective when executed by the subdivider and recorded, and the recordation of such
9259 instruments is conclusive evidence that the subdivision so effectuated did not violate any restrictions or
9260 limitations specified by the condominium instruments and that any reallocations made pursuant to subsections
9261 C and D were reasonable.

9262 G. Notwithstanding the definition of "unit" found in § 55.1-1900 and the provisions of subsection D of §
9263 55.1-1925, this section shall have no application to convertible spaces, and no such space shall be deemed a
9264 unit for the purposes of this section. However, this section shall apply to any units formed by the conversion of
9265 all or any portion of any such convertible space, and any such unit shall be deemed a unit for the purposes of
9266 this section.

9267 **§ 55.1-1934. Amendment of condominium instruments.**

9268 A. If there is no unit owner other than the declarant, the declarant may unilaterally amend the condominium
9269 instruments, and an amendment signed by the declarant is effective upon recordation. This section shall not be
9270 construed to nullify, limit, or otherwise affect the validity of enforceability of any agreement renouncing or to
9271 renounce, in whole or in part, the right hereby conferred.

9272 B. If any of the units in the condominium is restricted exclusively to residential use and there is any unit
9273 owner other than the declarant, the condominium instruments shall be amended only by agreement of unit
9274 owners of units to which two-thirds of the votes in the unit owners' association appertain, or such larger
9275 majority as the condominium instruments may specify, except in cases for which this chapter provides different
9276 methods of amendment. If none of the units in the condominium is restricted exclusively to residential use, the
9277 condominium instruments may specify a majority smaller than the minimum specified in the preceding sentence.

9278 C. An action to challenge the validity of an amendment adopted by the unit owners' association pursuant
9279 to this section may not be brought more than one year after the amendment is recorded.

9280 D. Agreement of the required majority of unit owners to any amendment of the condominium instruments
9281 shall be evidenced by their execution of the amendment, or ratifications of such amendment, and the same is
9282 effective when a copy of the amendment is recorded together with a certification, signed by the principal officer
9283 of the unit owners' association or by such other officer as the condominium instruments may specify, that the
9284 requisite majority of the unit owners signed the amendment or ratifications of such amendment.

9285 E. Except to the extent expressly permitted or expressly required by other provisions of this chapter or
9286 agreed to by 100 percent of the unit owners, no amendment to the condominium instruments shall change (i)
9287 the boundaries of any unit, (ii) the undivided interest in the common elements, (iii) the liability for common
9288 expenses, or (iv) the number of votes in the unit owners' association that appertains to any unit.

9289 F. Notwithstanding any other provision of this section, the declarant may unilaterally execute and record
9290 a corrective amendment or supplement to the condominium instruments to correct a mathematical mistake, an
9291 inconsistency, or a scrivener's error or clarify an ambiguity in the condominium instruments with respect to an
9292 objectively verifiable fact, including recalculating the undivided interest in the common elements, the liability
9293 for common expenses or the number of votes in the unit owners' association appertaining to a unit, within five
9294 years after the recordation of the condominium instrument containing or creating such mistake, inconsistency,
9295 error, or ambiguity. No such amendment or supplement may materially reduce what the obligations of the
9296 declarant would have been if the mistake, inconsistency, error, or ambiguity had not occurred. Regardless of
9297 the date of recordation of the condominium instruments, the principal officer of the unit owners' association
9298 may also unilaterally execute and record such a corrective amendment or supplement upon a vote of two-thirds
9299 of the members of the executive board. All corrective amendments and supplements recorded prior to July 1,
9300 1986, are hereby validated to the extent that such corrective amendments and supplements would have been
9301 permitted by this subsection.

9302 **§ 55.1-1935. Use of technology.**

9303 A. Unless the condominium instruments expressly provide otherwise, (i) any notice required to be sent or
 9304 received or (ii) any signature, vote, consent, or approval required to be obtained under any condominium
 9305 instrument or any provision of this chapter may be accomplished using electronic means.

9306 B. The unit owners' association, unit owners, and other persons entitled to occupy a unit may perform any
 9307 obligation or exercise any right under any condominium instrument or any provision of this chapter by use of
 9308 electronic means.

9309 C. An electronic signature meeting the requirements of applicable law shall satisfy any requirement for a
 9310 signature under any condominium instrument or any provision of this chapter.

9311 D. Voting, consent to, and approval of any matter under any condominium instrument or any provision of
 9312 this chapter may be accomplished by electronic means provided that a record is created as evidence of such
 9313 vote, consent, or approval and maintained as long as such record would be required to be maintained in
 9314 nonelectronic form.

9315 E. Subject to other provisions of law, no action required or permitted by any condominium instrument or
 9316 any provision of this chapter need be acknowledged before a notary public if the identity and signature of such
 9317 person can otherwise be authenticated to the satisfaction of the executive board.

9318 F. If any person does not have the capability or desire to conduct business using electronic means, the unit
 9319 owners' association shall make reasonable accommodation, at its expense, for such person to conduct business
 9320 with the unit owners' association without use of such electronic means.

9321 G. This section shall not apply to any notice related to an enforcement action by the unit owners'
 9322 association, an assessment lien, or foreclosure proceedings in enforcement of an assessment lien.

9323 **§ 55.1-1936. Merger or consolidation of condominiums; procedure.**

9324 A. Any two or more condominiums, by agreement of the unit owners as provided in subsection B, may be
 9325 merged or consolidated into a single condominium. In the event of a merger or consolidation, unless the
 9326 agreement otherwise provides, the resultant condominium shall be the legal successor, for all purposes, of all
 9327 of the preexisting condominiums, and the operations and activities of all unit owners' associations of the
 9328 preexisting condominiums shall be merged or consolidated into a single unit owners' association that holds all
 9329 powers, rights, obligations, assets, and liabilities of all preexisting unit owners' associations.

9330 B. An agreement to merge or consolidate two or more condominiums pursuant to subsection A shall be
 9331 evidenced by an agreement prepared, executed, recorded, and certified by the principal officer of the unit
 9332 owners' association of each of the preexisting condominiums following approval by owners of units to which
 9333 are allocated the percentage of votes in each condominium required to terminate that condominium. The
 9334 agreement shall be recorded in every locality in which a portion of the condominium is located and shall not
 9335 be effective until recorded.

9336 C. Every merger or consolidation agreement shall provide for the reallocation of the allocated interests in
 9337 the new unit owners' association among the units of the resultant condominium either (i) by stating the
 9338 reallocations or the formulas upon which they are based or (ii) by stating the percentage of the overall allocated
 9339 interests of the condominium that are allocated to all of the units comprising each of the preexisting
 9340 condominiums, provided that the portion of the percentages allocated to each unit formerly comprising a part
 9341 of the preexisting condominium shall be equal to the percentages of allocated interests allocated to that unit by
 9342 the declaration of the preexisting condominium.

9343 D. If the condominium instruments of a condominium to be merged or consolidated require a vote or
 9344 consent of mortgagees in order to amend the condominium instruments or terminate the condominium, the same
 9345 vote or consent of mortgagees shall be required before such merger or consolidation is effective. No merger or
 9346 consolidation shall affect mortgagee rights, alter the priority of the lien of any mortgage, materially impair or
 9347 affect any condominium unit as collateral for a mortgage, or affect a mortgagee's right to foreclose on a
 9348 condominium unit as collateral without the prior written consent of the mortgagee. A vote or consent of a
 9349 mortgagee required by this section may be deemed received pursuant to § 55.1-1941.

9350 **§ 55.1-1937. Termination of condominium.**

9351 A. If there is no unit owner other than the declarant, the declarant may unilaterally terminate the
 9352 condominium. An instrument terminating a condominium signed by the declarant is effective upon recordation
 9353 of such instrument. But this section shall not be construed to nullify, limit, or otherwise affect the validity or
 9354 enforceability of any agreement renouncing or to renounce, in whole or in part, the right hereby conferred.

9355 B. Except in the case of a taking of all the units by eminent domain, if any of the units in the condominium
 9356 is restricted exclusively to residential use and there is any unit owner other than the declarant, the condominium

9357 may be terminated only by the agreement of unit owners of units to which four-fifths of the votes in the unit
9358 owners' association appertain, or such larger majority as the condominium instruments may specify. If none of
9359 the units in the condominium is restricted exclusively to residential use, the condominium instruments may
9360 specify a majority smaller than the minimum specified in this subsection.

9361 C. Agreement of the required majority of unit owners to termination of the condominium shall be evidenced
9362 by their execution of a termination agreement, or ratifications of such agreement, and such agreement is
9363 effective when a copy of the termination agreement is recorded together with a certification, signed by the
9364 principal officer of the unit owners' association or by such other officer as the condominium instruments may
9365 specify, that the requisite majority of the unit owners signed the termination agreement or ratifications. Unless
9366 the termination agreement otherwise provides, prior to recordation of the termination agreement, a unit owner's
9367 prior agreement to terminate the condominium may be revoked only with the approval of unit owners of units
9368 to which a majority of the votes in the unit owners' association appertain. The termination agreement shall
9369 specify a date after which the termination agreement is void if the termination agreement is not recorded. For
9370 the purposes of this section, an instrument terminating a condominium and any ratification of such instrument
9371 shall be deemed a condominium instrument subject to the provisions of § 55.1-1911.

9372 D. In the case of a condominium that contains only units having horizontal boundaries described in the
9373 condominium instruments, a termination agreement may provide that all of the common elements and units of
9374 the condominium shall be sold following termination. If, pursuant to the termination agreement, any property
9375 in the condominium is sold following termination, the termination agreement shall set forth the minimum terms
9376 of the sale.

9377 E. In the case of a condominium that contains any units not having horizontal boundaries described in the
9378 condominium instruments, a termination agreement may provide for sale of the common elements. The
9379 termination agreement may not require that the units be sold following termination, unless the condominium
9380 instruments as originally recorded provide otherwise or all the unit owners consent to the sale. In the case of a
9381 master condominium that contains a unit that is a part of another condominium, a termination agreement for
9382 the master condominium shall not terminate the other condominium.

9383 F. On behalf of the unit owners, the unit owners' association may contract for the disposition of property
9384 in the condominium, but the contract shall not be binding on the unit owners until approved pursuant to
9385 subsections B and C. If the termination agreement requires that any property in the condominium be sold
9386 following termination, title to the property, upon termination, shall vest in the unit owners' association as
9387 trustee for the holders of all interest in the units. Thereafter, the unit owners' association shall have powers
9388 necessary and appropriate to effect the sale. Until the termination has been concluded and the proceeds have
9389 been distributed, the unit owners' association shall continue in existence with all the powers the unit owners'
9390 association had before termination. Proceeds of the sale shall be distributed to unit owners and lien holders as
9391 their interests may appear, in proportion to the respective interests of the unit owners as provided in subsection
9392 I. Unless otherwise specified in the termination agreement, for as long as the unit owners' association holds
9393 title to the property, each unit owner or his successor in interest shall have an exclusive right to occupancy of
9394 the portion of the property that formerly constituted his unit. During the period of occupancy by the unit owner
9395 or his successor in interest, each unit owner or his successor in interest shall remain liable for any assessment
9396 or other obligation imposed on the unit owner by this chapter or the condominium instruments.

9397 G. If the property that constitutes the condominium is not sold following termination, title to the common
9398 elements and, in the case of a condominium containing only units that have horizontal boundaries described in
9399 the condominium instruments, title to all the property in the condominium shall vest in the unit owners, upon
9400 termination, as tenants in common in proportion to the unit owners' respective interests as provided in
9401 subsection I. Any liens on the units shall shift accordingly. While the tenancy in common exists, each unit owner
9402 or his successor in interest shall have the exclusive right to occupancy of the portion of the property that
9403 formerly constituted the unit owner's unit.

9404 H. Following termination of the condominium, the proceeds of any sale of property, together with the assets
9405 of the unit owners' association, shall be held by the unit owners' association as trustee for unit owners or lien
9406 holders on the units as their interests may appear. Following termination, any creditor of the unit owners'
9407 association who holds a lien on the unit that was recorded before termination may enforce the lien in the same
9408 manner as any lien holder. Any other creditor of the unit owners' association shall be treated as if he had
9409 perfected a lien on the units immediately before termination.

9410 *I. Unless the condominium instruments as originally recorded or as amended by 100 percent of the unit*
 9411 *owners provide otherwise, the respective interests of unit owners referred to in subsections F, G, and H shall*
 9412 *be as follows:*

9413 *1. Except as provided in subdivision 2, the respective interests of the unit owners shall be the fair market*
 9414 *values of their units, limited common elements, and common element interests immediately before the*
 9415 *termination, as determined by one or more independent appraisers selected by the unit owners' association.*
 9416 *The decision of the independent appraisers shall be distributed to the unit owners and become final unless*
 9417 *disapproved within 30 days after distribution by unit owners of units to which one quarter of the votes in the*
 9418 *unit owners' association appertain. The proportion of any unit owner's interest to the interest of all unit owners*
 9419 *is determined by dividing the fair market value of that unit owner's unit and common element interest by the*
 9420 *total fair market values of all the units and their common element interests.*

9421 *2. If any unit or limited common element is destroyed to the extent that an appraisal of the fair market value*
 9422 *of such unit or limited common element before destruction cannot be made, the interests of all unit owners are*
 9423 *the unit owners' respective common element interests immediately before the termination.*

9424 *J. Except as provided in subsection K, foreclosure or enforcement of a lien or encumbrance against the*
 9425 *entire condominium shall not alone terminate the condominium, and foreclosure or enforcement of a lien or*
 9426 *encumbrance against a portion of the condominium, other than withdrawable land, shall not withdraw that*
 9427 *portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable*
 9428 *land shall not alone withdraw the land from the condominium, but the person who takes title to the withdrawable*
 9429 *land shall have the right to require from the unit owners' association, upon request, an amendment that excludes*
 9430 *the land from the condominium.*

9431 *K. If a lien or encumbrance against a portion of the property that comprises the condominium has priority*
 9432 *over the condominium instruments and the lien or encumbrance has not been partially released, upon*
 9433 *foreclosure, the parties foreclosing the lien or encumbrance may record an instrument that excludes the*
 9434 *property subject to the lien or encumbrance from the condominium.*

9435 *L. The foreclosure of any mortgage, deed of trust, or other lien shall not be deemed, ex proprio vigore, to*
 9436 *terminate the condominium.*

9437 **§ 55.1-1938. Rights of mortgagees.**

9438 *No provision of this chapter shall be construed in derogation of any requirement of the condominium*
 9439 *instruments that all or a specified number of the beneficiaries of mortgages or deeds of trust encumbering the*
 9440 *condominium units approve specified actions contemplated by the unit owners' association.*

9441 **§ 55.1-1939. Statement of unit owner rights.**

9442 *Every unit owner who is a member in good standing of a unit owners' association shall have the following*
 9443 *rights:*

9444 *1. The right of access to all books and records kept by or on behalf of the unit owners' association according*
 9445 *to and subject to the provisions of § 55.1-1945, including records of all financial transactions;*

9446 *2. The right to cast a vote on any matter requiring a vote by the unit owners' association membership in*
 9447 *proportion to the unit owner's ownership interest, except to the extent that the condominium instruments provide*
 9448 *otherwise;*

9449 *3. The right to have notice of any meeting of the executive board, to make a record of such meetings by*
 9450 *audio or visual means, and to participate in such meeting in accordance with the provisions of § 55.1-1949;*

9451 *4. The right to have (i) notice of any proceeding conducted by the executive board or other tribunal specified*
 9452 *in the condominium instruments against the unit owner to enforce any rule or regulation of the unit owners'*
 9453 *association and (ii) the opportunity to be heard and represented by counsel at the proceeding, as provided in §*
 9454 *55.1-1959, and the right of due process in the conduct of that hearing; and*

9455 *5. The right to serve on the executive board if duly elected and a member in good standing of the unit*
 9456 *owners' association, except to the extent that the condominium instruments provide otherwise.*

9457 *The rights enumerated in this section shall be enforceable by any unit owner pursuant to the provisions of*
 9458 *§ 55.1-1915.*

Article 3.

Management of Condominium.

9461 **§ 55.1-1940. Bylaws to be recorded with declaration; contents; unit owners' association; executive board;**
 9462 **amendment of bylaws.**

9463 A. Bylaws providing for governance of the condominium by an association of all of the unit owners shall
9464 be recorded simultaneously with the declaration. The unit owners' association may be incorporated.

9465 B. The bylaws shall provide whether or not the unit owners' association shall elect an executive board. If
9466 there is to be such a board, the bylaws shall specify the powers and responsibilities of the board and the number
9467 and terms of its members. Except to the extent the condominium instruments provide otherwise, any vacancy
9468 occurring in the executive board shall be filled by a vote of a majority of the remaining members of the executive
9469 board at a meeting of the executive board, even though the members of the executive board present at such
9470 meeting may constitute less than a quorum because a quorum is impossible to obtain. Each person so elected
9471 shall serve until the next annual meeting of the unit owners' association at which time a successor shall be
9472 elected by a vote of the unit owners. The bylaws may delegate to such board, inter alia, any of the powers and
9473 responsibilities assigned by this chapter to the unit owners' association. The bylaws shall also specify which, if
9474 any, of its powers and responsibilities the unit owners' association or its executive board may delegate to a
9475 managing agent.

9476 C. The bylaws may provide for arbitration of disputes or other means of alternative dispute resolution in
9477 accordance with subsection C of § 55.1-1915.

9478 D. In any case where an amendment to the declaration is required by subsection B, C, or D of § 55.1-1918,
9479 the person required to execute such amendment shall also prepare and execute, and record simultaneously with
9480 such amendment, an amendment to the bylaws. The amendment to the bylaws shall allocate votes in the unit
9481 owners' association to new units on the same basis as was used for the allocation of such votes to the units
9482 depicted on plats and plans recorded pursuant to subsections A and B of § 55.1-1920 or shall abolish the votes
9483 appertaining to former units, as appropriate. The amendment to the bylaws shall also reallocate rights to future
9484 common profits, and liabilities for future common expenses not specially assessed, in proportion to relative
9485 voting strengths as reflected by the amendment.

9486 **§ 55.1-1941. Amendment to condominium instruments; consent of mortgagee.**

9487 A. If any provision in the condominium instruments requires the written consent of a mortgagee in order to
9488 amend the condominium instruments, the unit owners' association shall be deemed to have received the written
9489 consent of a mortgagee if the unit owners' association sends the text of the proposed amendment by certified
9490 mail, return receipt requested, to the mortgagee at the address supplied by such mortgagee in a written request
9491 to the unit owners' association to receive notice of proposed amendments to the condominium instruments and
9492 receives no written objection to the adoption of the amendment from the mortgagee within 60 days of the date
9493 that the notice of amendment is sent by the unit owners' association, unless the condominium instruments
9494 expressly provide otherwise. If the mortgagee has not supplied an address to the unit owners' association, the
9495 unit owners' association shall be deemed to have received the written consent of a mortgagee if the unit owners'
9496 association sends the text of the proposed amendment by certified mail, return receipt requested, to the
9497 mortgagee at the address filed in the land records or with the local tax assessor's office and receives no written
9498 objection to the adoption of the amendment from the mortgagee within 60 days of the date that the notice of
9499 amendment is sent by the unit owners' association, unless the condominium instruments expressly provide
9500 otherwise.

9501 B. Subsection A shall not apply to amendments that alter the priority of the lien of the mortgagee or that
9502 materially impair or affect the unit as collateral or the right of the mortgagee to foreclose on a unit as collateral.

9503 C. Where the condominium instruments are silent on the need for mortgagee consent, no mortgagee consent
9504 shall be required if the amendment to the condominium instruments does not specifically affect mortgagee
9505 rights.

9506 **§ 55.1-1942. Reformation of declaration; judicial procedure.**

9507 A. A unit owners' association may petition the circuit court in the county or city in which the condominium
9508 or the greater part of the condominium is located to reform the condominium instruments where the unit owners'
9509 association, acting through its executive board, has attempted to amend the condominium instruments
9510 regarding ownership of legal title of the common elements or real property using provisions outlined in the
9511 condominium instruments to resolve (i) ambiguities or inconsistencies in the condominium instruments that are
9512 the source of legal and other disputes pertaining to the legal rights and responsibilities of the unit owners'
9513 association or individual unit owners or (ii) scrivener's errors, including incorrectly identifying the unit owners'
9514 association, incorrectly identifying an entity other than the unit owners' association, or errors arising from
9515 oversight or from an inadvertent omission or mathematical mistake.

9516 *B. The court shall have jurisdiction over matters set forth in subsection A regarding ownership of legal title*
 9517 *of the common elements or real property to:*

9518 *1. Reform, in whole or in part, any provision of the condominium instruments; and*

9519 *2. Correct mistakes or any other error in the condominium instruments that may exist with respect to the*
 9520 *declaration for any other purpose.*

9521 *C. A petition filed by the unit owners' association with the court setting forth any inconsistency or error*
 9522 *made in the condominium instruments, or the necessity for any change in such instruments, shall be deemed*
 9523 *sufficient basis for the reformation, in whole or in part, of the condominium instruments, provided that:*

9524 *1. The unit owners' association has made three good faith attempts to convene a duly called meeting of the*
 9525 *unit owners' association to present for consideration amendments to the condominium instruments for the*
 9526 *reasons specified in subsection A, which attempts have proven unsuccessful as evidenced by an affidavit verified*
 9527 *by oath of the principal officer of the unit owners' association;*

9528 *2. There is no adequate remedy at law as practical and effective to attain the ends of justice as may be*
 9529 *accomplished in the circuit court;*

9530 *3. Where the declarant of the condominium still owns a unit or continues to have any special declarant*
 9531 *rights in the condominium, the declarant joins in the petition of the unit owners' association;*

9532 *4. A copy of the petition is sent to all unit owners at least 30 days before the petition is filed as evidenced*
 9533 *by an affidavit verified by oath of the principal officer of the unit owners' association; and*

9534 *5. A copy of the petition is sent to all mortgagees at least 30 days before the petition is filed as evidenced*
 9535 *by an affidavit verified by oath of the principal officer of the unit owners' association.*

9536 *D. Any mortgagee of a condominium unit in the condominium shall have standing to participate in the*
 9537 *reformation proceedings before the court. No reformation pursuant to this section shall affect mortgagee rights,*
 9538 *alter the priority of the lien of any mortgage, materially impair or affect any condominium unit as collateral*
 9539 *for a mortgage, or affect a mortgagee's right to foreclose on a condominium unit as collateral without the prior*
 9540 *written consent of the mortgagee. Consent of a mortgagee required by this section may be deemed received*
 9541 *pursuant to § 55.1-1941.*

9542 **§ 55.1-1943. Control of condominium by declarant.**

9543 *A. The condominium instruments may authorize the declarant, or a managing agent or some other person*
 9544 *selected or to be selected by the declarant, to appoint and remove some or all of the officers of the unit owners'*
 9545 *association or its executive board, or to exercise powers and responsibilities otherwise assigned by the*
 9546 *condominium instruments and by this chapter to the unit owners' association, the officers, or the executive*
 9547 *board. The declarant, managing agent, or other person selected by the declarant to so appoint and remove*
 9548 *officers or the executive board or to exercise such powers and responsibilities otherwise assigned to the unit*
 9549 *owners' association, the officers, or the executive board shall be subject to liability as fiduciaries of the unit*
 9550 *owners for their action or omissions during the period of declarant control as specified in the condominium*
 9551 *instruments or, if not so specified, within such period as defined in this section. But no amendment to the*
 9552 *condominium instruments shall increase the scope of such authorization if there is any unit owner other than*
 9553 *the declarant, and no such authorization shall be valid after the time limit set by the condominium instruments*
 9554 *or after units to which three-fourths of the undivided interests in the common elements appertain have been*
 9555 *conveyed, whichever occurs first. For the purposes of the preceding sentence only, the calculation of the*
 9556 *fraction of undivided interest shall be based upon the total undivided interests assigned or to be assigned to all*
 9557 *units registered with the Common Interest Community Board pursuant to subsection B of § 55.1-1978 and*
 9558 *described pursuant to subdivision A 4, B 2, or C 8 of § 55.1-1916.*

9559 *B. The time limit initially set by the condominium instruments shall not exceed five years in the case of an*
 9560 *expandable condominium; three years in the case of a condominium other than an expandable condominium,*
 9561 *containing any convertible land; or two years in the case of any other condominium. Such time period shall*
 9562 *begin upon settlement of the first unit to be sold in any portion of the condominium.*

9563 *Notwithstanding the foregoing, at the request of the declarant, such time limits may be extended for a period*
 9564 *not to exceed 15 years from the settlement of the first unit to be sold in any portion of the condominium or after*
 9565 *units to which three-fourths of the undivided interests in the common elements appertain have been conveyed,*
 9566 *whichever occurs first, provided that (i) a special meeting is held prior to the expiration of the initial period of*
 9567 *declarant control; (ii) at such special meeting, the extension of such time limits is approved by a two-thirds*
 9568 *affirmative vote of the unit owners other than the declarant; and (iii) at such special meeting, there is an election*
 9569 *of a warranty review committee consisting of no fewer than three persons unaffiliated with the declarant.*

9570 Prior to any such vote, the declarant shall furnish to the unit owners in the notice of such special meeting
9571 made in accordance with § 55.1-1949 a written statement in a form provided by the Common Interest
9572 Community Board that discloses that an affirmative vote extends the right of the declarant, or a managing agent
9573 or some other person selected by the declarant, to (a) appoint and remove some or all of the officers of the unit
9574 owners' association or its executive board and (b) exercise powers and responsibilities otherwise assigned by
9575 the condominium instruments and by this chapter. In addition, such statement shall contain both a notice of the
9576 effect of the extension of declarant control on the enforcement of the warranty against structural defects
9577 provided by the declarant in accordance with § 55.1-1955 and a statement that a unit owner is advised to
9578 exercise whatever due diligence the unit owner deems necessary to protect his interest.

9579 C. If entered into any time prior to the expiration of the period of declarant control, no contract or lease
9580 entered into with the declarant or any entity controlled by the declarant, management contract, employment
9581 contract, or lease of recreational or parking areas or facilities, which is directly or indirectly made by or on
9582 behalf of the unit owners' association, its executive board, or the unit owners as a group, shall be entered into
9583 for a period in excess of two years. Any such contract or agreement entered into on or after July 1, 1978, may
9584 be terminated without penalty by the unit owners' association or its executive board upon not less than 90 days'
9585 written notice to the other party given not later than 60 days after the expiration of the period of declarant
9586 control. Any such contract or agreement may be renewed for periods not in excess of two years; however, at
9587 the end of any two-year period the unit owners' association or its executive board may terminate any further
9588 renewals or extensions of such contract or agreement. The provisions of this subsection shall not apply to any
9589 lease referred to in § 55.1-1910 or subject to subsection E of § 55.1-1916.

9590 D. If entered into at any time prior to the expiration of the period of declarant control, any contract, lease,
9591 or agreement, other than those subject to the provisions of subsection C, may be entered into by or on behalf
9592 of the unit owners' association, its executive board, or the unit owners as a group, if such contract, lease, or
9593 agreement is bona fide and is commercially reasonable to the unit owners' association at the time entered into
9594 under the circumstances.

9595 E. This section does not apply to any contract, incidental to the disposition of a condominium unit, to
9596 provide to a unit owner for the duration of such unit owner's life, or for any term in excess of one year, nursing
9597 services, medical services, other health-related services, board and lodging and care as necessary, or any
9598 combination of such services. The rule of property law known as the rule restricting unreasonable restraints
9599 on alienation shall not be applied to defeat any provision of the condominium instruments requiring that the
9600 unit owners be parties to such contracts.

9601 F. If the unit owners' association is not in existence or does not have officers at the time of the creation of
9602 the condominium, the declarant shall, until there is such an association with such officers, have the power and
9603 the responsibility to act in all instances where this chapter requires action by the unit owners' association, its
9604 executive board, or any officer.

9605 G. Thirty days prior to the expiration of the period of declarant control, the declarant shall notify the
9606 governing body of the locality in which the condominium is located of the forthcoming termination of declarant
9607 control. Prior to the expiration of the 30-day period, the local governing body or an agency designated by the
9608 local governing body shall advise the principal elected officer of the condominium unit owners' association of
9609 any outstanding violations of applicable building codes or local ordinances or other deficiencies of record.

9610 H. Within 45 days from the expiration of the period of declarant control, the declarant shall deliver to the
9611 president of the unit owners' association or his designated agent (i) all unit owners' association books and
9612 records held by or controlled by the declarant, including minute books and all rules, regulations, and
9613 amendments to such rules and regulations that may have been promulgated; (ii) an accurate and complete
9614 statement of receipts and expenditures prepared using the accrual method of accounting from the date of the
9615 recording of the condominium instruments to the end of the regular accounting period immediately succeeding
9616 the first annual meeting of the unit owners, not to exceed 60 days from the date of the election; (iii) a copy of
9617 the latest available approved plans and specifications for all improvements in the project or as-built plans, if
9618 available; (iv) all association insurance policies that are currently in force; (v) written unexpired warranties
9619 of the contractors, subcontractors, suppliers, and manufacturers, if any; (vi) contracts in which the association
9620 is a contracting party, if any; and (vii) a list of manufacturers of paints, roofing materials, and other similar
9621 materials if specified for use on the condominium property.

9622 *If the unit owners' association is managed by a management company in which the declarant, or its*
 9623 *principals, have no pecuniary interest or management role, then such management company shall have the*
 9624 *responsibility to provide the documents and information required by clauses (i), (ii), (iv), and (vi).*

9625 *I. This section shall be strictly construed to protect the rights of the unit owners.*

9626 **§ 55.1-1944. Deposit of funds.**

9627 *All funds deposited with a managing agent shall be handled in a fiduciary capacity and shall be kept in a*
 9628 *fiduciary trust account in a federally insured financial institution separate from other assets of the managing*
 9629 *agent. The funds shall be the property of the unit owners' association and shall be segregated for each account*
 9630 *in the records of the managing agent in a manner that permits the funds to be identified on an individual unit*
 9631 *owners' association basis.*

9632 **§ 55.1-1945. Books, minutes, and records; inspection.**

9633 *A. The declarant, managing agent, unit owners' association, or person specified in the bylaws of the*
 9634 *association shall keep detailed records of the receipts and expenditures affecting the operation and*
 9635 *administration of the condominium and specifying the maintenance and repair expenses of the common*
 9636 *elements and any other expenses incurred by or on behalf of the association. Subject to the provisions of*
 9637 *subsections B, C, and E, upon request, any unit owner shall be provided a copy of such records and minutes.*
 9638 *All financial books and records shall be kept in accordance with generally accepted accounting practices.*

9639 *B. Subject to the provisions of subsection C, all books and records kept by or on behalf of the unit owners'*
 9640 *association, including the unit owners' association membership list, and addresses and aggregate salary*
 9641 *information of unit owners' association employees, shall be available for examination and copying by a unit*
 9642 *owner in good standing or his authorized agent so long as the request is for a proper purpose related to his*
 9643 *membership in the unit owners' association and not for pecuniary gain or commercial solicitation.*
 9644 *Notwithstanding any provision of law to the contrary, this right of examination shall exist without reference to*
 9645 *the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually*
 9646 *convenient time and location and (ii) upon five business days' written notice for a unit owner association*
 9647 *managed by a common interest community manager and 10 business days' written notice for a self-managed*
 9648 *unit owners' association, which notice shall reasonably identify the purpose for the request and the specific*
 9649 *books and records of the unit owners' association requested.*

9650 *C. Books and records kept by or on behalf of a unit owners' association may be withheld from examination*
 9651 *or copying by unit owners and contract purchasers to the extent that they are drafts not yet incorporated into*
 9652 *the books and records of the unit owners' association or if such books and records concern:*

9653 *1. Personnel matters relating to specific, identified persons or a person's medical records;*
 9654 *2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently*
 9655 *in or under negotiation;*

9656 *3. Pending or probable litigation. For purposes of this subdivision, "probable litigation" means those*
 9657 *instances where there has been a specific threat of litigation from a person having standing to bring legal action*
 9658 *or the legal counsel of such person;*

9659 *4. Matters involving state or local administrative or other formal proceedings before a government tribunal*
 9660 *for enforcement of the condominium instruments or rules and regulations promulgated by the executive board;*

9661 *5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the*
 9662 *attorney-client privilege or the attorney work product doctrine;*

9663 *6. Disclosure of information in violation of law;*

9664 *7. Meeting minutes or other confidential records of an executive session of the executive board held*
 9665 *pursuant to subsection C of § 55.1-1949;*

9666 *8. Documentation, correspondence or management or executive board reports compiled for or on behalf*
 9667 *of the unit owners' association or the executive board by its agents or committees for consideration by the*
 9668 *executive board in executive session; or*

9669 *9. Individual unit owner or member files, other than those of the requesting unit owner, including any*
 9670 *individual unit owner's files kept by or on behalf of the unit owners' association.*

9671 *D. Books and records kept by or on behalf of a unit owners' association shall be withheld from examination*
 9672 *and copying in their entirety only to the extent that an exclusion from disclosure under subsection C applies to*
 9673 *the entire content of such books and records. Otherwise, only those portions of the books and records containing*
 9674 *information subject to an exclusion under subsection C may be withheld or redacted, and all portions of the*
 9675 *books and records that are not so excluded shall be available for examination and copying, provided that the*

9676 requesting member shall be responsible to the association for paying or reimbursing the association for any
9677 reasonable costs incurred by the association in responding to the request for the books and records and review
9678 for redaction of the same.

9679 E. Prior to providing copies of any books and records, the unit owners' association may impose and collect
9680 a charge, not to exceed the reasonable costs of materials and labor, incurred to provide such copies. Charges
9681 may be imposed only in accordance with a cost schedule adopted by the executive board in accordance with
9682 this subsection. The cost schedule shall (i) specify the charges for materials and labor, (ii) apply equally to all
9683 unit owners in good standing, and (iii) be provided to such requesting unit owner at the time the request is
9684 made.

9685 **§ 55.1-1946. Management office.**

9686 Unless the condominium instruments expressly provide otherwise, the unit owners' association shall not be
9687 prohibited from maintaining a management office on common elements or in one or more units in the
9688 condominium.

9689 **§ 55.1-1947. Transfer of special declarant rights.**

9690 A. For the purposes of this section, "affiliate of a declarant" means any person who controls, is controlled
9691 by, or is under common control with a declarant. A person controls a declarant if the person (i) is a general
9692 partner, officer, director, or employer of the declarant; (ii) directly or indirectly, or acting in concert with one
9693 or more persons or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies
9694 representing more than 20 percent of the voting interests in the declarant; (iii) controls in any manner the
9695 election of a majority of the directors of the declarant; or (iv) has contributed more than 20 percent of the
9696 capital of the declarant. A person is controlled by a declarant if the declarant (a) is a general partner, officer,
9697 director, or employer of the person; (b) directly or indirectly, or acting in concert with one or more other
9698 persons or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies
9699 representing more than 20 percent of the voting interest in the person; (c) controls in any manner the election
9700 of a majority of the directors of the person; or (d) has contributed more than 20 percent of the capital of the
9701 person. Control does not exist if the powers described in this subsection are held solely as security for an
9702 obligation and are not exercised.

9703 B. No special declarant right may be transferred except by a document evidencing the transfer recorded in
9704 every county and city in which any portion of the condominium is located. The instrument shall not be effective
9705 unless executed by the transferee.

9706 C. Upon transfer of any special declarant right, the liability of a transferor declarant shall be as follows:

9707 1. The transferor shall not be relieved of any obligation or liability arising before the transfer and shall
9708 remain liable for warranty obligations imposed upon him by subsection B of § 55.1-1955. Lack of privity shall
9709 not deprive any unit owner of standing to bring an action to enforce any obligation of the transferor.

9710 2. If the successor to any special declarant right is an affiliate of a declarant, the transferor shall also be
9711 jointly and severally liable with the successor for any obligation or liability of the successor that relates to the
9712 condominium.

9713 3. If a transferor retains any special declarant rights, but transfers other special declarant rights to a
9714 successor who is not an affiliate of the declarant, the transferor shall also be liable for all obligations and
9715 liabilities relating to the retained special declarant rights and imposed on a declarant by this chapter or by the
9716 condominium instruments.

9717 4. A transferor shall have no liability for any breach of a contractual or warranty obligation or for any
9718 other act or omission, arising from the exercise of a special declarant right by a successor declarant who is not
9719 an affiliate of the transferor.

9720 D. Except as otherwise provided by the mortgage or deed of trust, in case of foreclosure of a mortgage,
9721 sale by a trustee under a deed of trust, tax sale, judicial sale, or sale under receivership proceedings or the
9722 Bankruptcy Code as codified in Title 11 of the United States Code of any unit owned by a declarant or land
9723 subject to development rights:

9724 1. A person acquiring title to all the land being foreclosed or sold shall, but only upon his request, succeed
9725 to all special declarant rights related to that land reserved by that declarant, or only to any rights reserved in
9726 the declaration pursuant to § 55.1-1929 and held by that declarant to maintain sales offices, management
9727 offices, model units, or signs.

9728 2. The judgment or instrument conveying title shall provide for transfer of only the special declarant rights
9729 requested.

9730 For the purposes of this subsection, "development rights" means any right or combination of rights to
 9731 expand an expandable condominium, contract a contractable condominium, convert convertible land, or
 9732 convert convertible space.

9733 E. Upon foreclosure, sale by a trustee under a deed of trust, tax sale, judicial sale, or sale under
 9734 receivership proceedings or the Bankruptcy Code as codified in Title 11 of the United States Code of all units
 9735 and other land in the condominium owned by a declarant, (i) that declarant ceases to have any special declarant
 9736 rights and (ii) any period of declarant control reserved under subsection A of § 55.1-1943 shall terminate,
 9737 unless the judgment or instrument conveying title provides for transfer of all special declarant rights held by
 9738 that declarant to a successor declarant.

9739 F. The liabilities and obligations of any person who succeed to any special declarant right shall be as
 9740 follows:

9741 1. A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations
 9742 and liabilities imposed on the transferor by this chapter or by the condominium instruments.

9743 2. A successor to any special declarant right, other than a successor described in subdivisions 3 and 4, who
 9744 is not an affiliate of a declarant shall be subject to all obligations and liabilities imposed by this chapter or the
 9745 condominium instruments on a declarant that relate to his exercise or nonexercise of special declarant rights,
 9746 or on his transferor, except for (i) misrepresentations by any prior declarant, (ii) warranty obligations as
 9747 provided in subsection B of § 55.1-1955 on improvements made by any previous declarant or made before the
 9748 condominium was created, (iii) breach of any fiduciary obligation by any previous declarant or his appointees
 9749 to the executive board, or (iv) any liability or obligation imposed on the transferor as a result of the transferor's
 9750 acts or omissions after the transfer.

9751 3. Unless he is an affiliate of a declarant, a successor to only a right reserved in the declaration to maintain
 9752 sales offices, management offices, model units, or signs shall not exercise any other special declarant right and
 9753 shall not be subject to any liability or obligation as a declarant, except the liabilities and obligations arising
 9754 under Article 4 (§ 55.1-1970 et seq.) as to disposition by that successor.

9755 4. A successor to all special declarant rights held by his transferor who is not an affiliate of that transferor
 9756 and who succeeded to those rights pursuant to a deed in lieu of foreclosure or a judgment or instrument
 9757 conveying title to units under subsection D may declare his intention in a recorded instrument to hold those
 9758 rights solely for transfer to another person. Thereafter, until transferring all special declarant rights to any
 9759 person acquiring title to any unit owned by the successor, or until recording an instrument permitting exercise
 9760 of all those rights, that successor may not exercise any of those rights other than any right reserved by his
 9761 transferor pursuant to subsection A of § 55.1-1943. Any attempted exercise of those rights is void. So long as a
 9762 successor declarant may not exercise special declarant rights under this subsection, he shall not be subject to
 9763 any liability or obligation as a declarant other than liability for his acts and omissions relating to the exercise
 9764 of rights reserved under subsection A of § 55.1-1943.

9765 G. Nothing in this section subjects any successor to a special declarant right to any claims against or other
 9766 obligations of a transferor declarant, other than claims and obligations arising under this chapter or the
 9767 condominium instruments.

9768 **§ 55.1-1948. Declarants not succeeding to special declarant rights.**

9769 A declarant who does not succeed to any special declarant rights shall be liable only to the extent of his
 9770 actions for claims and obligations arising under this chapter or the condominium instruments.

9771 **§ 55.1-1949. Meetings of unit owners' association and executive board.**

9772 A. 1. Meetings of the unit owners' association shall be held in accordance with the provisions of the
 9773 condominium instruments at least once each year after the formation of the association. The bylaws shall
 9774 specify an officer or his agent who shall, at least 21 days in advance of any annual or regularly scheduled
 9775 meeting and at least seven days in advance of any other meeting, send to each unit owner notice of the time,
 9776 place, and purposes of such meeting. In the event of cancellation of any annual meeting of the unit owners'
 9777 association at which directors are elected, the seven-day notice of any subsequent meeting scheduled to elect
 9778 such directors shall include a statement that the meeting is scheduled for the purpose of the election of directors.

9779 2. Notice shall be sent by United States mail to all unit owners of record at the address of their respective
 9780 units, unless the unit owner has provided to such officer or his agent an address other than the address of the
 9781 unit, or notice may be hand delivered by the officer or his agent, provided that the officer or his agent certifies
 9782 in writing that notice was delivered to the person of the unit owner.

9783 3. In lieu of delivering notice as specified in subdivision 2, such officer or his agent may, to the extent that
9784 the condominium instruments or the condominium's rules and regulations expressly provide, send notice by
9785 electronic means if consented to by the unit owner to whom the notice is given, provided that the officer or his
9786 agent certifies in writing that notice was sent.

9787 B. 1. Except as otherwise provided in the condominium instruments, the provisions of this subsection shall
9788 apply to executive board meetings at which business of the unit owners' association is transacted or discussed.
9789 All meetings of the unit owners' association or the executive board, including any subcommittee or other
9790 committee of such association or board, shall be open to all unit owners of record. The executive board shall
9791 not use work sessions or other informal gatherings of the executive board to circumvent the open meeting
9792 requirements of this section. The unit owners' association may, to the extent that the condominium instruments
9793 or adopted rules expressly provide, send notice by electronic means if consented to by the officer to whom the
9794 notice is given. Minutes of the meetings of the executive board shall be recorded and shall be available as
9795 provided in § 55.1-1945.

9796 2. Notice of the time, date, and place of each meeting of the executive board or of any subcommittee or
9797 other committee of the executive board, and of each meeting of a subcommittee or other committee of the unit
9798 owners' association, shall be published where it is reasonably calculated to be available to a majority of the
9799 unit owners.

9800 A unit owner may make a request to be notified on a continual basis of any such meetings, which request
9801 shall be made at least once a year in writing and include the unit owners' name, address, zip code, and any
9802 email address as appropriate. Notice of the time, date, and place shall be sent to any unit owner requesting
9803 notice (i) by first-class mail or email in the case of meetings of the executive board or (ii) by email in the case
9804 of meetings of any subcommittee or other committee of the executive board or of a subcommittee or other
9805 committee of the unit owners' association.

9806 Notice, reasonable under the circumstances, of special or emergency meetings shall be given
9807 contemporaneously with the notice provided to members of the (i) executive board or any subcommittee or
9808 other committee of such board or (ii) subcommittee or other committee of the unit owners' association
9809 conducting the meeting.

9810 3. Unless otherwise exempt as relating to an executive session pursuant to subsection C, at least one copy
9811 of all agenda packets and materials furnished to members of the executive board or subcommittee or other
9812 committee of the executive board for a meeting shall be made available for inspection by the membership of the
9813 unit owners' association at the same time such documents are furnished to the members of the executive board.

9814 4. Any unit owner may record any portion of a meeting required to be open. The executive board or
9815 subcommittee or other committee of the executive board conducting the meeting may adopt rules (i) governing
9816 the placement and use of equipment necessary for recording a meeting to prevent interference with the
9817 proceedings and (ii) requiring the unit owner recording the meeting to provide notice that the meeting is being
9818 recorded.

9819 If a meeting of the executive board is conducted by telephone conference or video conference or similar
9820 electronic means, at least two board members shall be physically present at the meeting place included in the
9821 notice. The audio equipment shall be sufficient for any member in attendance to hear what is said by any board
9822 member participating in the meeting who is not physically present.

9823 5. Voting by secret or written ballot in an open meeting is a violation of this chapter except for the election
9824 of officers.

9825 C. The executive board or any subcommittee or other committee of the executive board may convene in
9826 executive session to consider personnel matters; consult with legal counsel; discuss and consider contracts,
9827 probable or pending litigation, and matters involving violations of the condominium instruments or rules and
9828 regulations promulgated pursuant to such condominium instruments for which a unit owner, his family
9829 members, tenants, guests, or other invitees are responsible; or discuss and consider the personal liability of
9830 unit owners to the unit owners' association, upon the affirmative vote in an open meeting to assemble in
9831 executive session. The motion shall state specifically the purpose for the executive session. Reference to the
9832 motion and the stated purpose for the executive session shall be included in the minutes. The executive board
9833 shall restrict the consideration of matters during such portions of meetings to only those purposes specifically
9834 exempted and stated in the motion. No contract, motion, or other action adopted, passed, or agreed to in
9835 executive session shall become effective unless the executive board or subcommittee or other committee of the
9836 executive board, following the executive session, reconvenes in open meeting and takes a vote on such contract,

9837 motion, or other action, which shall have its substance reasonably identified in the open meeting. The
9838 requirements of this section do not require the disclosure of information in violation of law.

9839 D. Subject to reasonable rules adopted by the executive board, the executive board shall provide a
9840 designated period of time during a meeting to allow unit owners an opportunity to comment on any matter
9841 relating to the unit owners' association. During a meeting at which the agenda is limited to specific topics or
9842 at a special meeting, the executive board may limit the comments of unit owners to the topics listed on the
9843 meeting agenda.

9844 **§ 55.1-1950. Distribution of information by members.**

9845 A. The executive board shall establish a reasonable, effective, and free method, appropriate to the size and
9846 nature of the condominium, for unit owners to communicate among themselves and with the executive board
9847 regarding any matter concerning the unit owners' association.

9848 B. Except as otherwise provided in the condominium instruments, the executive board shall not require
9849 prior approval of the dissemination or content of any material regarding any matter concerning the unit owners'
9850 association.

9851 **§ 55.1-1951. Display of the flag of the United States; necessary supporting structures; affirmative**
9852 **defense.**

9853 A. In accordance with the federal Freedom to Display the American Flag Act of 2005 (P.L. 109-243), no
9854 unit owners' association shall prohibit or otherwise adopt or enforce any policy restricting a unit owner from
9855 displaying upon property to which the unit owner has a separate ownership interest or a right to exclusive
9856 possession or use the flag of the United States whenever such display is in compliance with Chapter 1 of Title
9857 4 of the United States Code (4 U.S.C. § 1 et seq.) or any rule or custom pertaining to the proper display of the
9858 flag. A unit owners' association may, however, establish reasonable restrictions as to the size, place, duration,
9859 and manner of placement or display of the flag on such property, provided that such restrictions are necessary
9860 to protect a substantial interest of the unit owners' association.

9861 B. The unit owners' association may restrict the display of such flags in the common elements.

9862 C. In any action brought by the unit owners' association under § 55.1-1959 for a violation of a flag
9863 restriction, the unit owners' association shall bear the burden of proof that the restrictions as to the size, place,
9864 duration, and manner of placement or display of such flag are necessary to protect a substantial interest of the
9865 unit owners' association.

9866 D. In any action brought by the unit owners' association under § 55.1-1959, the unit owner shall be entitled
9867 to assert as an affirmative defense that the required disclosure of any limitation pertaining to the flag of the
9868 United States or any flagpole or similar structure necessary to display the flag of the United States was not
9869 contained in the public offering statement or resale certificate, as appropriate, required pursuant to § 55.1-
9870 1976 or 55.1-1991.

9871 **§ 55.1-1952. Meetings of unit owners' associations and executive board; quorums.**

9872 A. Unless the condominium instruments otherwise provide or as specified in subsection G of § 55.1-1953,
9873 a quorum shall be deemed to be present throughout any meeting of the unit owners' association until adjourned
9874 if persons entitled to cast more than one-third of the votes are present at the beginning of such meeting. The
9875 bylaws may provide for a larger percentage, or for a smaller percentage not less than 10 percent.

9876 B. Unless the condominium instruments specify a larger majority, a quorum shall be deemed to be present
9877 throughout any meeting of the executive board if persons entitled to cast one-half of the votes in that body are
9878 present at the beginning of such meeting.

9879 C. On petition of the unit owners' association or any unit owner entitled to vote, the circuit court of the
9880 county or city in which the condominium or the greater part of such condominium is located may order an
9881 annual meeting of the unit owners' association be held for the purpose of the election of members of the
9882 executive board, provided that:

9883 1. No annual meeting as required by § 55.1-1949 has been held due to the failure to obtain a quorum of
9884 unit owners as specified in the condominium instruments; and

9885 2. The unit owners' association has made good faith attempts to convene a duly called annual meeting of
9886 the unit owners' association in three successive years, which attempts have proven unsuccessful due to the
9887 failure to obtain a quorum.

9888 The court may set the quorum for the meeting and enter other orders necessary to convene the meeting.

9889 A unit owner filing a petition under this subsection shall provide a copy of the petition to the executive
9890 board at least 10 business days prior to filing.

9891 **§ 55.1-1953. Meetings of unit owners' associations and executive board; voting by unit owners; proxies.**

9892 A. The bylaws may allocate to each unit depicted on plats and plans that comply with subsections A and B
9893 of § 55.1-1920 a number of votes in the unit owners' association proportionate to the undivided interest in the
9894 common elements appertaining to each such unit.

9895 B. Otherwise, the bylaws shall allocate to each such unit an equal number of votes in the unit owners'
9896 association, subject to the following exception: Each convertible space so depicted shall be allocated a number
9897 of votes in the unit owners' association proportionate to the size of each such space, vis-a-vis the aggregate
9898 size of all units so depicted, while the remaining votes in the unit owners' association shall be allocated equally
9899 to the other units so depicted.

9900 C. Since a unit owner may be more than one person, if only one of such persons is present at a meeting of
9901 the unit owners' association, that person shall be entitled to cast the votes appertaining to that unit. If more
9902 than one of such persons is present, the vote appertaining to that unit shall be cast only in accordance with
9903 their unanimous agreement unless the condominium instruments expressly provide otherwise, and such consent
9904 shall be conclusively presumed if any one of them purports to cast the votes appertaining to that unit without
9905 protest being made forthwith by any of the others to the person presiding over the meeting. For purposes of this
9906 subsection, "person" is deemed to include any natural person having authority to execute deeds on behalf of
9907 any person, excluding natural persons, that is, either alone or in conjunction with another person, a unit owner.

9908 D. The votes appertaining to any unit may be cast pursuant to a proxy duly executed by or on behalf of the
9909 unit owner, or, in cases where the unit owner is more than one person, by or on behalf of all such persons. No
9910 such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the unit
9911 owner or by any of such persons, that it be revoked. Except to the extent otherwise provided in the condominium
9912 instruments, any proxy is void if it is not dated, or if it purports to be revocable without the required notice. A
9913 proxy is void if not signed by a person having authority, at the time of execution, to execute deeds on behalf of
9914 that person. Any proxy shall terminate after the first meeting held on or after the date of that proxy or any
9915 recess or adjournment of that meeting. The proxy shall include a brief explanation of the effect of leaving the
9916 proxy uninstructed. To the extent the condominium instruments or the condominium's rules and regulations
9917 expressly so provide, a vote or proxy may be submitted by electronic means, provided that any such electronic
9918 means shall either set forth or be submitted with information from which it can be determined that the electronic
9919 means was authorized by the unit owner or the unit owner's proxy.

9920 E. If 50 percent or more of the votes in the unit owners' association appertain to 25 percent or less of the
9921 units, then in any case where a majority vote is required by the condominium instruments or by this chapter,
9922 the requirement for such a majority shall be deemed to include, in addition to the specified majority of the votes,
9923 assent by the unit owners of a like majority of the units.

9924 F. All votes appertaining to units owned by the unit owners' association shall be deemed present for quorum
9925 purposes at all duly called meetings of the unit owners' association and shall be deemed cast in the same
9926 proportions as the votes cast by unit owners other than the unit owners' association.

9927 G. Except to the extent that the condominium instruments provide otherwise, the voting interest allocated
9928 to the unit or member that has been suspended by the unit owners' association or the executive board pursuant
9929 to the condominium instruments shall not be counted in the total number of voting interests used to determine
9930 the quorum for any meeting or vote under the condominium instruments.

9931 **§ 55.1-1954. Officers.**

9932 A. If the condominium instruments provide that any officer must be a unit owner, then any such officer who
9933 disposes of all of his units in fee shall be deemed to have disqualified himself from continuing in office unless
9934 the condominium instruments otherwise provide, or unless he acquires or contracts to acquire another unit in
9935 the condominium under terms giving him a right of occupancy effective on or before the termination of his right
9936 of occupancy under such disposition.

9937 B. If the condominium instruments provide that any officer must be a unit owner, then notwithstanding the
9938 provisions of subdivision 1 of § 55.1-1912, the term "unit owner" in such context shall, unless the condominium
9939 instruments otherwise provide, be deemed to include any director, officer, partner in, or trustee of any person
9940 that is, either alone or in conjunction with another person, a unit owner. Any officer who would not be eligible
9941 to serve as such were he not a director, officer, partner in, or trustee of such a person, shall be deemed to have
9942 disqualified himself from continuing in office if he ceases to have any such affiliation with that person, or if that
9943 person would itself have been deemed to have disqualified itself from continuing in such office under subsection
9944 A were it a natural person holding such office.

9945 § 55.1-1955. *Upkeep of condominiums; warranty against structural defects; statute of limitations for*
 9946 *warranty; warranty review committee.*

9947 A. *Except to the extent otherwise provided by the condominium instruments, all powers and responsibilities,*
 9948 *including financial responsibility, with regard to maintenance, repair, renovation, restoration, and replacement*
 9949 *of the condominium shall belong (i) to the unit owners' association in the case of the common elements and (ii)*
 9950 *to the individual unit owner in the case of any unit or any part of such unit, except to the extent that the need*
 9951 *for repairs, renovation, restoration, or replacement arises from a condition originating in or through the*
 9952 *common elements or any apparatus located within the common elements, in which case the unit owners'*
 9953 *association shall have such powers and responsibilities. Each unit owner shall afford to the other unit owners*
 9954 *and to the unit owners' association and to any agents or employees of either such access through his unit as*
 9955 *may be reasonably necessary to enable them to exercise and discharge their respective powers and*
 9956 *responsibilities. To the extent that damage is inflicted on the common elements or any unit through which access*
 9957 *is taken, the unit owner causing the same, or the unit owners' association if it caused the damage, shall be liable*
 9958 *for the prompt repair of such damage.*

9959 B. *Notwithstanding anything in this section to the contrary, the declarant shall warrant or guarantee*
 9960 *against structural defects each of the units for two years from the date each is conveyed and all of the common*
 9961 *elements for two years. For each unit, the declarant shall also warrant that the unit is fit for habitation in the*
 9962 *case of a residential unit and constructed in a workmanlike manner so as to pass without objection in the trade.*
 9963 *The two-year warranty as to each of the common elements begins whenever that common element has been*
 9964 *completed or, if later, (i) as to any common element within any additional land or portion of the additional*
 9965 *land, at the time the first unit in that additional land is conveyed; (ii) as to any common element within any*
 9966 *convertible land or portion of the convertible land, at the time the first unit in the convertible land is conveyed;*
 9967 *and (iii) as to any common element within any other portion of the condominium, at the time the first unit in*
 9968 *that portion is conveyed. For the purposes of this subsection, no unit shall be deemed conveyed unless conveyed*
 9969 *to a bona fide purchaser. Any conveyance of a condominium unit transfers to the purchaser all of the declarant's*
 9970 *warranties against structural defects imposed by this subsection. For the purposes of this subsection, structural*
 9971 *defects shall be those defects in components constituting any unit or common element that reduce the stability*
 9972 *or safety of the structure below accepted standards or restrict the normal intended use of all or part of the*
 9973 *structure and that require repair, renovation, restoration, or replacement. Nothing in this subsection shall be*
 9974 *construed to make the declarant responsible for any items of maintenance relating to the units or common*
 9975 *elements.*

9976 C. *An action for breach of any warranty prescribed by this section shall begin within (i) five years after the*
 9977 *date such warranty period began or (ii) one year after the formation of any warranty review committee pursuant*
 9978 *to subsection B of § 55.1-1943, whichever occurs last. However, no such action shall be maintained against the*
 9979 *declarant unless a written statement by the claimant, or his agent, attorney, or representative, of the nature of*
 9980 *the alleged defect has been sent to the declarant by registered or certified mail at his last known address, as*
 9981 *reflected in the records of the Common Interest Community Board, more than six months prior to the beginning*
 9982 *of the action giving the declarant an opportunity to cure the alleged defect within a reasonable time, not to*
 9983 *exceed five months. Sending the notice required by this subsection shall toll the statute of limitations for*
 9984 *beginning a breach of warranty action for a period not to exceed six months.*

9985 D. *If the initial period of declarant control has been extended in accordance with subsection B of § 55.1-*
 9986 *1943, the warranty review committee, referred to in this section as "the committee," shall have (i) subject to*
 9987 *the provisions of subdivision 3, the irrevocable power as attorney-in-fact on behalf of the unit owners'*
 9988 *association to assert or settle in the name of the unit owners' association any claims involving the declarant's*
 9989 *warranty against structural defects with respect to all of the common elements and (ii) the authority to levy an*
 9990 *additional assessment against all of the units in proportion to their respective undivided interests in the common*
 9991 *elements pursuant to § 55.1-1964 if the committee determines that the assessments levied by the unit owners'*
 9992 *association are insufficient to enable the committee reasonably to perform its functions pursuant to this*
 9993 *subsection. The committee or the declarant shall notify the governing body of the locality in which the*
 9994 *condominium is located of the formation of the committee within 30 days of its formation. Within 30 days after*
 9995 *such notice, the local governing body or an agency designated by the local governing body shall advise the*
 9996 *chair of the committee of any outstanding violations of applicable building codes, local ordinances, or other*
 9997 *deficiencies of record. Members of the committee shall be insured, indemnified, and subject to liability to the*
 9998 *same extent as officers or directors under the condominium instruments or applicable law. The unit owners'*

9999 association shall provide sufficient funds reasonably necessary for the committee to perform the functions set
 10000 out in this subsection and to:

10001 1. Engage an independent architect, engineer, legal counsel, and such other experts as the committee may
 10002 reasonably determine;

10003 2. Investigate whether there exists any breach of the warranty as to any of the common elements. The
 10004 committee shall document its findings and the evidence that supports such findings. Such findings and evidence
 10005 shall be confidential and shall not be disclosed to the declarant without the consent of the committee; and

10006 3. Assert or settle in the name of the unit owners' association any claims involving the declarant's warranty
 10007 on the common elements, provided that (i) the committee sends the declarant at least six months prior to the
 10008 expiration of the statute of limitations a written statement pursuant to subsection C of the alleged nature of any
 10009 defect in the common elements giving the declarant an opportunity to cure the alleged defect; (ii) the declarant
 10010 fails to cure the alleged defect within a reasonable time; and (iii) the declarant control period or the statute of
 10011 limitations has not expired.

10012 E. Within 45 days after the formation of the committee, the declarant shall deliver to the chair of the
 10013 committee (i) a copy of the latest available approved plans and specifications for all improvements in the project
 10014 or as-built plans if available; (ii) all association insurance policies that are currently in force; (iii) any written
 10015 unexpired warranties of the contractors, subcontractors, suppliers, and manufacturers applicable to the
 10016 condominium; and (iv) a list of manufacturers of paints, roofing materials, and other similar materials if
 10017 specified for use on the condominium property.

10018 **§ 55.1-1956. Control of common elements.**

10019 A. Except to the extent prohibited, restricted, or limited by the condominium instruments, the unit owners'
 10020 association shall have the power to:

10021 1. Employ, dismiss, and replace agents and employees to exercise and discharge the powers and
 10022 responsibilities of the association arising under § 55.1-1955;

10023 2. Make or cause to be made additional improvements on and as a part of the common elements;

10024 3. Grant or withhold approval of any action by one or more unit owners or other persons entitled to the
 10025 occupancy of any unit that would change the exterior appearance of any unit or of any other portion of the
 10026 condominium, or elect or provide for the appointment of an architectural control committee, the members of
 10027 which must have the same qualifications as officers, to grant or withhold such approval; and

10028 4. Acquire, hold, convey, and encumber title to real property, including condominium units, whether or not
 10029 the association is incorporated.

10030 B. Except to the extent prohibited, restricted, or limited by the condominium instruments, the executive
 10031 board of the unit owners' association, if any, and if not, then the unit owners' association itself, has the
 10032 irrevocable power as attorney-in-fact on behalf of all the unit owners and their successors in title with respect
 10033 to the common elements, including the right, in the name of the unit owners' association, to (i) grant easements
 10034 through the common elements and accept easements benefiting all or any portion of the condominium; (ii)
 10035 assert, through litigation or otherwise, defend against, compromise, adjust, and settle any claims or actions
 10036 related to common elements, other than claims against or actions involving the declarant during any period of
 10037 declarant control reserved pursuant to subsection A of § 55.1-1943; and (iii) apply for any governmental
 10038 approvals under state and local law.

10039 C. This section shall not be construed to prohibit the grant by the condominium instruments of other powers
 10040 and responsibilities to the unit owners' association or its executive board.

10041 **§ 55.1-1957. Common elements; notice of pesticide application.**

10042 The unit owners' association shall post notice of all pesticide applications in or upon the common elements.
 10043 Such notice shall consist of conspicuous signs placed in or upon the common elements where the pesticide will
 10044 be applied at least 48 hours prior to the application.

10045 **§ 55.1-1958. Tort and contract liability; judgment lien.**

10046 A. An action for tort alleging a wrong done (i) by any agent or employee of the declarant or of the unit
 10047 owners' association or (ii) in connection with the condition of any portion of the condominium that the declarant
 10048 or the association has the responsibility to maintain shall be brought against the declarant or the association,
 10049 as appropriate. No unit owner shall be precluded from bringing such an action by virtue of his ownership of an
 10050 undivided interest in the common elements or by reason of his membership in the association or his status as
 10051 an officer.

10052 *B. Unit owners other than the declarant shall not be liable for torts caused by agents or employees of the*
10053 *declarant within any convertible land or using any easement reserved in the declaration or created by § 55.1-*
10054 *1928 or 55.1-1929.*

10055 *C. An action arising from a contract made by or on behalf of the unit owners' association or its executive*
10056 *board or the unit owners as a group shall be brought against the association, or against the declarant if the*
10057 *cause of action arose during the exercise by the declarant of control reserved pursuant to subsection A of §*
10058 *55.1-1943. No unit owner shall be precluded from bringing such an action by reason of his membership in the*
10059 *association or his status as an officer.*

10060 *D. A judgment for money against the unit owners' association shall be a lien against any property owned*
10061 *by the association, and against each of the condominium units in proportion to the liability of each unit owner*
10062 *for common expenses as established pursuant to subsection D of § 55.1-1964, but not against any other property*
10063 *of any unit owner. A unit owner who pays a percentage of the total amount due under such judgment equal to*
10064 *such unit owner's liability for common expenses fixed pursuant to subsection D of § 55.1-1964 shall be entitled*
10065 *to a release of any such judgment lien, and the association shall not be entitled to assess the unit for payment*
10066 *of the remaining amount due. Such judgment shall be otherwise subject to the provisions of § 8.01-458.*

10067 **§ 55.1-1959. Suspension of services for failure to pay assessments; corrective action; assessment of**
10068 **charges for violations; notice; hearing; adoption and enforcement of rules and regulations.**

10069 *A. The unit owners' association shall have the power, to the extent the condominium instruments or the*
10070 *condominium's rules and regulations expressly provide, to (i) suspend a unit owner's right to use facilities or*
10071 *services, including utility services, provided directly through the unit owners' association for nonpayment of*
10072 *assessments that are more than 60 days past due, to the extent that access to the unit through the common*
10073 *elements is not precluded and provided that such suspension does not endanger the health, safety, or property*
10074 *of any unit owner, tenant, or occupant and (ii) assess charges against any unit owner for any violation of the*
10075 *condominium instruments or of the rules or regulations promulgated pursuant thereto for which such unit*
10076 *owner or his family members, tenants, guests, or other invitees are responsible.*

10077 *B. Before any action authorized in this section is taken, the unit owner shall be given a reasonable*
10078 *opportunity to correct the alleged violation after written notice of the alleged violation to the unit owner at the*
10079 *address required for notices of meetings pursuant to § 55.1-1949. If the violation remains uncorrected, the unit*
10080 *owner shall be given an opportunity to be heard and to be represented by counsel before the executive board*
10081 *or such other tribunal as the condominium instruments or its adopted rules and regulations specify.*

10082 *Notice of such hearing, including the actions that may be taken by the unit owners' association in*
10083 *accordance with this section, shall, at least 14 days in advance, be hand delivered or mailed by registered or*
10084 *certified United States mail, return receipt requested, to such unit owner at the address required for notices of*
10085 *meetings pursuant to § 55.1-1949. Within seven days of the hearing, the hearing result shall be hand delivered*
10086 *or mailed by registered or certified mail, return receipt requested, to such unit owner at the address required*
10087 *for notices of meetings pursuant to § 55.1-1949.*

10088 *C. The amount of any charges assessed shall not exceed \$50 for a single offense, or \$10 per diem for any*
10089 *offense of a continuing nature, and shall be treated as an assessment against such unit owner's condominium*
10090 *unit for the purpose of § 55.1-1966. However, the total charges for any offense of a continuing nature shall not*
10091 *be assessed for a period exceeding 90 days.*

10092 *D. The unit owners' association may file or defend legal action in general district or circuit court that seeks*
10093 *relief, including injunctive relief, arising from any violation of the condominium instruments or the*
10094 *condominium's adopted rules and regulations.*

10095 *E. After the date an action is filed in the general district or circuit court by (i) the unit owners' association,*
10096 *by and through its counsel, to collect the charges or obtain injunctive relief and correct the violation or (ii) the*
10097 *unit owner challenging any such charges, no additional charges shall accrue.*

10098 *If the court rules in favor of the unit owners' association, it shall be entitled to collect such charges from*
10099 *the date the action was filed as well as all other charges assessed pursuant to this section against the unit owner*
10100 *prior to the action. In addition, if the court finds that the violation remains uncorrected, the court may order*
10101 *the unit owner to abate or remedy the violation.*

10102 *In any action filed in general district court pursuant to this section, the court may enter default judgment*
10103 *against the unit owner on the sworn affidavit of the unit owners' association.*

10104 *F. This section shall not be construed to prohibit the grant by the condominium instruments of other powers*
10105 *and responsibilities to the unit owners' association or its executive board.*

10106 **§ 55.1-1960. Limitation of occupancy of a unit.**

10107 *To the extent expressly provided in the condominium instruments, the unit owners' association may limit*
10108 *the number of persons who may occupy a unit as a dwelling. Such limitation shall be reasonable and shall*
10109 *comply with the provisions of applicable law, including the Virginia Fair Housing Law (§ 36-96.1 et seq.), the*
10110 *Uniform Statewide Building Code (§ 36-97 et seq.), and local ordinances.*

10111 **§ 55.1-1961. Use of for sale sign in connection with resale.**

10112 *Except as expressly authorized in this chapter or in the condominium instruments or as otherwise provided*
10113 *by law, no unit owners' association shall require the use of any for sale sign that is (i) a unit owners' association*
10114 *sign or (ii) a real estate sign that does not comply with the requirements of the Virginia Real Estate Board. A*
10115 *unit owners' association may, however, prohibit the placement of signs in the common elements and establish*
10116 *reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property*
10117 *upon which the owner has a separate ownership interest or a right of exclusive possession, so long as at least*
10118 *one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which*
10119 *the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the*
10120 *real estate signs complies with the requirements of the Virginia Real Estate Board; (c) the manner in which*
10121 *real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate*
10122 *signs on such real property shall be removed.*

10123 **§ 55.1-1962. Designation of authorized representative.**

10124 *Except as expressly authorized in this chapter or in the condominium instruments or as otherwise provided*
10125 *by law, no unit owners' association shall require any unit owner to execute a formal power of attorney if the*
10126 *unit owner designates a person licensed under the provisions of § 54.1-2106.1 as the unit owner's authorized*
10127 *representative, and the unit owners' association shall recognize such representation without a formal power of*
10128 *attorney, provided that the unit owners' association is given a written authorization signed by the unit owner*
10129 *designating such representative. Notwithstanding the foregoing, the requirements of § 55.1-1953 and the*
10130 *condominium instruments shall be satisfied before any such representative may exercise a vote on behalf of a*
10131 *unit owner as a proxy.*

10132 **§ 55.1-1963. Insurance.**

10133 *A. The condominium instruments may require the unit owners' association, or the executive board or*
10134 *managing agent on behalf of such association, to obtain:*

10135 *1. A master casualty policy affording fire and extended coverage in an amount consonant with the full*
10136 *replacement value of the structures within the condominium, or of such structures that in whole or in part*
10137 *comprise portions of the common elements;*

10138 *2. A master liability policy, in an amount specified by the condominium instruments, covering the unit*
10139 *owners' association, the executive board, if any, the managing agent, if any, all persons acting or who may*
10140 *come to act as agents or employees of any of the foregoing with respect to the condominium, and all unit owners*
10141 *and other persons entitled to occupy any unit or other portion of the condominium; and*

10142 *3. Such other policies as may be required by the condominium instruments, including workers'*
10143 *compensation insurance, liability insurance on motor vehicles owned by the unit owners' association, and*
10144 *specialized policies covering lands or improvements in which the unit owners' association has or shares*
10145 *ownership or other rights.*

10146 *B. Any unit owners' association collecting assessments for common expenses shall obtain and maintain a*
10147 *blanket fidelity bond or employee dishonesty insurance policy insuring the unit owners' association against*
10148 *losses resulting from theft or dishonesty committed by the officers, directors, or persons employed by the unit*
10149 *owners' association, or committed by any common interest community manager or employees of the common*
10150 *interest community manager. Such bond or insurance policy shall provide coverage in an amount equal to the*
10151 *lesser of \$1 million or the amount of reserve balances of the unit owners' association plus one-fourth of the*
10152 *aggregate annual assessment of such unit owners' association. The minimum coverage amount shall be*
10153 *\$10,000. The executive board or common interest community manager may obtain such bond or insurance on*
10154 *behalf of the unit owners' association.*

10155 *C. When any policy of insurance has been obtained by or on behalf of the unit owners' association, written*
10156 *notice of such obtainment and of any subsequent changes in or termination of the policy shall be promptly*
10157 *furnished to each unit owner by the officer required to send notices of meetings of the unit owners' association.*
10158 *Such notices shall be sent in accordance with the provisions of subsection A of § 55.1-1949.*

10159 **§ 55.1-1964. Liability for common expenses; late fees.**

10160 A. Except to the extent that the condominium instruments provide otherwise, any common expenses
10161 associated with the maintenance, repair, renovation, restoration, or replacement of any limited common
10162 element shall be specially assessed against the condominium unit to which that limited common element was
10163 assigned at the time such expenses were made or incurred. If the limited common element involved was assigned
10164 at that time to more than one condominium unit, however, such expenses shall be specially assessed against
10165 each such condominium unit equally so that the total of such special assessments equals the total of such
10166 expenses, except to the extent that the condominium instruments provide otherwise.

10167 B. To the extent that the condominium instruments expressly so provide, any other common expenses
10168 benefiting less than all of the condominium units, or caused by the conduct of less than all those entitled to
10169 occupy the same or by their licensees or invitees, shall be specially assessed against any condominium unit
10170 involved, in accordance with such reasonable provisions as the condominium instruments may make for such
10171 cases. The executive board may impose reasonable user fees.

10172 C. To the extent that the condominium instruments expressly so provide, (i) any common expenses paid or
10173 incurred in making available the same off-site amenities or paid subscription television service to some or all
10174 of the unit owners shall be assessed equally against the condominium units involved and (ii) any common
10175 expenses paid or incurred in providing metered utility services to some or all of the units shall be assessed
10176 against each condominium unit involved based on its actual consumption of such services.

10177 D. The amount of all common expenses not specially assessed pursuant to subsection A, B, or C shall be
10178 assessed against the condominium units in proportion to the number of votes in the unit owners' association
10179 appertaining to each such unit, or, if such votes were allocated as provided in subsection B of § 55.1-1953,
10180 those common expense assessments shall be either in proportion to those votes or in proportion to the units'
10181 respective undivided interests in the common elements, whichever basis the condominium instruments specify.
10182 Such assessments shall be made by the unit owners' association annually, or more often if the condominium
10183 instruments so provide. No change in the number of votes in the unit owners' association appertaining to any
10184 condominium unit shall enlarge, diminish, or otherwise affect any liabilities arising from assessments made
10185 prior to such change.

10186 E. Except to the extent otherwise provided in the condominium instruments, if the executive board
10187 determines that the assessments levied by the unit owners' association are insufficient to cover the common
10188 expenses of the unit owners' association, the executive board may levy an additional assessment against all of
10189 the units in proportion to their respective undivided interests in the common elements. The executive board
10190 shall give written notice to the unit owners stating the amount of, the reasons for, and the due date for payment
10191 of any additional assessment. If the additional assessment is to be paid in a lump sum, payment shall be due
10192 and payable no earlier than 90 days after delivery or mailing of the notice.

10193 All unit owners shall be obligated to pay the additional assessment unless the unit owners by a majority of
10194 votes cast, in person or by proxy, at a meeting of the unit owners' association convened in accordance with the
10195 provisions of the condominium instruments within 60 days of the delivery or mailing of the notice required by
10196 this subsection, rescind or reduce the additional assessment. No director or officer of the unit owners'
10197 association shall be liable for failure to perform his fiduciary duty if an additional assessment for the funds
10198 necessary for the director or officer to perform his fiduciary duty is rescinded by the unit owners' association
10199 in accordance with this subsection. The unit owners' association shall indemnify such director or officer against
10200 any damage resulting from any claimed breach of fiduciary duty due to the assessment for the necessary funds
10201 rescinded by the unit owners' association in accordance with this subsection.

10202 F. Neither a unit owned by the declarant nor any other unit may be exempted from assessments made
10203 pursuant to this section by reason of the identity of the unit owner.

10204 G. All condominium instruments for condominiums created prior to January 1, 1981, are hereby validated
10205 notwithstanding noncompliance with the first sentence of subsection D if they provide instead that the amount
10206 of all common expenses not specially assessed pursuant to subsection A, B, or C shall be assessed against the
10207 condominium units in proportion to their respective undivided interests in the common elements.

10208 H. Except to the extent that the condominium instruments or the association's rules or regulations provide
10209 otherwise, an executive board may impose a late fee, not to exceed the penalty provided for in § 58.1-3915, for
10210 any assessment or installment that is not paid within 60 days of the due date for payment of such assessment or
10211 installment.

10212 **§ 55.1-1965. Reserves for capital components.**

10213 A. Except to the extent otherwise provided in the condominium instruments and unless the condominium
 10214 instruments impose more stringent requirements, the executive board shall:

10215 1. Conduct a study at least once every five years to determine the necessity and amount of reserves required
 10216 to repair, replace, and restore the capital components;

10217 2. Review the results of that study at least annually to determine if reserves are sufficient; and

10218 3. Make any adjustments the executive board deems necessary to maintain reserves, as appropriate.

10219 B. To the extent that the reserve study conducted in accordance with this section indicates a need to budget
 10220 for reserves, the unit owners' association budget shall include:

10221 1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital
 10222 components;

10223 2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated
 10224 cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected
 10225 contribution to the reserve fund for that fiscal year; and

10226 3. A general statement describing the procedures used for the estimation and accumulation of cash reserves
 10227 pursuant to this section and the extent to which the unit owners' association is funding its reserve obligations
 10228 consistent with the study currently in effect.

10229 **§ 55.1-1966. Lien for assessments.**

10230 A. The unit owners' association shall have a lien on each condominium unit for unpaid assessments levied
 10231 against that condominium unit in accordance with the provisions of this chapter and all lawful provisions of
 10232 the condominium instruments. The lien, once perfected, shall be prior to all other liens and encumbrances
 10233 except (i) real estate tax liens on that condominium unit, (ii) liens and encumbrances recorded prior to the
 10234 recordation of the declaration, and (iii) sums unpaid on any first mortgages or first deeds of trust recorded
 10235 prior to the perfection of such lien for assessments and securing institutional lenders. The provisions of this
 10236 subsection shall not affect the priority of mechanics' and materialmen's liens.

10237 B. Notwithstanding any other provision of this section, or any other provision of law requiring documents
 10238 to be recorded in the miscellaneous lien books or the deed books in the clerk's office of any court, on or after
 10239 July 1, 1974, all memoranda of liens arising under this section shall, in the discretion of the clerk, be recorded
 10240 in the miscellaneous lien books or the deed books in such clerk's office. Any such memorandum shall be indexed
 10241 in the general index to deeds, and such general index shall identify the lien as a lien for condominium
 10242 assessments.

10243 C. In order to perfect the lien given by this section, the unit owners' association shall file a memorandum
 10244 verified by the oath of the principal officer of the unit owners' association, or such other officer as the
 10245 condominium instruments may specify, before the expiration of 90 days from the time the first such assessment
 10246 became due and payable. The memorandum shall be filed in the clerk's office of the circuit court in the county
 10247 or city in which such condominium is situated. The memorandum shall contain the following:

10248 1. A description of the condominium unit in accordance with the provisions of § 55.1-1909.

10249 2. The name or names of the persons constituting the unit owners of that condominium unit.

10250 3. The amount of unpaid assessments currently due or past due together with the date when each fell due.

10251 4. The date of issuance of the memorandum.

10252 The clerk in whose office such memorandum is filed shall record and index the memorandum as provided
 10253 in subsection B, in the names of the persons identified in such memorandum as well as in the name of the unit
 10254 owners' association. The cost of recording such memorandum shall be taxed against the person found liable in
 10255 any judgment enforcing such lien.

10256 D. No action to enforce any lien perfected under subsection C shall be brought or action to foreclose any
 10257 lien perfected under subsection I shall be initiated after 36 months from the time when the memorandum of lien
 10258 was recorded; however, the filing of a petition to enforce any such lien in any action in which such petition may
 10259 be properly filed shall be regarded as the institution of an action under this section. Nothing in this subsection
 10260 shall extend the time within which any such lien may be perfected.

10261 E. The judgment in an action brought pursuant to this section shall include reimbursement for costs and
 10262 attorney fees of the prevailing party. If the association prevails, it may also recover interest at the legal rate
 10263 for the sums secured by the lien from the time each such sum became due and payable.

10264 F. When payment or satisfaction is made of a debt secured by the lien perfected by subsection C, such lien
 10265 shall be released in accordance with the provisions of § 55.1-339. Any lien that is not so released shall subject
 10266 the lien creditor to the penalty set forth in subdivision B 1 of § 55.1-339. For the purposes of that section, the

10267 principal officer of the unit owners' association, or such other officer as the condominium instruments may
10268 specify, shall be deemed the duly authorized agent of the lien creditor.

10269 G. Nothing in this section shall be construed to prohibit actions at law to recover sums for which subsection
10270 A creates a lien, maintainable pursuant to § 55.1-1915.

10271 H. Any unit owner or purchaser of a condominium unit, having executed a contract for the disposition of
10272 such condominium unit, shall be entitled upon request to a recordable statement setting forth the amount of
10273 unpaid assessments currently levied against that unit. Such request shall be in writing, directed to the principal
10274 officer of the unit owners' association or to such other officer as the condominium instruments may specify.
10275 Failure to furnish or make available such a statement within 10 days of the receipt of such request shall
10276 extinguish the lien created by subsection A as to the condominium unit involved. Such statement shall be binding
10277 on the unit owners' association, the executive board, and every unit owner. Payment of a fee not exceeding \$10
10278 may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

10279 I. At any time after perfecting the lien pursuant to this section, the unit owners' association may sell the
10280 unit at public sale, subject to prior liens. For purposes of this section, the unit owners' association shall have
10281 the power both to sell and convey the unit and shall be deemed the unit owner's statutory agent for the purpose
10282 of transferring title to the unit. A nonjudicial foreclosure sale shall be conducted in compliance with the
10283 following:

10284 1. The unit owners' association shall give notice to the unit owner prior to advertisement required by
10285 subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to
10286 satisfy the debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is
10287 given to the unit owner, by which the debt secured by the lien must be satisfied; and (iv) that failure to satisfy
10288 the debt secured by the lien on or before the date specified in the notice may result in the sale of the unit. The
10289 notice shall further inform the unit owner of the right to bring a court action in the circuit court of the county
10290 or city where the condominium is located to assert the nonexistence of a debt or any other defense of the unit
10291 owner to the sale.

10292 2. After expiration of the 60-day notice period provided in subdivision 1, the unit owners' association may
10293 appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the
10294 circuit court in the county or city in which the condominium is located. The clerk in whose office such
10295 appointment is filed shall record and index the appointment as provided in subsection C, in the names of the
10296 persons identified therein as well as in the name of the unit owners' association. The unit owners' association,
10297 at its option, may from time to time remove the trustee and appoint a successor trustee.

10298 3. If the unit owner meets the conditions specified in this subdivision prior to the date of the foreclosure
10299 sale, the unit owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale
10300 of the unit. Those conditions are that the unit owner (a) satisfy the debt secured by lien that is the subject of the
10301 nonjudicial foreclosure sale and (b) pays all expenses and costs incurred in perfecting and enforcing the lien,
10302 including advertising costs and reasonable attorney fees.

10303 4. In addition to the advertisement required by subdivision 5, the unit owners' association shall give written
10304 notice of the time, date, and place of any proposed sale in execution of the lien, and shall include the name,
10305 address, and telephone number of the trustee, by personal delivery or by mail to (i) the present owner of the
10306 condominium unit to be sold at his last known address as such owner and address appear in the records of the
10307 unit owners' association, (ii) any lienholder who holds a note against the condominium unit secured by a deed
10308 of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of
10309 trust, and (iii) any assignee of such a note secured by a deed of trust provided the assignment and address of
10310 the assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the
10311 advertisement or the notice containing the same information to the owner by certified or registered mail no less
10312 than 14 days prior to such sale and to the lienholders and their assigns, at the addresses noted in the
10313 memorandum of lien, by ordinary mail no less than 14 days prior to such sale shall be a sufficient compliance
10314 with the requirement of notice.

10315 5. The advertisement of sale by the unit owners' association shall be in a newspaper having a general
10316 circulation in the locality in which the condominium unit to be sold, or any portion of such unit, is located
10317 pursuant to the following provisions:

10318 a. The unit owners' association shall advertise once a week for four successive weeks; however, if the
10319 condominium unit or some portion of such unit is located in a city or in a county immediately contiguous to a
10320 city, publication of the advertisement five different days, which may be consecutive days, shall be deemed

10321 adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than
10322 eight days following the first advertisement nor more than 30 days following the last advertisement.

10323 b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where
10324 the type of property being sold is generally advertised for sale. The advertisement of sale, in addition to such
10325 other matters as the unit owners' association finds appropriate, shall set forth a description of the condominium
10326 unit to be sold, which description need not be as extensive as that contained in the deed of trust but shall identify
10327 the condominium unit by street address, if any, or, if none, shall give the general location of the condominium
10328 unit with reference to streets, routes, or known landmarks. Where available, tax map identification may be used
10329 but is not required. The advertisement shall also include the date, time, place, and terms of sale and the name
10330 of the unit owners' association. The advertisement shall set forth the name, address, and telephone number of
10331 the representative, agent, or attorney who may be able to respond to inquiries concerning the sale.

10332 c. In addition to the advertisement required by subdivisions a and b, the unit owners' association may give
10333 such other further and different advertisement as the association finds appropriate.

10334 6. In the event of postponement of a sale, which postponement shall be at the discretion of the unit owners'
10335 association, advertisement of such postponed sale shall be in the same manner as the original advertisement of
10336 sale.

10337 7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition,
10338 render a sale of the condominium unit voidable by the court.

10339 8. In the event of a sale, the unit owners' association shall have the following powers and duties:

10340 a. Written one-price bids may be made and shall be received by the trustee from the unit owners' association
10341 or any person for entry by announcement at the sale. Any person other than the trustee may bid at the
10342 foreclosure sale, including a person who has submitted a written one-price bid. Upon request to the trustee,
10343 any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise
10344 provided in the condominium instruments, the unit owners' association may bid to purchase the unit at a
10345 foreclosure sale. The unit owners' association may own, lease, encumber, exchange, sell, or convey the unit.
10346 Whenever the written bid of the unit owners' association is the highest bid submitted at the sale, such written
10347 bid shall be filed by the trustee with his account of sale required under subdivision 10 of this subsection and §
10348 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the unit owners'
10349 association or its agent or attorney.

10350 b. The unit owners' association may require of any bidder at any sale a cash deposit of as much as 10
10351 percent of the sale price before his bid is received, which shall be refunded to him if the condominium unit is
10352 not sold to him. The deposit of the successful bidder shall be applied to his credit at settlement, or if such bidder
10353 fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale,
10354 and the balance, if any, shall be retained by the unit owners' association in connection with that sale.

10355 c. The unit owners' association shall receive and receipt for the proceeds of sale, no purchaser being
10356 required to see to the application of the proceeds, and apply the same in the following order: first, to the
10357 reasonable expenses of sale, including reasonable attorney fees; second, to the satisfaction of all taxes, levies,
10358 and assessments, with costs and interest; third, to the satisfaction of the lien for the unit owners' assessments;
10359 fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay
10360 the residue of the proceeds to the unit owner or his assigns, provided, however, that the association as to such
10361 residue shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the unit
10362 owner's equity, without actual notice of such encumbrance prior to distribution.

10363 9. The trustee shall deliver to the purchaser a trustee's deed conveying the unit with special warranty of
10364 title. The trustee shall not be required to take possession of the condominium unit prior to the sale or to deliver
10365 possession of the unit to the purchaser at the sale.

10366 10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to § 64.2-
10367 1309 and every account of a sale shall be recorded pursuant to § 64.2-1310. In addition, the accounting shall
10368 be made available for inspection and copying pursuant to § 55.1-1945 upon the written request of the prior unit
10369 owner, current unit owner, or any holder of a recorded lien against the unit at the time of the sale. The unit
10370 owners' association shall maintain a copy of the accounting for at least 12 months following the foreclosure
10371 sale.

10372 11. If the sale of a unit is made pursuant to this subsection and the accounting is made by the trustee, the
10373 title of the purchaser at such sale shall not be disturbed unless within 12 months from the confirmation of the

10374 *accounting by the commissioner of accounts, the sale is set aside by the court or an appeal is allowed by the*
 10375 *Supreme Court of Virginia and an order is entered requiring such sale to be set aside.*

10376 **§ 55.1-1967. Notice of sale under deed of trust.**

10377 *In accordance with the provisions of § 15.2-979, the unit owners' association shall be given notice whenever*
 10378 *a condominium unit becomes subject to a sale under a deed of trust. Upon receipt of such notice, the executive*
 10379 *board, on behalf of the unit owners' association, shall exercise whatever due diligence it deems necessary with*
 10380 *respect to the unit subject to a sale under a deed of trust to protect the interests of the unit owners' association.*

10381 **§ 55.1-1968. Bond to be posted by declarant.**

10382 *A. The declarant of a condominium containing units that are required by this chapter to be registered with*
 10383 *the Common Interest Community Board shall post a bond in favor of the unit owners' association with good*
 10384 *and sufficient surety, in a sum equal to \$1,000 per unit, except that such sum shall not be less than \$10,000,*
 10385 *nor more than \$100,000. Such bond shall be filed with the Common Interest Community Board and shall be*
 10386 *maintained for so long as the declarant owns more than 10 percent of the units in the condominium or, if the*
 10387 *declarant owns less than 10 percent of the units in the condominium, until the declarant is current in the*
 10388 *payment of assessments. However, the Board shall return a bond where the declarant owns one unit in a*
 10389 *condominium containing less than 10 units, provided that such declarant is current in the payment of*
 10390 *assessments.*

10391 *B. No bond shall be accepted for filing unless it is with a surety company authorized to do business in the*
 10392 *Commonwealth or by such other surety as is satisfactory to the Board, and such bond shall be conditioned upon*
 10393 *the payment of all assessments levied against condominium units owned by the declarant. The Board may accept*
 10394 *a letter of credit in lieu of the bond contemplated by this section.*

10395 *The Board may promulgate reasonable regulations that govern the return of bonds submitted in accordance*
 10396 *with this section.*

10397 **§ 55.1-1969. Restraints on alienation.**

10398 *If the condominium instruments create any rights of first refusal or other restraints on free alienability of*
 10399 *the condominium units, such rights and restraints are void unless the condominium instruments make provision*
 10400 *for promptly furnishing to any unit owner or purchaser requesting such rights and restraints a recordable*
 10401 *statement certifying to any waiver of, or failure or refusal to exercise, such rights and restraints, in all cases*
 10402 *where such waiver, failure, or refusal does in fact occur. Failure or refusal to furnish promptly such a statement*
 10403 *in such circumstances in accordance with the provisions of the condominium instruments make all such rights*
 10404 *and restraints inapplicable to any disposition of a condominium unit in contemplation of which such statement*
 10405 *was requested. Any such statement shall be binding on the unit owners' association, the executive board, and*
 10406 *every unit owner. Payment of a fee not exceeding \$25 may be required as a prerequisite to the issuance of such*
 10407 *a statement if the condominium instruments so provide.*

10408 **Article 4.**

10409 **Administration of Chapter; Sale, Etc., of Condominium Units.**

10410 **§ 55.1-1970. Common Interest Community Board.**

10411 *This chapter shall be administered by the Common Interest Community Board.*

10412 **§ 55.1-1971. General powers and duties of the Common Interest Community Board.**

10413 *A. The Common Interest Community Board shall prescribe reasonable regulations, which shall be adopted,*
 10414 *amended, or repealed in compliance with law applicable to the administrative procedure of agencies of*
 10415 *government. The regulations shall include provisions for advertising standards to assure full and fair*
 10416 *disclosure, provisions for operating procedures, and other regulations as are necessary and proper to*
 10417 *accomplish the purpose of this chapter.*

10418 *B. The Common Interest Community Board by regulation or by an order, after reasonable notice and*
 10419 *hearing, may require the filing of advertising material relating to condominiums prior to its distribution.*

10420 *C. If it appears that a person has engaged or is about to engage in an act or practice constituting a violation*
 10421 *of a provision of this chapter or Common Interest Community Board regulation or order, the Common Interest*
 10422 *Community Board, with or without prior administrative proceedings, may bring an action in the circuit court*
 10423 *of the county or city in which any portion of the condominium is located to enjoin the acts or practices and to*
 10424 *enforce compliance with this chapter or any Common Interest Community Board regulation or order. Upon*
 10425 *proper showing, injunctive relief or temporary restraining orders shall be granted. The Common Interest*
 10426 *Community Board is not required to post a bond in any court proceedings or prove that no other adequate*
 10427 *remedy at law exists.*

10428 *D. With respect to any lawful process served upon the Common Interest Community Board pursuant to the*
 10429 *appointment made in accordance with subdivision A 1 of § 55.1-1975, the Common Interest Community Board*
 10430 *shall forthwith cause the same to be sent by registered or certified mail to any of the principals, officers,*
 10431 *directors, partners, or trustees of the declarant listed in the application for registration at the last address listed*
 10432 *in such application or the most recent annual report.*

10433 *E. The Common Interest Community Board may intervene in any action involving the declarant. In any*
 10434 *action by or against a declarant involving a condominium, the declarant shall promptly furnish the Common*
 10435 *Interest Community Board notice of the action and copies of all pleadings.*

10436 *F. The Common Interest Community Board may:*

10437 *1. Accept registrations filed in other states or with the federal government;*

10438 *2. Contract with similar agencies in the Commonwealth or other jurisdictions to perform investigative*
 10439 *functions; and*

10440 *3. Accept grants in aid from any governmental source.*

10441 *G. The Common Interest Community Board shall cooperate with similar agencies in other jurisdictions to*
 10442 *establish uniform filing procedures and forms, uniform public offering statements, advertising standards,*
 10443 *regulations, and common administrative practices.*

10444 **§ 55.1-1972. Exemptions from certain provisions of article.**

10445 *A. Unless the method of offer or disposition is adopted for the purpose of evasion of this chapter, the*
 10446 *provisions of §§ 55.1-1974 through 55.1-1979, subsections B and D of § 55.1-1982, and §§ 55.1-1990 and*
 10447 *55.1-1991 do not apply to:*

10448 *1. Dispositions pursuant to court order;*

10449 *2. Dispositions by any government or government agency;*

10450 *3. Offers by the declarant on nonbinding reservation agreements;*

10451 *4. Dispositions in a residential condominium in which there are three or fewer units, so long as the*
 10452 *condominium instruments do not reserve to the declarant the right to create additional condominium units; or*

10453 *5. A disposition of a unit by a sale at an auction where a current public offering statement or resale*
 10454 *certificate was made available as part of an auction package for prospective purchasers prior to the auction*
 10455 *sale.*

10456 *B. In cases of dispositions in a condominium where all units are restricted to nonresidential use, the*
 10457 *provisions of §§ 55.1-1974 through 55.1-1983 shall not apply, unless the method of offer or disposition is*
 10458 *adopted for the purpose of evasion of this chapter.*

10459 **§ 55.1-1973. Rental of units.**

10460 *A. Except as expressly authorized in this chapter or in the condominium instruments or as otherwise*
 10461 *provided by law, no unit owners' association shall:*

10462 *1. Condition or prohibit the rental of a unit to a tenant by a unit owner or make an assessment or impose a*
 10463 *charge except as provided in § 55.1-1904;*

10464 *2. Charge a rental fee, application fee, or other processing fee of any kind in excess of \$50 during the term*
 10465 *of any lease;*

10466 *3. Charge an annual or monthly rental fee or any other fee not expressly authorized in § 55.1-1904;*

10467 *4. Require the unit owner to use a lease or an addendum to the lease prepared by the unit owners'*
 10468 *association;*

10469 *5. Charge any deposit from the unit owner or the tenant of the unit owner; or*

10470 *6. Have the authority to evict a tenant of any unit owner or to require any unit owner to execute a power of*
 10471 *attorney authorizing the unit owners' association to so evict. However, if the unit owner designates a person*
 10472 *licensed under the provisions of § 54.1-2106.1 as the unit owner's authorized representative with respect to any*
 10473 *lease, the unit owners' association shall recognize such representation without a formal power of attorney,*
 10474 *provided that the unit owners' association is given a written authorization signed by the unit owner designating*
 10475 *such representative. Notwithstanding any other provision of this subdivision, the requirements of § 55.1-1953*
 10476 *and the condominium instruments shall be satisfied before any such representative may exercise a vote on*
 10477 *behalf of a unit owner as a proxy.*

10478 *B. The unit owners' association may require the unit owner to provide the unit owners' association with the*
 10479 *names and contact information of the tenants and authorized occupants under such lease and of any authorized*
 10480 *agent of the unit owner and vehicle information for such tenants or authorized occupants. The unit owners'*

10481 association may require the unit owner to provide the unit owners' association with the tenant's
 10482 acknowledgment of and consent to any rules and regulations of the unit owners' association.

10483 C. The provisions of this section shall not apply to units owned by the unit owners' association.

10484 **§ 55.1-1974. Limitations on dispositions of units.**

10485 Unless exempt by § 55.1-1972:

10486 1. No declarant may offer or dispose of any interest in a condominium unit located in the Commonwealth,
 10487 nor offer or dispose of in the Commonwealth any interest in a condominium unit located outside of the
 10488 Commonwealth prior to the time the condominium including such unit is registered in accordance with this
 10489 chapter.

10490 2. No declarant may dispose of any interest in a condominium unit unless he delivers to the purchaser a
 10491 current public offering statement by the time of such disposition and such disposition is expressly and without
 10492 qualification or condition subject to cancellation by the purchaser within five calendar days from the contract
 10493 date of the disposition or delivery of the current public offering statement, whichever is later. If the purchaser
 10494 elects to cancel, he may do so by notice of such cancellation hand-delivered or sent by United States mail,
 10495 return receipt requested, to the declarant. Such cancellation shall be without penalty, and any deposit made by
 10496 the purchaser shall be promptly refunded in its entirety.

10497 3. The purchaser's right to cancel the purchase contract pursuant to subdivision 2 shall be set forth on the
 10498 first page of the purchase contract in boldface print of not less than 12 point type.

10499 4. The prospective purchaser may cancel by written notice, hand-delivered or sent by United States mail,
 10500 return receipt requested, to the declarant or to any sales agent of the declarant at any time prior to the formation
 10501 of a contract for the sale or lease of a condominium unit or an interest in such unit. Such agreement shall not
 10502 contain any provision for waiver or any other provision in derogation of the rights of the prospective purchaser
 10503 as contemplated by this section, nor shall any such provision be a part of any ancillary agreement.

10504 **§ 55.1-1975. Application for registration; fee.**

10505 A. The application for registration of the condominium shall be filed as prescribed by the Common Interest
 10506 Community Board's regulations and shall contain the following documents and information:

10507 1. An irrevocable appointment of the Common Interest Community Board to receive service of any lawful
 10508 process in any noncriminal proceeding arising under this chapter against the applicant or his personal
 10509 representative if nonresidents of the Commonwealth;

10510 2. The states or jurisdictions in which an application for registration or similar document has been filed
 10511 and any adverse order or judgment entered in connection with the condominium by the regulatory authorities
 10512 in each jurisdiction or by any court;

10513 3. The applicant's name and address; the form, date, and jurisdiction of organization; and the address of
 10514 each of its offices in the Commonwealth;

10515 4. The name, address, and principal occupation for the past five years of every officer of the applicant or
 10516 person occupying a similar status or performing similar functions and the extent and nature of his interest in
 10517 the applicant or the condominium, as of a specified date within 30 days of the filing of the application;

10518 5. A statement, in a form acceptable to the Common Interest Community Board, of the condition of the title
 10519 to the condominium project, including encumbrances, as of a specified date within 30 days of the date of
 10520 application by a title opinion of a licensed attorney not a salaried employee, officer, or director of the applicant
 10521 or owner, or by other evidence of title acceptable to the Common Interest Community Board;

10522 6. Copies of the instruments that will be delivered to a purchaser to evidence his interest in the unit and of
 10523 the contracts and other agreements that a purchaser will be required to agree to or sign;

10524 7. Copies of any management agreements, employment contracts, or other contracts or agreements
 10525 affecting the use, maintenance, or access of all or a part of the condominium;

10526 8. A statement of the zoning and other governmental regulations affecting the use of the condominium,
 10527 including the site plans and building permits and their status, and also of any existing tax and existing or
 10528 proposed special taxes or assessments that affect the condominium;

10529 9. A narrative description of the promotional plan for the disposition of the units in the condominium;

10530 10. Plats and plans of the condominium that comply with the provisions of § 55.1-1920 other than the
 10531 certification requirements, and that show all units and buildings containing units to be built anywhere within
 10532 the submitted land other than within the boundaries of any convertible lands, except that the Common Interest
 10533 Community Board may establish by regulation or order requirements in lieu of the provisions of § 55.1-1920
 10534 for plats and plans of a condominium located outside the Commonwealth;

- 10535 11. The proposed public offering statement;
- 10536 12. Any bonds required to be posted pursuant to the provisions of this chapter;
- 10537 13. A current financial statement or other documentation to demonstrate the declarant's financial ability to
- 10538 complete all proposed improvements on the condominium; and
- 10539 14. Any other information that the Common Interest Community Board's regulations require for the
- 10540 protection of purchasers.
- 10541 B. If the declarant registers additional units to be offered for disposition in the same condominium, he may
- 10542 consolidate the subsequent registration with any earlier registration offering units in the condominium for
- 10543 disposition under the same promotional plan.
- 10544 C. The declarant shall immediately report any material changes in the information contained in an
- 10545 application for registration.
- 10546 D. Each application shall be accompanied by a fee in an amount established by the Common Interest
- 10547 Community Board pursuant to § 54.1-113. All fees shall be remitted by the Common Interest Community Board
- 10548 to the State Treasurer and shall be credited to the Common Interest Community Management Information Fund
- 10549 established pursuant to § 54.1-2354.2.
- 10550 **§ 55.1-1976. Public offering statement; condominium securities.**
- 10551 A. A public offering statement shall disclose fully and accurately the characteristics of the condominium
- 10552 and the units being offered and shall make known to prospective purchasers all unusual and material
- 10553 circumstances or features affecting the condominium. The proposed public offering statement submitted to the
- 10554 Common Interest Community Board shall be in a form prescribed by its regulations and shall include the
- 10555 following:
- 10556 1. The name and principal address of the declarant and the condominium;
- 10557 2. A general narrative description of the condominium stating the total number of units in the offering, the
- 10558 total number of units planned to be sold and rented, and the total number of units that may be included in the
- 10559 condominium by reason of future expansion or merger of the project by the declarant;
- 10560 3. Copies of the declaration and bylaws, with a brief narrative statement describing each and including
- 10561 information on declarant control; a projected budget for at least the first year of the condominium's operation,
- 10562 including projected common expense assessments for each unit; and provisions for reserves for capital
- 10563 expenditures and restraints on alienation;
- 10564 4. Copies of any management contract, lease of recreational areas, or similar contract or agreement
- 10565 affecting the use, maintenance, or access of all or any part of the condominium with a brief narrative statement
- 10566 of the effect of each such agreement upon a purchaser, and a statement of the relationship, if any, between the
- 10567 declarant and the managing agent or firm;
- 10568 5. A general description of the status of construction, zoning, site plan approval, issuance of building
- 10569 permits, or compliance with any other state or local statute or regulation affecting the condominium;
- 10570 6. The significant terms of any encumbrances, easements, liens, and matters of title affecting the
- 10571 condominium;
- 10572 7. The significant terms of any financing offered by the declarant to the purchaser of units in the
- 10573 condominium;
- 10574 8. Provisions of any warranties provided by the declarant on the units and the common elements, other
- 10575 than the warranty prescribed by subsection B of § 55.1-1955;
- 10576 9. A statement that, pursuant to subdivision 2 of § 55.1-1974, the purchaser may cancel the disposition
- 10577 within five calendar days of delivery of the current public offering statement or within five calendar days of the
- 10578 contract date of the disposition, whichever is later;
- 10579 10. A statement of the declarant's obligation to complete improvements of the condominium that are
- 10580 planned but not yet begun or begun but not yet completed. Such statement shall include a description of the
- 10581 quality of the materials to be used, the size or capacity of the improvements when material, and the time by
- 10582 which the improvements shall be completed. Any limitations on the declarant's obligation to begin or complete
- 10583 any such improvements shall be expressly stated;
- 10584 11. If the units in the condominium are being subjected to a time-share instrument pursuant to § 55.1-1108,
- 10585 the information required to be disclosed by § 55.1-2217;
- 10586 12. A statement listing the facilities or amenities that are defined as common elements or limited common
- 10587 elements in the condominium instruments that are available to a purchaser for use. Such statement shall also
- 10588 include whether there are any fees or other charges for the use of such facilities or amenities that are not

10589 included as part of any assessment and the amount of such fees or charges, if any, a purchaser may be required
 10590 to pay;

10591 13. A statement of any limitation on the number of persons who may occupy a unit as a dwelling;

10592 14. A statement setting forth any restrictions, limitation, or prohibition on the right of a unit owner to
 10593 display the flag of the United States, including reasonable restrictions as to the size, place, and manner of
 10594 placement or display of such flag; and

10595 15. Additional information required by the Common Interest Community Board to assure full and fair
 10596 disclosure to prospective purchasers.

10597 B. The public offering statement shall not be used for any promotional purposes before registration of the
 10598 condominium project and shall be used afterwards only if it is used in its entirety. No person may advertise or
 10599 represent that the Common Interest Community Board approves or recommends the condominium or
 10600 disposition of any unit in the condominium. No portion of the public offering statement may be underscored,
 10601 italicized, or printed in larger or heavier or different color type than the remainder of the statement unless the
 10602 Common Interest Community Board requires it.

10603 C. The Common Interest Community Board may require the declarant to alter or amend the proposed
 10604 public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change
 10605 in the substance of the promotional plan or plan of disposition or development of the condominium may be
 10606 made after registration without notifying the Common Interest Community Board and without making
 10607 appropriate amendment of the public offering statement. A public offering statement is not current unless all
 10608 amendments are incorporated.

10609 D. If an interest in a condominium is currently registered with the U.S. Securities and Exchange
 10610 Commission, a declarant satisfies all requirements relating to the preparation of a public offering statement in
 10611 this chapter if he delivers to the purchaser and files with the Common Interest Community Board a copy of the
 10612 public offering statement filed with the Securities and Exchange Commission. An interest in a condominium is
 10613 not a security under the provisions of the Securities Act (§ 13.1-501 et seq.).

10614 **§ 55.1-1977. Inquiry and examination.**

10615 Upon receipt of an application for registration, the Common Interest Community Board shall conduct an
 10616 examination of the material submitted to determine that:

10617 1. The declarant can convey or cause to be conveyed the units offered for disposition if the purchaser
 10618 complies with the terms of the offer;

10619 2. There is reasonable assurance that all proposed improvements will be completed as represented;

10620 3. The advertising material and the general promotional plan are not false or misleading and comply with
 10621 the standards prescribed by the Common Interest Community Board in its regulations and afford full and fair
 10622 disclosure;

10623 4. The declarant has not, or if a corporation its officers and principals have not, been convicted of a crime
 10624 involving condominium unit dispositions or any aspect of the land sales business in the Commonwealth, United
 10625 States, or any other state or foreign country within the past 10 years and has not been subject to any injunction
 10626 or administrative order restraining a false or misleading promotional plan involving land dispositions;

10627 5. The public offering statement requirements of this chapter have been satisfied; and

10628 6. All other requirements of this chapter and the Common Interest Community Board's regulations have
 10629 been satisfied.

10630 **§ 55.1-1978. Notice of filing and registration.**

10631 A. Upon receipt of the application for registration, the Common Interest Community Board shall issue a
 10632 notice of filing to the applicant within five business days. In the case of receipt of an application for a
 10633 condominium that is a conversion condominium, the Common Interest Community Board shall also issue within
 10634 five business days a notice of filing to the chief administrative officer of the county or city in which the proposed
 10635 condominium is located, and the notice shall include the name and address of the applicant and the name and
 10636 address or location of the proposed condominium. Within 60 days from the date of the notice of filing, the
 10637 Common Interest Community Board shall enter an order registering the condominium or rejecting the
 10638 registration. If no order of rejection is entered within 60 days from the date of notice of filing, the condominium
 10639 shall be deemed registered unless the applicant has consented in writing to a delay.

10640 B. If the Common Interest Community Board affirmatively determines, upon inquiry and examination, that
 10641 the requirements of this chapter and the Common Interest Community Board's regulations have been met, it
 10642 shall enter an order registering the condominium and shall designate the form of the public offering statement.

10643 C. If the Common Interest Community Board determines upon inquiry and examination that any of the
10644 requirements of this chapter and the Common Interest Community Board's regulations have not been met, the
10645 Common Interest Community Board shall notify the applicant that the application for registration must be
10646 corrected in the particulars specified within 20 days. If the requirements are not met within the time allowed,
10647 the Common Interest Community Board shall enter an order rejecting the registration, and such order shall
10648 include the findings of fact upon which the order is based. The order rejecting the registration shall not become
10649 effective for 20 days after issuance of the order. During this 20-day period, the applicant may petition for
10650 reconsideration and shall be entitled to a hearing to correct the particulars specified in the Common Interest
10651 Community Board's notice. Such order of rejection shall not take effect, in any event, until such time as the
10652 hearing, once requested, is given to the applicant.

10653 **§ 55.1-1979. Annual report by declarant.**

10654 The declarant shall file a report in the form prescribed by the regulations of the Common Interest
10655 Community Board within 30 days of each anniversary date of the order registering the condominium. The report
10656 shall reflect any material changes in information contained in the original application for registration.

10657 **§ 55.1-1980. Annual report by unit owners' association.**

10658 A. The unit owners' association shall file an annual report in a form and at such time as prescribed by
10659 regulations of the Common Interest Community Board. The filing of the annual report required by this section
10660 shall begin upon the termination of the declarant control period pursuant to § 55.1-1943. The annual report
10661 shall be accompanied by a fixed fee in an amount established by the Common Interest Community Board.

10662 B. The unit owners' association shall also remit to the Common Interest Community Board an annual
10663 payment as follows:

10664 1. The lesser of:

10665 a. \$1,000 or such other amount as established by Common Interest Community Board regulation; or

10666 b. Five hundredths of one percent (0.05%) of the gross assessment income of the unit owners' association
10667 during the preceding year.

10668 2. For the purposes of subdivision B 1 b, no minimum payment shall be less than \$10.

10669 C. The annual payment shall be remitted to the State Treasurer and shall be credited to the Common Interest
10670 Community Management Information Fund established pursuant to § 54.1-2354.2.

10671 **§ 55.1-1981. Termination of registration.**

10672 A. In the event that all of the units in the condominium have been disposed of and that all periods for
10673 conversion or expansion have expired, the Common Interest Community Board shall issue an order terminating
10674 the registration of the condominium.

10675 B. Notwithstanding any other provision of this chapter, the Common Interest Community Board may
10676 administratively terminate the registration of a condominium if:

10677 1. The declarant has not filed an annual report in accordance with § 55.1-1979 for three or more
10678 consecutive years; or

10679 2. The declarant's registration with the State Corporation Commission, if applicable, has not been active
10680 for five or more consecutive years.

10681 **§ 55.1-1982. Conversion condominiums; special provisions.**

10682 A. For the purposes of this section:

10683 "Affordable rent" means a monthly rent that does not exceed the greater of 30 percent of the annual gross
10684 income of the tenant household or 30 percent of the imputed income limit applicable to such unit size, as
10685 published by the Virginia Housing Development Authority for compliance with the Low Income Housing Tax
10686 Credit program.

10687 "Certified nonprofit housing corporation" means a nonprofit organization exempt from taxation under §
10688 501(c)(3) of the Internal Revenue Code that has been certified by a locality as actively engaged in producing
10689 or preserving affordable housing as determined by criteria established by the locality.

10690 "Disabled" means a person suffering from a severe, chronic physical or mental impairment that results in
10691 substantial functional imitations.

10692 "Elderly" means a person not less than 62 years of age.

10693 B. Any declarant of a conversion condominium shall include in his public offering statement in addition to
10694 the requirements of § 55.1-1976 the following:

10695 1. A specific statement of the amount of any initial or special condominium fee due from the purchaser on
10696 or before settlement of the purchase contract and the basis of such fee;

10697 2. Information on the actual expenditures made on all repairs, maintenance, operation, or upkeep of the
10698 subject building within the last three years, set forth in a tabular format with the proposed budget of the
10699 condominium and cumulatively broken down on a per unit basis in proportion to the relative voting strengths
10700 allocated to the units by the bylaws. If such building has not been occupied for a period of three years, then the
10701 information shall be set forth for the maximum period such building has been occupied;

10702 3. A description of any provisions made in the budget for reserves for capital expenditures and an
10703 explanation of the basis for such reserves, or, if no provision is made for such reserves, a statement to that
10704 effect;

10705 4. A statement of the declarant as to the present condition of all structural components and major utility
10706 installations in the condominium, including the approximate dates of construction, installation, and major
10707 repairs and the expected useful life of each such item, together with the estimated cost of replacing each such
10708 item;

10709 5. If any building included or that may be included in the condominium was substantially completed prior
10710 to July 1, 1978, a statement that each such building has been inspected for asbestos in accordance with
10711 standards in effect at the time of inspection, or that an asbestos inspection will be conducted, and whether
10712 asbestos requiring response actions has been found and, if found, that response actions have been or will be
10713 completed in accordance with applicable standards prior to the conveyance of any unit in such building. Any
10714 asbestos management program or response action undertaken by the building owner shall comply with the
10715 standards promulgated pursuant to § 2.2-1164.

10716 C. In the case of a conversion condominium, the declarant shall give, at the time specified in subsection D,
10717 formal notice to each of the tenants of the building that the declarant has submitted or intends to submit to the
10718 provisions of this chapter. This notice shall advise each tenant of (i) the offering price of the unit he occupies;
10719 (ii) the projected common expense assessments against that unit for at least the first year of the condominium's
10720 operation; (iii) any relocation services or assistance, public or private, of which the declarant is aware; (iv)
10721 any measures taken or to be taken by the declarant to reduce the incidence of tenant dislocation; and (v) the
10722 details of the relocation plan, if any is provided by the declarant, to assist tenants in relocating. During the first
10723 60 days after such notice is mailed or hand delivered, each of the tenants shall have the exclusive right to
10724 purchase the unit he occupies, but only if such unit is to be retained in the conversion condominium without
10725 substantial alteration in its physical layout. If the conversion condominium is subject to local ordinances that
10726 have been adopted pursuant to subsections G and H, any tenant who is disabled or elderly may assign the
10727 exclusive right to purchase his unit to a governmental agency, housing authority, or certified nonprofit housing
10728 corporation, which shall then offer the tenant a lease at an affordable rent, following the provisions of
10729 subsection G. The acquisition of such units by the governmental agency, housing authority, or certified
10730 nonprofit housing corporation shall not (a) exceed the greater of one unit or five percent of the total number of
10731 units in the condominium or (b) impede the condominium conversion process. In determining which, if any,
10732 units shall be acquired pursuant to this subsection, preference shall be given to elderly or disabled tenants.

10733 The notice required in this subsection shall be hand delivered or sent by first-class mail, return receipt
10734 requested, and shall inform the tenants of the conversion to condominium. Such notice may also constitute the
10735 notice to terminate the tenancy as provided for in § 55.1-1410, except that, despite the provisions of § 55.1-
10736 1410, a tenancy from month-to-month may only be terminated upon 120 days' notice when such termination is
10737 in regard to the creation of a conversion condominium. If, however, a tenant so notified remains in possession
10738 of the unit he occupies after the expiration of the 120-day period with the permission of the declarant, in order
10739 to then terminate the tenancy, such declarant shall give the tenant a further notice as provided in § 55.1-1410.
10740 Until the expiration of the 120-day period, the declarant shall have no right of access to the unit except as
10741 provided by subsection A of § 55.1-1229 and except that, upon 45 days' written notice to the tenant, the
10742 declarant may enter the unit in order to make additional repairs, decorations, alterations, or improvements,
10743 provided that (i) the making of the same does not constitute an actual or constructive eviction of the tenant and
10744 (ii) such entry is made either with the consent of the tenant or only at times when the tenant is absent from the
10745 unit. The declarant shall also provide general notice to the tenants of the condominium or proposed
10746 condominium at the time of application to the Common Interest Community Board in addition to the formal
10747 notice required by this subsection.

10748 D. The declarant of a conversion condominium shall, in addition to the requirements of § 55.1-1975,
10749 include with the application for registration a copy of the formal notice set forth in subsection C and a certified
10750 statement that such notice, fully complying with the provisions of subsection C, shall be at the time of the

10751 registration of such condominium mailed or delivered to each of the tenants in the building for which
10752 registration is sought. The price and projected common expense assessments for each unit need not be filed
10753 with the Common Interest Community Board until such notice is mailed to the tenants.

10754 E. Notwithstanding the provisions of § 55.1-1901, in the case of any conversion condominium created under
10755 the provisions of the Horizontal Property Act (§ 55.1-2000 et seq.) for which a final report has not been issued
10756 by the Common Interest Community Board pursuant to former § 55-79.21 prior to June 1, 1975, the provisions
10757 of subsections B and C shall apply and the declarant shall be required to furnish evidence of full compliance
10758 with subsections B and C prior to the issuance by the Common Interest Community Board of a final report for
10759 such conversion condominium.

10760 F. Any locality may require by ordinance that the declarant of a conversion condominium file with that
10761 governing body all information that is required by the Common Interest Community Board pursuant to § 55.1-
10762 1975 and a copy of the formal notice required by subsection C. Such information shall be filed with that
10763 governing body when the application for registration is filed with the Common Interest Community Board, and
10764 such copy of the formal notice shall be filed with that governing body. There shall be no fees for such filings.

10765 G. The governing body of any locality may enact an ordinance requiring that elderly or disabled tenants
10766 occupying as their residence, at the time of issuance of the general notice required by subsection C, apartments
10767 or units in a conversion condominium be offered leases or extensions of leases on the apartments or units they
10768 then occupied, or on other apartments or units of at least equal size and overall quality. The terms and
10769 conditions of such leases or extensions shall be as agreed upon by the lessor and the lessee, provided that the
10770 rent for such apartment or unit shall not be in excess of reasonable rent for comparable apartments or units in
10771 the same market area as such conversion condominium and such lease shall include or incorporate by reference
10772 the bylaws or rules and regulations, if any, of the association. No such ordinance shall require that such leases
10773 or extensions be offered on more than 20 percent of the apartments or units in such conversion condominium,
10774 nor shall any such ordinance require that such leases or extensions extend beyond three years from the date of
10775 such notice. Such leases or extensions shall not be required, however, in the case of any apartments or units
10776 that will in the course of the conversion be substantially altered in the physical layout, restricted exclusively to
10777 nonresidential use, or be converted in such a manner as to require relocation of the tenant in premises outside
10778 of the project being converted.

10779 H. The governing body of any county utilizing the optional urban county executive form of government (§
10780 15.2-800 et seq.) or the optional county manager plan of government (§ 15.2-702 et seq.), or of any city or town
10781 adjoining any such county, may require by ordinance that the declarant of any residential condominium
10782 converted from multi-family rental use shall reimburse any tenant displaced by the conversion for amounts
10783 actually expended to relocate as a result of such dislocation. The reimbursement shall not be required to exceed
10784 the amount that the tenant would have been entitled to receive under §§ 25.1-407 and 25.1-415 if the real estate
10785 comprising the condominium had been condemned by the Department of Transportation.

10786 **§ 55.1-1983. Escrow of deposits.**

10787 A. Any deposit made in regard to any disposition of a unit, including a nonbinding reservation agreement,
10788 shall be held in escrow until delivered at settlement. Such escrow funds shall be deposited in a separate account
10789 designated for this purpose that is federally insured and located in the Commonwealth, except where such
10790 deposits are being held by a real estate broker or attorney licensed under the laws of the Commonwealth, in
10791 which case such funds may be placed in that broker's or attorney's regular escrow account and need not be
10792 placed in a separate designated account. Such escrow funds shall not be subject to attachment by the creditors
10793 of either the purchaser or the declarant.

10794 B. In lieu of escrowing deposits as provided in subsection A, the declarant of a condominium consisting of
10795 more than 50 units may:

- 10796 1. Obtain and maintain a corporate surety bond issued by a surety authorized to do business in the
10797 Commonwealth, in the form and amount set forth below; or
- 10798 2. Obtain and maintain an irrevocable letter of credit issued by a financial institution whose accounts are
10799 insured by the FDIC, in the form and amount set forth below.

10800 The surety bond or letter of credit shall be maintained until (i) the granting of a deed to the unit, (ii) the
10801 purchaser's default under a purchase contract for the unit entitling the declarant to retain the deposit, or (iii)
10802 the refund of the deposit to the purchaser, whichever occurs first.

10803 C. The surety bond shall be payable to the Commonwealth for the use and benefit of every person protected
10804 under the provisions of this chapter. The declarant shall file the bond with the Common Interest Community

10805 Board. The surety bond may be either in the form of an individual bond for each deposit accepted by the
 10806 declarant or, if the total amount of the deposits accepted by the declarant under this chapter exceeds \$10,000,
 10807 it may be in the form of a blanket bond. If the bond is a blanket bond, the amount shall be as follows. If the
 10808 amount of such deposits is:

- 10809 1. \$75,000 or less, the blanket bond shall be \$75,000;
- 10810 2. More than \$75,000 but less than \$200,000, the blanket bond shall be \$200,000;
- 10811 3. \$200,000 or more but less than \$500,000, the blanket bond shall be \$500,000;
- 10812 4. \$500,000 or more but less than \$1 million, the blanket bond shall be \$1 million; and
- 10813 5. \$1 million or more, the blanket bond shall be 100 percent of the amount of such deposits.

10814 D. The letter of credit shall be payable to the Commonwealth for use and benefit of every person protected
 10815 under this chapter. The declarant shall file the letter of credit with the Common Interest Community Board.
 10816 The letter of credit may be either in the form of an individual letter of credit for each deposit accepted by the
 10817 declarant or, if the total amount of the deposits accepted by the declarant under this chapter exceeds \$10,000,
 10818 it may be in the form of a blanket letter of credit. If the letter of credit is a blanket letter of credit, the amount
 10819 shall be as follows. If the amount of such deposits is:

- 10820 1. \$75,000 or less, the blanket letter of credit shall be \$75,000;
- 10821 2. More than \$75,000 but less than \$200,000, the blanket letter of credit shall be \$200,000;
- 10822 3. \$200,000 or more but less than \$500,000, the blanket letter of credit shall be \$500,000;
- 10823 4. \$500,000 or more but less than \$1 million, the blanket letter of credit shall be \$1 million; and
- 10824 5. \$1 million or more, the blanket letter of credit shall be 100 percent of the amount of such deposits.

10825 For the purposes of determining the amount of any blanket letter of credit that a declarant maintains in any
 10826 calendar year, the total amount of deposits considered held by the declarant shall be determined as of May 31
 10827 in each calendar year and the amount of the letter of credit shall be in accordance with the amount of deposits
 10828 held as of May 31.

10829 **§ 55.1-1984. Declarant to deliver declaration to purchaser.**

10830 The declarant shall within 10 days of recordation of the condominium instruments as provided for in §§
 10831 55.1-1907 and 55.1-1911 forward to each purchaser at his last known address by first-class mail, return receipt
 10832 requested, an exact copy of the recorded declaration and bylaws.

10833 **§ 55.1-1985. Investigations and proceedings.**

10834 A. Whenever the Common Interest Community Board receives a written complaint that appears to state a
 10835 valid claim, the Common Interest Community Board shall make necessary public or private investigations in
 10836 accordance with law within or outside of the Commonwealth to determine whether any declarant or its agents,
 10837 employees, or other representatives have violated or are about to violate this chapter or any Common Interest
 10838 Community Board regulation or order, or to aid in the enforcement of this chapter or in the prescribing of
 10839 Common Interest Community Board regulations and forms. The Common Interest Community Board may also
 10840 in like manner and with like authority investigate written complaints against persons other than the declarant
 10841 or its agents, employees, or other representatives.

10842 B. For the purpose of any investigation or proceeding under this chapter, the Common Interest Community
 10843 Board or any officer designated by regulation may administer oaths or affirmations and upon its own motion
 10844 or upon request of any party shall subpoena witnesses, compel their attendance, take evidence, and require the
 10845 production of any matter that is relevant to the investigation, including the existence, description, nature,
 10846 custody, condition, and location of any books, documents, or other tangible things and the identity and location
 10847 of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery
 10848 of material evidence.

10849 C. Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and
 10850 upon reasonable notice to all persons affected by such failure, the Common Interest Community Board may
 10851 apply to the Circuit Court of the County of Henrico for an order compelling compliance.

10852 **§ 55.1-1986. Cease and desist orders.**

10853 A. The Common Interest Community Board may issue an order requiring a person to cease and desist from
 10854 any of the unlawful practices enumerated in subdivisions 1 through 5 and to take such affirmative action as in
 10855 the judgment of the Common Interest Community Board will carry out the purposes of this chapter if the
 10856 Common Interest Community Board determines after notice and hearing that such person has:

- 10857 1. Violated any provision of this chapter;

10858 2. Directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading
 10859 advertising, promotional, or sales methods to offer or dispose of a unit;

10860 3. Made any substantial change in the plan of disposition and development of the condominium subsequent
 10861 to the order of registration without notifying the Common Interest Community Board;

10862 4. Disposed of any units that have not been registered with the Common Interest Community Board; or

10863 5. Violated any lawful order or regulation of the Common Interest Community Board.

10864 B. If the Common Interest Community Board makes a finding of fact in writing that the public interest will
 10865 be irreparably harmed by delay in issuing an order, it may issue a temporary cease and desist order. Prior to
 10866 issuing the temporary cease and desist order, the Common Interest Community Board shall give notice of the
 10867 proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order
 10868 shall include in its terms a provision that upon request a hearing will be held promptly to determine whether it
 10869 becomes permanent.

10870 **§ 55.1-1987. Revocation of registration.**

10871 A. A registration may be revoked by the Common Interest Community Board after notice and hearing upon
 10872 a written finding of fact in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that the
 10873 declarant has:

10874 1. Failed to comply with the terms of a cease and desist order;

10875 2. Been convicted in any court subsequent to the filing of the application for registration for a crime
 10876 involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real
 10877 estate transactions;

10878 3. Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of unit
 10879 purchasers;

10880 4. Failed faithfully to perform any stipulation or agreement made with the Common Interest Community
 10881 Board as an inducement to grant any registration, to reinstate any registration, or to approve any promotional
 10882 plan or public offering statement; or

10883 5. Made intentional misrepresentations or concealed material facts in an application for registration.

10884 B. If the Common Interest Community Board finds after notice and a hearing that the developer has been
 10885 guilty of a violation for which revocation could be ordered, it may issue a cease and desist order instead.

10886 **§ 55.1-1988. Judicial review.**

10887 Proceedings for judicial review shall be in accordance with the provisions of the Administrative Process
 10888 Act (§ 2.2-4000 et seq.).

10889 **§ 55.1-1989. Penalties.**

10890 Any person who willfully violates any provision of § 55.1-1972, 55.1-1974, 55.1-1975, 55.1-1976, 55.1-
 10891 1979, 55.1-1982, or 55.1-1983 or any regulation adopted under or order issued pursuant to § 55.1-1971, or
 10892 any person who willfully in an application for registration makes any untrue statement of a material fact or
 10893 omits to state a material fact is guilty of a misdemeanor and may be fined not less than \$1,000 or double the
 10894 amount of gain from the transaction, whichever is the larger, but not more than \$50,000, or he may be
 10895 imprisoned for not more than six months, or both, for each offense.

10896 Article 5.

10897 Disclosure Requirements; Authorized Fees.

10898 **§ 55.1-1990. Resale by purchaser; contract disclosure; right of cancellation.**

10899 A. For purposes of this article:

10900 "Delivery" means that the resale certificate is delivered to the purchaser or purchaser's authorized agent
 10901 by one of the methods specified in this article.

10902 "Financial update" means an update of the financial information referenced in subdivisions A 2 through 7
 10903 of § 55.1-1991.

10904 "Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate
 10905 contract for purchase and sale of residential real property or other writing designating such agent.

10906 "Receives," "received," or "receiving" the resale certificate means that the purchaser or purchaser's
 10907 authorized agent has received the resale certificate by one of the methods specified in this article.

10908 "Resale certificate update" means an update of the financial information referenced in subdivisions A 2
 10909 through 9 and 12 of § 55.1-1991. The update shall include a copy of the original resale certificate.

10910 "Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for
 10911 purchase and sale of residential real property or other writing designating such agent.

10912 *B. In the event of any resale of a condominium unit by a unit owner other than the declarant, and subject*
10913 *to the provisions of subsection F and subsection A of § 55.1-1972, the unit owner shall disclose in the contract*
10914 *that (i) the unit is located within a development that is subject to the Condominium Act; (ii) the Condominium*
10915 *Act requires the seller to obtain from the unit owners' association a resale certificate and provide it to the*
10916 *purchaser; (iii) the purchaser may cancel the contract within three days after receiving the resale certificate*
10917 *or being notified that the resale certificate will not be available; (iv) if the purchaser has received the resale*
10918 *certificate, the purchaser has a right to request a resale certificate update or financial update in accordance*
10919 *with § 55.1-1992, as appropriate; and (v) the right to receive the resale certificate and the right to cancel the*
10920 *contract are waived conclusively if not exercised before settlement.*

10921 *For purposes of clause (iii), the resale certificate shall be deemed not to be available if (a) a current annual*
10922 *report has not been filed by the unit owners' association with either the State Corporation Commission pursuant*
10923 *to § 13.1-936 or the Common Interest Community Board pursuant to § 55.1-1980, (b) the seller has made a*
10924 *written request to the unit owners' association that the resale certificate be provided and no such resale*
10925 *certificate has been received within 14 days in accordance with subsection C of § 55.1-1991, or (c) written*
10926 *notice has been provided by the unit owners' association that a resale certificate is not available.*

10927 *C. If the contract does not contain the disclosure required by subsection B, the purchaser's sole remedy is*
10928 *to cancel the contract prior to settlement.*

10929 *D. The information contained in the resale certificate shall be current as of a date specified on the resale*
10930 *certificate. A resale certificate update or a financial update may be requested as provided in § 55.1-1992, as*
10931 *appropriate. The purchaser may cancel the contract (i) within three days after the date of the contract, if the*
10932 *purchaser receives the resale certificate or is notified that the resale certificate will not be available on or*
10933 *before the date that the purchaser signs the contract; (ii) within three days after receiving the resale certificate*
10934 *if the resale certificate or notice that the resale certificate will not be available is hand delivered, delivered by*
10935 *electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service,*
10936 *and a receipt is obtained; or (iii) within six days after the postmark date if the resale certificate or notice that*
10937 *the resale certificate will not be available is sent to the purchaser by United States mail. The purchaser may*
10938 *also cancel the contract at any time prior to settlement if the purchaser has not been notified that the resale*
10939 *certificate will not be available and the resale certificate is not delivered to the purchaser.*

10940 *Notice of cancellation shall be provided to the unit owner or his agent by one of the following methods:*

10941 *1. Hand delivery;*

10942 *2. United States mail, postage prepaid, provided that the sender retains sufficient proof of mailing in the*
10943 *form of a certificate of service prepared by the sender confirming such mailing;*

10944 *3. Electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may*
10945 *be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of*
10946 *service prepared by the sender confirming the electronic delivery; or*

10947 *4. Overnight delivery using a commercial service or the United States Postal Service.*

10948 *In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of*
10949 *cancellation. Such cancellation shall be without penalty, and the unit owner shall cause any deposit to be*
10950 *returned promptly to the purchaser.*

10951 **§ 55.1-1991. Contents of resale certificate; delivery.**

10952 *A. A resale certificate shall include the following:*

10953 *1. An appropriate statement pursuant to subsection H of § 55.1-1966, which need not be notarized, and, if*
10954 *applicable, an appropriate statement pursuant to § 55.1-1969;*

10955 *2. A statement of any expenditure of funds approved by the unit owners' association or the executive board*
10956 *that requires an assessment in addition to the regular assessment during the current or the immediately*
10957 *succeeding fiscal year;*

10958 *3. A statement, including the amount, of all assessments and any other fees or charges currently imposed*
10959 *by the unit owners' association, together with any known post-closing fee charged by the common interest*
10960 *community manager, if any, and associated with the purchase, disposition, and maintenance of the*
10961 *condominium unit and the use of the common elements, and the status of the account;*

10962 *4. A statement of whether there is any other entity or facility to which the unit owner may be liable for fees*
10963 *or other charges;*

- 10964 5. The current reserve study report or a summary of such report and a statement of the status and amount
 10965 of any reserve or replacement fund and any portion of the fund designated for any specified project by the
 10966 executive board;
- 10967 6. A copy of the unit owners' association's current budget or a summary of such budget prepared by the
 10968 unit owners' association and a copy of the statement of its financial position (balance sheet) for the last fiscal
 10969 year for which a statement is available, including a statement of the balance due of any outstanding loans of
 10970 the unit owners' association;
- 10971 7. A statement of the nature and status of any pending actions or unpaid judgments to which the unit owners'
 10972 association is a party that either could or would have a material impact on the unit owners' association or the
 10973 unit owners or that relates to the unit being purchased;
- 10974 8. A statement setting forth what insurance coverage is provided for all unit owners by the unit owners'
 10975 association, including the fidelity bond maintained by the unit owners' association, and what additional
 10976 insurance coverage would normally be secured by each individual unit owner;
- 10977 9. A statement that any improvements or alterations made to the unit, or the limited common elements
 10978 assigned thereto, are or are not in violation of the condominium instruments;
- 10979 10. A copy of the current bylaws, rules and regulations, and architectural guidelines adopted by the unit
 10980 owners' association and the amendments to any such documents;
- 10981 11. A statement of whether any portion of the condominium is located within a development subject to the
 10982 Property Owners' Association Act (§ 55.1-1800 et seq.);
- 10983 12. A copy of the notice given to the unit owner by the unit owners' association of any current or pending
 10984 rule or architectural violation;
- 10985 13. A copy of any approved minutes of the executive board and unit owners' association meetings for the
 10986 six calendar months preceding the request for the resale certificate;
- 10987 14. Certification that the unit owners' association has filed with the Common Interest Community Board
 10988 the annual report required by § 55.1-1980, the filing number assigned by the Common Interest Community
 10989 Board, and the expiration date of such filing;
- 10990 15. A statement of any limitation on the number of persons who may occupy a unit as a dwelling;
- 10991 16. A statement setting forth any restrictions, limitation, or prohibition on the right of a unit owner to
 10992 display the flag of the United States, including reasonable restrictions as to the size, time, place, and manner
 10993 of placement or display of such flag;
- 10994 17. A statement setting forth any restriction, limitation, or prohibition on the right of a unit owner to install
 10995 or use solar energy collection devices on the unit owner's property;
- 10996 18. A statement indicating any known project approvals currently in effect issued by secondary mortgage
 10997 market agencies; and
- 10998 19. A copy of the fully completed form developed by the Common Interest Community Board pursuant to §
 10999 54.1-2350.
- 11000 B. Failure to receive a resale certificate shall not excuse any failure to comply with the provisions of the
 11001 condominium instruments, articles of incorporation, or rules or regulations.
- 11002 C. The resale certificate shall be delivered in accordance with the written request and instructions of the
 11003 seller or the seller's authorized agent, including whether the resale certificate shall be delivered electronically
 11004 or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the complete contact
 11005 information for the parties to whom the resale certificate shall be delivered. The resale certificate shall be
 11006 delivered within 14 days of receipt of such request. The resale certificate shall not, in and of itself, be deemed
 11007 a security within the meaning of § 13.1-501.
- 11008 D. The seller or the seller's authorized agent may request that the resale certificate be provided in hard
 11009 copy or in electronic form. A unit owners' association or common interest community manager may provide the
 11010 resale certificate electronically; however, the seller or the seller's authorized agent shall have the right to
 11011 request that the resale certificate be provided in hard copy. The seller or the seller's authorized agent shall
 11012 continue to have the right to request a hard copy of the resale certificate in person at the principal place of
 11013 business of the unit owners' association. If the seller or the seller's authorized agent requests that the resale
 11014 certificate be provided in electronic format, neither the unit owners' association nor its common interest
 11015 community manager may require the seller or the seller's authorized agent to pay any fees to use the provider's
 11016 electronic network or system. The resale certificate shall not be delivered in hard copy if the requester has
 11017 requested delivery of such resale certificate electronically. If the resale certificate is provided electronically by

11018 a website link, the preparer shall not cause the website link to expire within the subsequent 90-day period. The
11019 preparer shall not charge another fee during the subsequent 12-month period, except that the preparer may
11020 charge an update fee for a financial update or for an inspection as provided in § 55.1-1992. If the seller or the
11021 seller's authorized agent asks that the resale certificate be provided in electronic format, the seller or the seller's
11022 authorized agent may request that an electronic copy be provided to each of the following named in the request:
11023 the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one
11024 other person designated by the requester. If so requested, the unit owners' association or its common interest
11025 community manager may require the seller or the seller's authorized agent to pay the fee specified in § 55.1-
11026 1992. Regardless of whether the resale certificate is delivered in paper form or electronically, the preparer of
11027 the resale certificate shall provide such resale certificate directly to the persons designated by the requester to
11028 the addresses or, if applicable, the email addresses provided by the requester.

11029 E. Subject to the provisions of § 55.1-1972, but notwithstanding any other provisions of this chapter, the
11030 provisions and requirements of this section shall apply to any such resale of a condominium unit created under
11031 the provisions of the Horizontal Property Act (§ 55.1-2000 et seq.).

11032 F. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's
11033 authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the
11034 resale certificate may be made by the unit owner or the seller's authorized agent.

11035 G. If the unit is governed by more than one association, the purchaser's right of cancellation may be
11036 exercised within the required time frames following delivery of the last resale certificate or disclosure packet.

11037 **§ 55.1-1992. Fees for resale certificate.**

11038 A. The unit owners' association may charge fees as authorized by this section for the inspection of the
11039 property, for the preparation and issuance of the resale certificate required by §§ 55.1-1990 and 55.1-1991,
11040 and for such other services as are set out in this section. Nothing in this chapter shall be construed to authorize
11041 the unit owners' association or common interest community manager to charge an inspection fee for a unit
11042 except as provided in this section.

11043 B. A reasonable fee may be charged by the preparer of the resale certificate as follows:

11044 1. For the inspection of the unit, as authorized in the declaration and as required to prepare the resale
11045 certificate, a fee not to exceed \$100;

11046 2. For preparation and delivery of the resale certificate in (i) paper format, a fee not to exceed \$150 for no
11047 more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125, for an electronic copy
11048 to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the
11049 purchaser's authorized agent, and not more than one other person designated by the requester. Only one fee
11050 shall be charged for the preparation and delivery of the resale certificate;

11051 3. At the option of the seller or the seller's authorized agent, with the consent of the unit owners' association
11052 or the common interest community manager, for expediting the inspection, preparation, and delivery of the
11053 resale certificate, an additional expedite fee not to exceed \$50;

11054 4. At the option of the seller or the seller's authorized agent, for an additional hard copy of the resale
11055 certificate, a fee not to exceed \$25 per hard copy;

11056 5. At the option of the seller or the seller's authorized agent, for hand delivery or overnight delivery of the
11057 resale certificate, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial
11058 delivery service; and

11059 6. A post-closing fee to the purchaser of the unit, collected at settlement, for the purpose of establishing the
11060 purchaser as the owner of the unit in the records of the unit owners' association, a fee not to exceed \$50.

11061 Neither the unit owners' association nor its common interest community manager shall require cash, check,
11062 certified funds, or credit card payments at the time the request for the resale certificate is made. The resale
11063 certificate shall state that all fees and costs for the resale certificate shall be the personal obligation of the unit
11064 owner and shall be an assessment against the unit and collectible as any other assessment in accordance with
11065 the provisions of the condominium instruments and § 55.1-1964, if not paid at settlement or within 60 days of
11066 the delivery of the resale certificate, whichever occurs first.

11067 For purposes of this section, an expedite fee shall be charged only if the inspection and preparation of
11068 delivery of the resale certificate are completed within five business days of the request for a resale certificate.

11069 C. No fees other than those specified in this section, and as limited by this section, shall be charged by the
11070 unit owners' association or its common interest community manager for compliance with the duties and
11071 responsibilities of the unit owners' association under this section. No additional fee shall be charged for access

11072 to the unit owners' association's or common interest community manager's website. The unit owners'
11073 association or its common interest community manager shall publish and make available in paper or electronic
11074 format, or both, a schedule of the applicable fees so that the seller or the seller's authorized agent will know
11075 such fees at the time of requesting the resale certificate.

11076 D. Any fees charged pursuant to this section shall be collected at the time settlement occurs on the sale of
11077 the unit and shall be due and payable out of the settlement proceeds in accordance with this section. The seller
11078 shall be responsible for all costs associated with the preparation and delivery of the resale certificate, except
11079 for the costs of any resale certificate update or financial update, which costs shall be the responsibility of the
11080 requester, payable at settlement. The settlement agent shall escrow a sum sufficient to pay such costs at
11081 settlement. Neither the unit owners' association nor its common interest community manager shall require cash,
11082 check, certified funds, or credit card payments at the time the request is made for the resale certificate.

11083 E. If settlement does not occur within 60 days of the delivery of the resale certificate, or funds are not
11084 collected at settlement and disbursed to the unit owners' association or the common interest community
11085 manager, all fees, including those costs that would have otherwise been the responsibility of the purchaser or
11086 settlement agent, shall be (i) assessed within one year after delivery of the resale certificate against the unit
11087 owner, (ii) the personal obligation of the unit owner, and (iii) an assessment against the unit and collectible as
11088 any other assessment in accordance with the provisions of the condominium instruments and § 55.1-1964. The
11089 seller may pay the unit owners' association by cash, check, certified funds, or credit card, if credit card payment
11090 is an option offered by the unit owners' association. The unit owners' association shall pay the common interest
11091 community manager the amount due from the unit owner within 30 days after invoice.

11092 F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of
11093 January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States
11094 Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor
11095 Statistics of the U.S. Department of Labor.

11096 G. If a resale certificate has been issued within the preceding 12-month period, a person specified in the
11097 written instructions of the seller or the seller's authorized agent, including the seller or the seller's authorized
11098 agent or the purchaser or the purchaser's authorized agent, may request a resale certificate update. The
11099 requester shall specify whether the resale certificate update shall be delivered electronically or in hard copy
11100 and shall specify the complete contact information of the parties to whom the update shall be delivered. The
11101 resale certificate update shall be delivered within 10 days of the written request.

11102 H. The settlement agent may request a financial update. The requester shall specify whether the financial
11103 update shall be delivered electronically or in hard copy and shall specify the complete contact information of
11104 the parties to whom the update shall be delivered. The financial update shall be delivered within three business
11105 days of the written request.

11106 I. A reasonable fee for the resale certificate update or financial update may be charged by the preparer,
11107 not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request
11108 that the unit owners' association or the common interest community manager perform an additional inspection
11109 of the unit, as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified
11110 update shall be collected at the time settlement occurs on the sale of the property. The settlement agent shall
11111 escrow a sum sufficient to pay such costs at settlement. Neither the unit owners' association nor its common
11112 interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the
11113 time the request is made for the resale certificate update. The requester may request that the specified update
11114 be provided in hard copy or in electronic form.

11115 J. No unit owners' association or common interest community manager may require the requester to request
11116 the specified update electronically. The seller or the seller's authorized agent shall continue to have the right
11117 to request a hard copy of the specified update in person at the principal place of business of the unit owners'
11118 association. If the requester asks that the specified update be provided in electronic format, neither the unit
11119 owners' association nor its common interest community manager may require the requester to pay any fees to
11120 use the provider's electronic network or system. A copy of the specified update shall be provided to the seller
11121 or the seller's authorized agent.

11122 K. When a resale certificate has been delivered as required by § 55.1-1991, the unit owners' association
11123 shall, as to the purchaser, be bound by the statements set forth in the certificate as to the status of the assessment
11124 account and the status of the unit with respect to any violation of the condominium instruments as of the date

11125 of the statement unless the purchaser had actual knowledge that the contents of the resale certificate were in
 11126 error.

11127 *L. If the unit owners' association or its common interest community manager has been requested in writing*
 11128 *to furnish the resale certificate required by § 55.1-1991, failure to provide the resale certificate substantially*
 11129 *in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any*
 11130 *violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of*
 11131 *the request with respect to the subject unit. The preparer of the resale certificate shall be liable to the seller in*
 11132 *an amount equal to the actual damages sustained by the seller in an amount not to exceed \$1,000. The purchaser*
 11133 *shall nevertheless be obligated to abide by the condominium instruments, rules and regulations, and*
 11134 *architectural guidelines of the unit owners' association as to all matters arising after the date of the settlement*
 11135 *of the sale.*

11136 *M. The Common Interest Community Board may assess a monetary penalty for failure to deliver the resale*
 11137 *certificate within 14 days against any (i) unit owners' association pursuant to § 54.1-2351 or (ii) common*
 11138 *interest community manager pursuant to § 54.1-2349 and regulations promulgated thereto, and may issue a*
 11139 *cease and desist order pursuant to § 54.1-2349 or 54.1-2352, as applicable.*

11140 **§ 55.1-1993. Properties subject to more than one declaration.**

11141 *If the unit is subject to more than one declaration, the unit owners' association or its common interest*
 11142 *community manager may charge the fee authorized by § 55.1-1992 for each of the applicable associations,*
 11143 *provided, however, that no association shall charge an inspection fee unless the association has architectural*
 11144 *control over the unit.*

11145 **§ 55.1-1994. Requests by settlement agents.**

11146 *A. The settlement agent may request a financial update from the preparer of the resale certificate. The*
 11147 *preparer of the resale certificate shall, upon request from the settlement agent, provide the settlement agent*
 11148 *with written escrow instructions directing the amount of any funds to be paid from the settlement proceeds to*
 11149 *the association or the common interest community manager. There shall be no fees charged for a response by*
 11150 *the association or its common interest community manager to a request from the settlement agent for written*
 11151 *escrow instructions; however, a fee may be charged for a financial update pursuant to this chapter.*

11152 *B. The settlement agent, when transmitting funds to the unit owners' association or the common interest*
 11153 *community manager, shall, unless otherwise directed in writing, provide the preparer of the resale certificate*
 11154 *with (i) the complete record name of the seller, (ii) the address of the subject unit, (iii) the complete name of*
 11155 *the purchaser, (iv) the date of settlement, and (v) a brief explanation of the application of any funds transmitted*
 11156 *or by providing a copy of a settlement statement, unless otherwise prohibited.*

11157 **§ 55.1-1995. Exceptions to disclosure requirements.**

11158 *A. The resale certificate required by this article need not be provided in the case of:*

- 11159 *1. A disposition of a unit by gift;*
- 11160 *2. A disposition of a unit pursuant to court order if the court so directs;*
- 11161 *3. A disposition of a unit by foreclosure or deed in lieu of foreclosure; or*
- 11162 *4. A disposition of a unit by a sale at auction when the resale certificate was made available as part of the*
 11163 *auction package for prospective purchasers prior to the auction.*

11164 *B. In any transaction in which a resale certificate is required and a trustee acts as the seller in the sale or*
 11165 *resale of a unit, the trustee shall obtain the resale certificate from the unit owners' association and provide the*
 11166 *resale certificate to the purchaser.*

11167 **CHAPTER 20.**

11168 **HORIZONTAL PROPERTY ACT.**

11169 **Article 1.**

11170 **General Provisions.**

11171 **§ 55.1-2000. Definitions.**

11172 *As used in this chapter, unless the context requires a different meaning:*

11173 *"Apartment" means a dwelling that is an enclosed space consisting of one or more rooms occupying all or*
 11174 *part of one or more floors in a building of one or more floors regardless of whether it is designed or used for*
 11175 *residence, for office, for the operation of any industry or business, or for any other type of independent use, or*
 11176 *combination of uses, provided that the dwelling has a direct exit to a thoroughfare or to a given common space*
 11177 *leading to a thoroughfare. "Apartment" also includes such accessories as may be appurtenant to such dwelling.*

11178 "Condominium" means the ownership of a single unit in a multiple-unit structure with common elements in
 11179 a condominium project.

11180 "Condominium project" means a plan or project whereby four or more apartments, rooms, office spaces,
 11181 or other units existing or proposed, whether the unit involves a single structure, attached to or detached from
 11182 other units, or is in one or more multiple-unit structures, on contiguous parcels of real estate are offered or
 11183 proposed to be offered for sale.

11184 "Co-owner" means a person, firm, corporation, partnership, association, trust, or other legal entity, or any
 11185 combination thereof, that owns an apartment within the building.

11186 "Council of co-owners" means all of the co-owners acting as a group in accordance with the bylaws of the
 11187 horizontal property regime.

11188 "Developer" means a person that undertakes to develop a real estate condominium project.

11189 "General common elements," unless otherwise provided in the master deed or lease, means and includes:

- 11190 1. The land, whether leased or in fee simple, on which the building stands;
- 11191 2. The foundations, main walls, roofs, halls, lobbies, stairways, and entrances and exits or communication
 11192 ways;
- 11193 3. The basements, flat roofs, yards, and gardens, except as otherwise provided or stipulated;
- 11194 4. The premises for the lodging of janitors or persons in charge of the building, except as otherwise provided
 11195 or stipulated;
- 11196 5. The compartments or installations of central services, including power, light, gas, cold and hot water,
 11197 refrigeration, reservoirs, water tanks, and pumps;
- 11198 6. The elevators, garbage incinerators, and all other devices or installations existing for common use; and
- 11199 7. All other elements of the property rationally of common use or necessary to its existence, upkeep, and
 11200 safety.

11201 "Limited common elements" means those common elements that are agreed upon by all of the co-owners
 11202 to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, including
 11203 special corridors, stairways and elevators, and sanitary services common to the apartments of a particular
 11204 floor.

11205 "Majority of co-owners" means more than 50 percent of the votes of the co-owners computed in accordance
 11206 with the bylaws of the horizontal property regime.

11207 "Master deed" or "master lease" means the deed or lease recording the property of the horizontal property
 11208 regime.

11209 "Person" means an individual, firm, corporation, partnership, association, trust, or other legal entity or
 11210 any combination thereof.

11211 "Property" means the land, whether leased or in fee simple, the building, all improvements and structures
 11212 on such land, and all easements, rights, and appurtenances belonging to such land.

11213 "To record" means to record pursuant to the laws of the Commonwealth relating to the recordation of
 11214 deeds.

11215 **§ 55.1-2001. Property taxes assessed on individual apartments.**

11216 Property taxes assessed by the Commonwealth or by any locality shall be assessed on and collected on the
 11217 individual apartments and not on the property as a whole, or on the common elements.

11218 **§ 55.1-2002. Chapter additional and supplemental.**

11219 The provisions of this chapter shall be in addition and supplemental to all other provisions of law, provided
 11220 that wherever the application of the provisions of this chapter conflict with the application of such other
 11221 provisions, this chapter shall prevail.

11222 **Article 2.**

11223 **Creation and Alteration of Horizontal Property Regimes.**

11224 **§ 55.1-2003. Establishment of horizontal property regime.**

11225 A. A horizontal property regime is established when a developer, the sole owner, or the co-owners of one
 11226 or more buildings record a master deed or lease, which includes the particulars enumerated in § 55.1-2008.

11227 B. Pursuant to § 55.1-1901, this chapter is superseded by the Virginia Condominium Act (§ 55.1-1900 et
 11228 seq.) as of July 1, 1974. No new developments may be established under the provisions of this chapter after that
 11229 date.

11230 **§ 55.1-2004. Partition.**

11231 A. *The common elements, both general and limited, shall remain undivided. No apartment owner, or any*
 11232 *other person, shall bring any action or other proceeding for partition or division of the co-ownership of the*
 11233 *common elements as provided under § 55.1-2007.*

11234 B. *Nothing contained in this section shall be construed as a limitation on partition by the owners of one or*
 11235 *more apartments in a horizontal property regime as to the individual ownership of such apartment or*
 11236 *apartments without terminating the regime or as to the ownership of property outside the regime, provided that*
 11237 *upon partition of any such individual apartment it shall be sold as an entity and shall not be partitioned in kind.*

11238 Article 3.

11239 Management of Horizontal Property Regimes.

11240 **§ 55.1-2005. Apartments subject to individual titles and interests; recording; transfer of garage unit.**

11241 *Once the property is established as a horizontal property regime, an apartment in the building is a separate*
 11242 *parcel of real property and may be individually conveyed and encumbered, independent of the other apartments*
 11243 *in the building, and the corresponding individual titles and interests shall be recordable. A garage unit sold to*
 11244 *a co-owner as a limited common element may be sold or transferred by him to another co-owner in the same*
 11245 *horizontal property regime independently of and separately from his apartment.*

11246 **§ 55.1-2006. Joint or common ownership.**

11247 *Any apartment may be jointly or commonly owned by more than one person.*

11248 **§ 55.1-2007. Exclusive and common rights of owners.**

11249 *An apartment owner has an exclusive right to his apartment and has a common right to a share, with other*
 11250 *co-owners, in the common elements of the property.*

11251 **§ 55.1-2008. Master deed or lease; recordation; particulars.**

11252 *A master deed or lease shall be recorded in the same manner and subject to the same provisions of law as*
 11253 *are other deeds, provided that no state or local recordation tax upon the value of the property transferred shall*
 11254 *apply to any such deed recorded solely for the purpose of complying with the provisions of § 55.1-2003.*

11255 *The master deed or lease required pursuant to § 55-2003 shall include the following particulars:*

11256 1. *The description of the land, whether leased or in fee simple, and the building, expressing their respective*
 11257 *areas;*

11258 2. *The general description and the number of each apartment, expressing its area, location, and any other*
 11259 *data necessary for its identification;*

11260 3. *The description of the general common elements of the building; and*

11261 4. *The provisions requiring the council of co-owners to maintain insurance on the horizontal property*
 11262 *regime.*

11263 **§ 55.1-2009. Deeds of individual apartments.**

11264 *The deed of each individual apartment shall express the particulars prescribed under subdivisions 1 and 2*
 11265 *of § 55.1-2008 relative to the apartments concerned and shall also express all encumbrances on such*
 11266 *apartments.*

11267 **§ 55.1-2010. Regrouping or merger of estates with principal property.**

11268 *All of the co-owners or such lesser percentage as may be authorized in the master deed, or the sole owner*
 11269 *of a building constituted into a horizontal property regime, may by deed waive this regime and regroup, amend*
 11270 *the master deed, or merge the records of the filial estates with the principal property, provided that the filial*
 11271 *estates are unencumbered, or if they are encumbered, that the creditors in whose behalf the encumbrances are*
 11272 *recorded accept as security the undivided portions of the property owned by the debtors.*

11273 **§ 55.1-2011. Merger not to bar subsequent condominium.**

11274 *The merger provided for in § 55.1-2010 shall not bar the subsequent constitution of the property into a*
 11275 *condominium whenever so desired, provided that the requirements of the Virginia Condominium Act (§ 55.1-*
 11276 *1900 et seq.) are met.*

11277 **§ 55.1-2012. Bylaws governing administration of buildings.**

11278 *The administration of every building established as a horizontal property regime shall be governed by*
 11279 *bylaws approved and adopted by the council of co-owners. The bylaws may be amended from time to time by*
 11280 *the council or the governing board provided for in the council's bylaws.*

11281 **§ 55.1-2013. Books and records; inspection; audit.**

11282 *The administrator, board of administration, or person appointed by the bylaws of the regime shall keep a*
 11283 *book with a detailed account of the receipts and expenditures affecting the building and its administration and*
 11284 *specifying the maintenance and repair expenses of the common elements and any other expenses incurred by*

11285 or on behalf of the regime. Both the book and vouchers accrediting the entries made in the book shall be
11286 available for examination by all the co-owners during business hours that shall be set and announced for
11287 general knowledge. All books and records shall be kept in accordance with good accounting procedures and
11288 be audited at least once a year by an auditor outside of the organization.

11289 **§ 55.1-2014. Contributions by co-owners.**

11290 All co-owners are bound to contribute pro rata toward the expenses of administration and of maintenance
11291 and repairs of the general common elements, and, in the appropriate case, of the limited common elements of
11292 the building, and toward any other expenses lawfully agreed upon by the council of co-owners.

11293 If a co-owner fails to contribute his share as provided in this section, the manager or board of directors of
11294 the council of co-owners, or in a proper case, an aggrieved co-owner, may maintain an action at law on behalf
11295 of the council of co-owners to recover sums due for damages or in equity for injunctive relief.

11296 No co-owner shall be exempt from contributing toward such expenses by waiver or nonuse of the use or
11297 enjoyment of the common elements, both general and limited, or by abandonment of the apartment belonging
11298 to him.

11299 Such contributions may be determined and a lien, as the master deed may provide upon default in the
11300 payment of any such contribution, may be perfected by filing in the clerk's office in which the master deed is
11301 recorded a memorandum showing the name of the delinquent co-owner, the name of the council of co-owners
11302 as claimant of the lien, the amount of the claim, and a description of the property on which a lien is claimed
11303 verified by oath of the agent of the council of co-owners. The clerk shall record and index such lien as provided
11304 in § 43-4.1 and shall charge such fees as are provided by law. Such lien shall be released as provided in §§
11305 55.1-339 through 55.1-345 upon payment by the co-owner of his contributions.

11306 **§ 55.1-2015. Payment of assessments upon conveyance of apartment; priority.**

11307 Upon the sale or conveyance of an apartment, all unpaid assessments against a co-owner for his pro rata
11308 share in the expenses provided for in § 55.1-2014 shall first be paid out of the sale price or by the purchaser in
11309 priority over any other assessments or charges of whatever nature except the following:

11310 1. Assessments, liens, and charges in favor of the Commonwealth or any locality for taxes past due and
11311 unpaid on the apartment; and

11312 2. Payments due under mortgages duly recorded.

11313 **§ 55.1-2016. Liens or encumbrances.**

11314 A. Subsequent to establishment of a horizontal property regime as provided in this chapter, and while the
11315 property remains subject to this chapter, no lien shall arise or be effective against the property as a whole or
11316 against the common elements. During such period, liens or encumbrances shall arise or be created and
11317 enforced only against each apartment and the percentage of undivided interest in the common areas and
11318 facilities appurtenant to such apartment in the same manner and under the same conditions in every respect as
11319 liens or encumbrances may arise or be created upon or against any other separate parcel of real property
11320 subject to individual ownership, provided that no labor performed or materials furnished with the consent or
11321 at the request of an apartment owner or such owner's agent, contractor, or subcontractor shall be the basis for
11322 the filing of a mechanic's lien against the apartment or any other property of any other apartment owner not
11323 expressly consenting to or requesting the same, except that such express consent shall be deemed to be given
11324 by the owner of any apartment in the case of emergency repairs to such apartment. Labor performed or
11325 materials furnished for the common elements and facilities, if duly authorized by the council of co-owners, the
11326 manager, or the board of directors in accordance with this chapter, the master deed, or the bylaws, shall be
11327 deemed to be performed or furnished with the express consent of each apartment owner and shall be the basis
11328 for the filing of a mechanic's lien against each of the apartments and shall be subject to the provisions of
11329 subsection B. Notice of such lien may be served on the manager or the board of directors of the council of co-
11330 owners.

11331 B. If a lien is filed against two or more apartments and their respective percentage interest in the common
11332 elements, the apartment owners of the separate apartments may remove their apartments and their percentage
11333 interests in the common elements appurtenant to such apartments from the lien by payment of the fractional or
11334 proportional amounts attributable to each of the apartments affected, or they may file a written undertaking
11335 with surety approved by the court. Such individual payment, or amount of bond, shall be computed by reference
11336 to the percentage established pursuant to the bylaws of the horizontal property regime. After such partial
11337 payment, filing of bond, partial discharge, or release, or other satisfaction, the apartment and its percentage
11338 interest in the common elements shall be free and clear of such lien. Such partial payment, indemnity,

11339 satisfaction, or discharge shall not prevent the lienor from proceeding to enforce its rights against any
 11340 apartment and its percentage interest in the common elements not so paid, indemnified, satisfied, or discharged.

11341 **§ 55.1-2017. Rule against perpetuities; rule restricting unreasonable restraints on alienation.**

11342 The rules of property law known as the rule against perpetuities and the rule restricting unreasonable
 11343 restraints on alienation shall not be applied to defeat any of the provisions of this chapter or of any provisions
 11344 of any master deed or lease, bylaws, or other document executed in accordance with this chapter as to the
 11345 horizontal property regime. This exemption shall not apply to estates in the individual apartments.

11346 **§ 55.1-2018. Liability of owner.**

11347 A. The liability of the owner of an apartment for pro rata expenses shall be limited to the amounts assessed
 11348 from time to time in accordance with this chapter, the master deed or lease, or the bylaws.

11349 B. The owner of an apartment shall not be personally liable with respect to the negligence of any other co-
 11350 owner except insofar as the negligent co-owner is acting for the council of co-owners.

11351 **§ 55.1-2019. Compliance by co-owner with bylaws and administrative rules and regulations.**

11352 Each co-owner shall comply with the bylaws of the horizontal property regime and with the administrative
 11353 rules and regulations adopted pursuant to such bylaws, as may be amended from time to time, and with the
 11354 covenants, conditions, or restrictions set forth in the deed to the individual apartment. Failure to comply with
 11355 any such bylaws, rules and regulations, or covenants, conditions, or restrictions is grounds for an action by the
 11356 manager or board of directors of the council of co-owners, or in a proper case, an aggrieved owner, on behalf
 11357 of the council of co-owners to recover sums due for damages and for injunctive relief.

11358 Article 4.

11359 Protection of Purchasers.

11360 **§ 55.1-2020. Deposits to be held in escrow.**

11361 Any deposit made with a reservation to purchase or a contract to purchase shall be held in escrow in a
 11362 separate fund for such deposits designated as such until the deed for which a deposit was made is delivered to
 11363 the depositor.

11364 CHAPTER 21.

11365 VIRGINIA REAL ESTATE COOPERATIVE ACT.

11366 Article 1.

11367 General Provisions.

11368 **§ 55.1-2100. Definitions.**

11369 As used in this chapter or in the declaration and bylaws, unless provided otherwise or unless the context
 11370 requires a different meaning:

11371 "Affiliate of a declarant" means any person that controls, is controlled by, or is under common control with
 11372 a declarant. A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer
 11373 of the declarant; (ii) directly or indirectly or acting in concert with one or more other persons, or through one
 11374 or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 20
 11375 percent of the voting interest in the declarant; (iii) controls in any manner the election of a majority of the
 11376 directors of the declarant; or (iv) has contributed more than 20 percent of the capital of the declarant. A person
 11377 "is controlled by" a declarant if the declarant (a) is a general partner, officer, director, or employer of the
 11378 person; (b) directly or indirectly or acting in concert with one or more persons, or through one or more
 11379 subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 20 percent
 11380 of the voting interest in the person; (c) controls in any manner the election of a majority of the directors of the
 11381 person; or (d) has contributed more than 20 percent of the capital of the person. Control does not exist if the
 11382 powers described in this definition are held solely as security for an obligation and are not exercised.

11383 "Allocated interests" means the common expense liability and the ownership interest and votes in the
 11384 association allocated to each cooperative interest.

11385 "Association" or "proprietary lessees' association" means the proprietary lessees' association organized
 11386 under § 55.1-2132.

11387 "Capital components" means those items, whether or not a part of the common elements, for which the
 11388 association has the obligation for repair, replacement, or restoration and for which the executive board
 11389 determines funding is necessary.

11390 "Common elements" means all portions of a cooperative other than the units of such cooperative.

11391 "Common expenses" means any expenditures made by, or financial liabilities of, the association, together
 11392 with any allocations to reserves.

11393 *"Common expense liability" means liability for common expenses allocated to each cooperative interest*
11394 *pursuant to § 55.1-2118.*

11395 *"Conversion building" means a building that at any time before creation of the cooperative was occupied*
11396 *wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.*

11397 *"Cooperative" means real estate owned by an association, each of the members of which is entitled, by*
11398 *virtue of his ownership interest in the association, to exclusive possession of a unit.*

11399 *"Cooperative interest" means an ownership interest in the association coupled with a possessory interest*
11400 *in a unit under a proprietary lease. For purposes of this chapter, a declarant is treated as the owner of any*
11401 *cooperative interests or potential cooperative interests to which allocated interests have been allocated*
11402 *pursuant to § 55.1-2118 until that cooperative interest has been created and conveyed to another person.*

11403 *"Declarant" means any person or group of persons acting in concert that (i) as part of a common*
11404 *promotional plan, offers to dispose of its cooperative interest not previously disposed of; (ii) reserves or*
11405 *succeeds to any special declarant right; or (iii) applies for registration of a cooperative under Article 5 (§ 55.1-*
11406 *2173 et seq.).*

11407 *"Declaration" means any instruments, however denominated, that create a cooperative and any*
11408 *amendments to those instruments.*

11409 *"Development rights" means any right or combination of rights reserved by a declarant in the declaration*
11410 *to (i) add real estate to a cooperative; (ii) create units, common elements, or limited common elements within*
11411 *a cooperative; (iii) subdivide units or convert units into common elements; or (iv) withdraw real estate from a*
11412 *cooperative.*

11413 *"Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in*
11414 *a cooperative interest, but does not include the transfer or release of a security interest.*

11415 *"Executive board" means the body, regardless of name, designated in the declaration to act on behalf of*
11416 *the association.*

11417 *"Identifying number" means a symbol or address that identifies only one unit in a cooperative.*

11418 *"Leasehold cooperative" means a cooperative in which all or a portion of the real estate is subject to a*
11419 *lease the expiration or termination of which will terminate the cooperative or reduce its size.*

11420 *"Limited common element" means a portion of the common elements allocated by the declaration or by*
11421 *operation of subdivision 2 or 4 of § 55.1-2113 for the exclusive use of at least one unit but fewer than all of the*
11422 *units.*

11423 *"Master association" means an organization described in § 55.1-2130, whether or not it is also an*
11424 *association described in § 55.1-2132.*

11425 *"Offering" means any advertisement, inducement, solicitation, or attempt to encourage any person to*
11426 *acquire any interest in a cooperative interest, other than as security for an obligation. An advertisement in a*
11427 *newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a*
11428 *cooperative not located in the Commonwealth is not an offering if the advertisement states that an offering may*
11429 *be made only in compliance with the law of the jurisdiction in which the cooperative is located.*

11430 *"Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint*
11431 *venture, government, governmental subdivision or agency, or any other legal or commercial entity. In the case*
11432 *of a land trust, however, "person" means the beneficiary of the trust rather than the trust or the trustee.*

11433 *"Proprietary lease" means an agreement with the association pursuant to which a proprietary lessee has a*
11434 *possessory interest in a unit.*

11435 *"Proprietary lessee" means a person that owns a cooperative interest, other than as security for an*
11436 *obligation, and the declarant with respect to cooperative interests or potential cooperative interests to which*
11437 *allocated interests have been allocated pursuant to § 55.1-2118 until that cooperative interest has been created*
11438 *and conveyed to another person.*

11439 *"Purchaser" means any person, other than a declarant or a person in the business of selling cooperative*
11440 *interests for his own account, that, by means of a voluntary transfer, acquires or contracts to acquire a*
11441 *cooperative interest other than as security for an obligation.*

11442 *"Real estate" means any leasehold or other estate or interest in, over, or under land, including structures,*
11443 *fixtures, and other improvements and interests that, by custom, usage, or law, pass with a conveyance of land*
11444 *though not described in the contract of sale or instrument of conveyance. "Real estate" includes (i) parcels with*
11445 *or without upper or lower boundaries and (ii) spaces that may be filled with air or water.*

11446 *"Residential purposes" means use for dwelling or recreational purposes, or both.*

11447 "Security interest" means an interest in real or personal property, created by contract or conveyance, that
11448 secures payment or performance of an obligation. "Security interest" includes a mortgage, deed of trust, trust
11449 deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or
11450 rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or
11451 title retention contract intended as security for an obligation.

11452 "Special declarant rights" means rights reserved for the benefit of a declarant to (i) complete improvements
11453 described in the public offering statement pursuant to subdivision A 2 of § 55.1-2155; (ii) exercise any
11454 development right pursuant to § 55.1-2120; (iii) maintain sales offices, management offices, signs advertising
11455 the cooperative, and models; (iv) use easements through the common elements for the purpose of making
11456 improvements within the cooperative or within real estate that may be added to the cooperative; (v) make the
11457 cooperative part of a larger cooperative or group of cooperatives; (vi) make the cooperative subject to a master
11458 association as specified in § 55.1-2130; or (vii) appoint or remove any officer of the association, any master
11459 association, or any executive board member during any period of declarant control.

11460 "Time share" means a right to occupy a unit or any of several units during five or more separated time
11461 periods over a period of at least five years, including renewal options, whether or not coupled with an estate
11462 or interest in a cooperative or a specified portion of such estate or interest.

11463 "Unit" means a physical portion of the cooperative designated for separate occupancy under a proprietary
11464 lease.

11465 **§ 55.1-2101. Applicability.**

11466 A. This chapter applies to all cooperatives created within the Commonwealth after July 1, 1982. Unless the
11467 declaration provides that the entire chapter is applicable, such a cooperative is subject only to §§ 55.1-2104
11468 and 55.1-2105 if the cooperative contains only units restricted to nonresidential use or contains no more than
11469 three units and is not subject to any development rights.

11470 B. Except as provided in subsection C, §§ 55.1-2100, 55.1-2104, 55.1-2105, 55.1-2109, 55.1-2114, and
11471 55.1-2131, subdivisions A 1 through 6 and 11 through 17 of § 55.1-2133, and §§ 55.1-2143, 55.1-2148, 55.1-
11472 2151, 55.1-2161, 55.1-2169, and 55.1-2170 apply to all cooperatives created in the Commonwealth before July
11473 1, 1982. Those sections apply only with respect to events and circumstances occurring after July 1, 1982, and
11474 do not invalidate existing provisions of the cooperative documents of those cooperatives. With regard to any
11475 cooperative created before July 1, 1982, § 55.1-2104 applies only to real estate acquired by that cooperative's
11476 association on or after that date. For the purposes of this section, a cooperative was created before July 1,
11477 1982, if the cooperative was conveyed to the association before that date.

11478 C. If a cooperative created within the Commonwealth before July 1, 1982, contains no more than three
11479 units and is not subject to any development rights, it is subject only to §§ 55.1-2104 and 55.1-2105, unless the
11480 declaration is amended to make any or all of the sections enumerated in subsection B apply to that cooperative.

11481 D. This chapter does not apply to cooperatives or cooperative interests located outside the Commonwealth,
11482 but the public offering statement provisions as given in §§ 55.1-2153 through 55.1-2160 apply to all contracts
11483 for the disposition of cooperative interests signed in the Commonwealth by any party, unless exempt under
11484 subsection B of § 55.1-2153. The Common Interest Community Board regulations provisions under Article 5
11485 (§ 55.1-2173 et seq.) apply to any such offering in the Commonwealth.

11486 E. This chapter does not apply to any cooperatives that receive federal funding pursuant to the public
11487 housing or Section 8 program under the United States Housing Act of 1937, as amended.

11488 F. This chapter does not apply to any cooperative that, when acquired by an association, is subject to a
11489 mortgage or deed of trust securing an indebtedness owed to any government or governmental authority to
11490 which the association has contractual obligations in addition to those set forth in such mortgage or deed of
11491 trust.

11492 **§ 55.1-2102. Variation by agreement.**

11493 Except as expressly provided in this chapter, provisions of this chapter shall not be varied by agreement,
11494 and rights conferred by this chapter shall not be waived. A declarant shall not act under a power of attorney,
11495 or use any other device, to evade the limitations or prohibitions of this chapter or the declaration.

11496 **§ 55.1-2103. Property classification of cooperative interests; taxation.**

11497 A. A cooperative interest is real estate for all purposes. Unless waived by a proprietary lessee, a cooperative
11498 interest is subject to the provisions of Title 34 (§ 34-1 et seq.), regarding the homestead exemption.

11499 *B. Any portion of the common elements for which the declarant has reserved any development right shall*
11500 *be separately taxed and assessed against the declarant, and the declarant alone is liable for the payment of*
11501 *those taxes.*

11502 *C. When the highest and best use of any parcel improved by a multi-unit cooperative apartment complex is*
11503 *achieved by sale of the cooperative apartment units as individual units, the fair market value of the parcel shall*
11504 *be determined by aggregating the fair market value of all taxable real estate that is part of the parcel, including*
11505 *each cooperative apartment unit and common elements. The fair market value of each such cooperative*
11506 *apartment unit shall be established by determining its fair market value for sale as an individual unit,*
11507 *determined in the same manner, mutatis mutandis, as the fair market value of condominium units. Tax bills*
11508 *shall be issued for each individual cooperative apartment unit.*

11509 *No assessment of any parcel improved by a multi-unit cooperative apartment complex, whether the*
11510 *assessment was made before or after the adoption of this subsection, shall be held to be invalid because of the*
11511 *use of the method described in this subsection to determine the assessment.*

11512 *D. Any duly authorized real estate assessor, board of assessors, or department of real estate assessments*
11513 *may require that all declarants, associations, master associations, and proprietary lessees' associations in the*
11514 *county or city subject to local taxation furnish to such assessor, board, or department on or before a time*
11515 *specified a statement listing all transfers of the cooperative apartment units over a specified period of time and*
11516 *a statement listing all owners and proprietary lessees of the cooperative apartment units as of a specified date.*
11517 *Each such statement shall be certified as to its accuracy by the declarant, association, master association, or*
11518 *proprietary lessees' association for which the statement is furnished or by a duly authorized agent of such*
11519 *declarant or association. Any statement required by this subsection shall be kept confidential in accordance*
11520 *with the provisions of § 58.1-3.*

11521 *E. Subsections C and D apply to all cooperatives created in the Commonwealth, whether created before,*
11522 *on, or after July 1, 1982. However, subsections C and D do not apply to any multi-unit cooperative apartment*
11523 *complex the cooperative apartment units of which have been continually in use as such since December 31,*
11524 *1967.*

11525 *F. Any residential cooperative association the members of which are owners of cooperative interests in a*
11526 *cooperative under this chapter shall not be deemed to be a business for any state and local purposes, including*
11527 *liability for payment of sales, meals, hotel, motel, or gross receipts taxes and business licenses, to the extent*
11528 *that such residential cooperative association collects payments from residents of such cooperative.*

11529 *G. Any tangible personal property owned by a residential cooperative association that would be considered*
11530 *household goods and personal effects if owned and used by an individual or by a family or household incident*
11531 *to maintaining an abode shall be considered household goods and personal effects owned and used by an*
11532 *individual or by a family or household incident to maintaining an abode for the purposes of § 58.1-3504 and*
11533 *any local ordinance authorized pursuant to § 58.1-3504.*

11534 **§ 55.1-2104. Applicability of local ordinances, regulations, and building codes; local authority.**

11535 *A. No zoning or other land use ordinance shall prohibit cooperatives as such by reason of their form of*
11536 *ownership. No cooperative shall be treated differently by any zoning or other land use ordinance that would*
11537 *permit a physically identical project or development under a different form of ownership.*

11538 *B. Subdivision and site plan ordinances in any locality shall apply to any cooperative in the same manner*
11539 *as such ordinances would apply to a physically identical project or development under a different form of*
11540 *ownership. Nevertheless, the declarant need not apply for or obtain subdivision approval to record cooperative*
11541 *instruments against a portion of the land that may be submitted to the cooperative if the site plan approval for*
11542 *the land being submitted to the cooperative has first been obtained.*

11543 *C. During development of a cooperative containing additional land or withdrawable land, phase lines*
11544 *created by the cooperative instruments shall not be considered property lines for purposes of subdivision. If the*
11545 *cooperative may no longer be expanded by the addition of additional land, the owner of the land not part of the*
11546 *cooperative shall subdivide such land prior to its conveyance, unless such land is subject to an approved site*
11547 *plan as provided in subsection B, or prior to modification of such approved site plan. In the event of any*
11548 *conveyance of land within phase lines of the cooperative, the cooperative and any lot created by such*
11549 *conveyance shall be deemed to comply with the local subdivision ordinance, provided that such land is subject*
11550 *to an approved site plan.*

11551 *D. Localities may provide by ordinance that proposed cooperatives comprising conversion buildings and*
11552 *the use of such conversion buildings that do not conform to the zoning, land use, and site plan regulations of*

11553 *the respective county or city in which the property is located shall secure a special use permit, a special*
 11554 *exception, or variance, as applicable, prior to such property's becoming a cooperative. The local authority*
 11555 *shall grant a request for such a special use permit, special exception, or variance filed on or after July 1, 1982,*
 11556 *if the applicant can demonstrate to the reasonable satisfaction of the local authority that the nonconformities*
 11557 *are not likely to be adversely affected by the proposed conversion. The local authority shall not unreasonably*
 11558 *delay action on any such request. In the event of an approved conversion, a locality, sanitary district, or other*
 11559 *political subdivision may impose such charges and fees as are lawfully imposed by such locality, sanitary*
 11560 *district, or other political subdivision as a result of construction of new structures to the extent that such charges*
 11561 *and fees, or portions of such charges and fees, imposed upon property subject to such conversions may be*
 11562 *reasonably related to greater or additional services provided by the locality, sanitary district, or political*
 11563 *subdivision as a result of the conversion.*

11564 *E. Nothing in this section shall be construed to permit application of any provision of the Uniform Statewide*
 11565 *Building Code (§ 36-97 et seq.), or any local ordinances regulating the design and construction of roads, sewer*
 11566 *and water lines, stormwater management facilities, or other public infrastructure, that is not expressly*
 11567 *applicable to cooperatives by reason of their form of ownership to a cooperative in a manner different from the*
 11568 *manner in which such provision is applied to other buildings of similar physical form and nature of occupancy.*

11569 **§ 55.1-2105. Eminent domain.**

11570 *A. If a unit is acquired by eminent domain, or if part of a unit is acquired by eminent domain leaving the*
 11571 *proprietary lessee with a remnant that may not practically or lawfully be used for any purpose permitted by the*
 11572 *declaration, the award for such unit shall include compensation to the proprietary lessee for the value of his*
 11573 *cooperative interest. Upon acquisition, unless the order otherwise provides, that cooperative interest's*
 11574 *allocated interests are automatically reallocated to the remaining cooperative interests in proportion to the*
 11575 *respective allocated interests of those cooperative interests before the taking, and the association shall promptly*
 11576 *prepare, execute, and record an amendment to the declaration reflecting the reallocations. Any remnant of a*
 11577 *unit remaining after part of a unit is taken under this subsection is thereafter a common element.*

11578 *B. Except as provided in subsection A, if part of a unit is acquired by eminent domain, the award for such*
 11579 *unit shall compensate the proprietary lessee for the reduction in value of his cooperative interest. Unless the*
 11580 *order provides otherwise, upon acquisition (i) that cooperative interest's allocated interests are reduced in*
 11581 *proportion to the reduction in the size of the unit, or on any other basis specified in the declaration, and (ii) the*
 11582 *portion of the allocated interests divested from the cooperative interest of which the partially acquired unit is*
 11583 *a part is automatically reallocated to that cooperative interest and the remaining units in proportion to the*
 11584 *respective allocated interests of those cooperative interests before the taking, with the cooperative interest of*
 11585 *which the partially acquired unit is a part participating in the reallocation on the basis of its reduced allocated*
 11586 *interests.*

11587 *C. If part of the common elements is acquired by eminent domain, the portion of the award attributable to*
 11588 *the common elements taken shall be paid to the association. Unless the declaration provides otherwise, any*
 11589 *portion of the award attributable to the acquisition of a limited common element shall be equally divided among*
 11590 *the proprietary lessees of the units to which that limited common element was allocated at the time of*
 11591 *acquisition.*

11592 *D. The court order shall be recorded in every county or city in which any portion of the cooperative is*
 11593 *located.*

11594 **§ 55.1-2106. General principles of law applicable.**

11595 *The principles of law and equity, including the law of corporations and unincorporated associations, the*
 11596 *law of real property, and the law relative to capacity to contract, principal and agent, eminent domain, estoppel,*
 11597 *fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performances, or other validating*
 11598 *or invalidating cause supplement the provisions of this chapter, except to the extent inconsistent with this*
 11599 *chapter.*

11600 **§ 55.1-2107. Construction against implicit repeal.**

11601 *This chapter, being a general act intended as a unified coverage of its subject matter, shall not be impliedly*
 11602 *repealed by subsequent legislation if that construction can reasonably be avoided.*

11603 **§ 55.1-2108. Uniformity of application and construction.**

11604 *This chapter shall be applied and construed so as to effectuate its general purpose to make uniform the law*
 11605 *with respect to cooperatives in the Commonwealth.*

11606 **§ 55.1-2109. Unconscionable agreement or term of contract.**

11607 A. The court, upon finding as a matter of law that a contract or contract clause was unconscionable at the
 11608 time the contract was made, may (i) refuse to enforce the contract, (ii) enforce the remainder of the contract
 11609 without the unconscionable clause, or (iii) limit the application of any unconscionable clause in order to avoid
 11610 an unconscionable result.

11611 B. Whenever it is claimed, or appears to the court, that a contract or any contract clause is or may be
 11612 unconscionable, the parties, in order to aid the court in making the determination, shall be afforded a
 11613 reasonable opportunity to present evidence as to:

11614 1. The commercial setting of the negotiations;

11615 2. Whether a party has knowingly taken advantage of the inability of the other party to reasonably protect
 11616 his interests by reason of physical or mental infirmity, illiteracy, or inability to understand the language of the
 11617 agreement or similar factors;

11618 3. The effect and purpose of the contract or clause; and

11619 4. If a sale, any gross disparity at the time of contracting between the amount charged for the cooperative
 11620 interest and the value of the cooperative interest measured by the price at which similar cooperative interests
 11621 were readily obtainable in similar transactions; however, a disparity between the contract price and the value
 11622 of the cooperative interest measured by the price at which similar cooperative interests were readily obtainable
 11623 in similar transactions does not, of itself, render the contract unconscionable.

11624 **§ 55.1-2110. Obligation of good faith.**

11625 Every contract or duty governed by this chapter imposes an obligation of good faith in its performance or
 11626 enforcement.

11627 **§ 55.1-2111. Remedies to be liberally administered.**

11628 A. The remedies provided by this chapter shall be liberally administered to the end that the aggrieved party
 11629 is put in a position as good as its position had the other party fully performed. However, consequential, special,
 11630 or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law.

11631 B. Any right or obligation declared by this chapter is enforceable by judicial proceeding.

11632 Article 2.

11633 Creation, Alteration, and Termination of Cooperatives.

11634 **§ 55.1-2112. Creation of cooperative ownership.**

11635 A cooperative may be created pursuant to this chapter only by recording a declaration executed in the same
 11636 manner as a deed and by conveying to the association the real estate subject to that declaration. The declaration
 11637 shall be recorded in every county or city in which any portion of the cooperative is located, indexed in the
 11638 grantee's index in the name of the cooperative and the association, and indexed in the grantor's index in the
 11639 name of each person executing the declaration.

11640 **§ 55.1-2113. Unit boundaries.**

11641 Except as otherwise provided by the declaration:

11642 1. If walls, floors, or ceilings are designated as boundaries of a unit, all lath, furring, wallboard,
 11643 plasterboard, plaster, paneling, tiles, wallpaper, paint, and finished flooring and any other materials
 11644 constituting any part of the finished surfaces of such walls, floors, or ceilings are a part of the unit, and all
 11645 other portions of the walls, floors, or ceilings are a part of the common elements.

11646 2. If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or other fixture lies partially within
 11647 and partially outside of the designated boundaries of a unit, any portion of such fixture serving only that unit
 11648 is a limited common element allocated solely to that unit, and any portion of such fixture serving more than one
 11649 unit or any portion of the common elements is a part of the common elements.

11650 3. Subject to the provisions of subdivision 2, all spaces, interior partitions, and other fixtures and
 11651 improvements within the boundaries of a unit are a part of the unit.

11652 4. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, or patios and all exterior
 11653 doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries,
 11654 are limited common elements allocated exclusively to that unit.

11655 **§ 55.1-2114. Construction and validity of declaration and bylaws.**

11656 A. All provisions of the declaration and bylaws are severable.

11657 B. The rule against perpetuities shall not be applied to defeat any provision of the declaration, bylaws, or
 11658 rules and regulations adopted pursuant to subdivision A 1 of § 55.1-2133.

11659 C. In the event of a conflict between the provisions of the declaration and the bylaws, the declaration
 11660 prevails except to the extent that the declaration is inconsistent with this chapter.

11661 *D. Title to a cooperative interest is not rendered unmarketable or otherwise affected by reason of an*
 11662 *insubstantial failure of the declaration to comply with this chapter. Whether a substantial failure impairs*
 11663 *marketability is not affected by this chapter.*

11664 **§ 55.1-2115. Description of units.**

11665 *A description of a unit that sets forth the name of the cooperative, the recording data for the declaration,*
 11666 *the county or city in which the cooperative is located, and the identifying number of the unit is a legally sufficient*
 11667 *description of that unit and all rights, obligations, and interests appurtenant to that unit that were created by*
 11668 *the declaration or bylaws.*

11669 **§ 55.1-2116. Contents of declaration.**

11670 *A. The declaration shall contain:*

11671 *1. The name of the cooperative, which shall include the word "cooperative" or be followed by the words "a*
 11672 *cooperative," and the association;*

11673 *2. The name of every county or city in which any part of the cooperative is situated;*

11674 *3. A legally sufficient description of the real estate included in the cooperative;*

11675 *4. A statement of the maximum number of units that the declarant reserves the right to create;*

11676 *5. A description, which may be by plats or plans, of each unit created by the declaration, including the*
 11677 *unit's identifying number, its size or number of rooms, and its location within a building if it is within a building*
 11678 *containing more than one unit;*

11679 *6. A description of any limited common elements, other than those specified in subdivisions 2 and 4 of §*
 11680 *55.1-2113;*

11681 *7. A description of any real estate, except real estate subject to development rights, that may be allocated*
 11682 *subsequently as limited common elements, other than limited common elements specified in subdivisions 2 and*
 11683 *4 of § 55.1-2113, together with a statement that they may be so allocated;*

11684 *8. A description of any development rights and other special declarant rights reserved by the declarant,*
 11685 *together with a legally sufficient description of the real estate to which each of those rights applies, and a time*
 11686 *limit within which each of those rights are required to be exercised;*

11687 *9. If any development right may be exercised with respect to different parcels of real estate at different*
 11688 *times, a statement to that effect together with (i) either a statement fixing the boundaries of those portions and*
 11689 *regulating the order in which those portions may be subjected to the exercise of each development right or a*
 11690 *statement that no assurances are made in those regards and (ii) a statement as to whether, if any development*
 11691 *right is exercised in any portion of the real estate subject to that development right, that development right is*
 11692 *required to be exercised in all or in any other portion of the remainder of that real estate;*

11693 *10. Any other conditions or limitations under which the rights described in subdivision 8 may be exercised*
 11694 *or will lapse;*

11695 *11. An allocation to each cooperative interest of the allocated interests in the manner described in § 55.1-*
 11696 *2118;*

11697 *12. Any restrictions on (i) use and occupancy of the units, (ii) alienation of the cooperative interests, and*
 11698 *(iii) the amount for which a cooperative interest may be sold or the amount that may be received by a*
 11699 *proprietary lessee upon sale of, condemnation of, or casualty loss to the unit or the cooperative or termination*
 11700 *of the cooperative;*

11701 *13. The recording data for recorded easements and licenses appurtenant to, or included in, the cooperative*
 11702 *or to which any portion of the cooperative is or may become subject by virtue of a reservation in the declaration;*
 11703 *and*

11704 *14. All matters required by §§ 55.1-2117, 55.1-2118, 55.1-2119, 55.1-2125, and 55.1-2126 and subsection*
 11705 *D of § 55.1-2134.*

11706 *B. The declaration may contain any other matters the declarant deems appropriate.*

11707 **§ 55.1-2117. Leasehold cooperatives.**

11708 *A. The expiration or termination of any lease that may terminate the cooperative or reduce its size, or a*
 11709 *memorandum of such lease, shall be recorded. The declaration shall state:*

11710 *1. The recording data for the lease or a statement of where the complete lease may be inspected;*

11711 *2. The date on which the lease is scheduled to expire;*

11712 *3. A legally sufficient description of the real estate subject to the lease;*

11713 *4. Any right of the proprietary lessees to redeem the reversion and how those rights may be exercised, or a*
 11714 *statement that they do not have those rights;*

11715 5. Any right of the proprietary lessees to remove any improvements within a reasonable time after the
11716 expiration or termination of the lease, or a statement that they do not have those rights; and

11717 6. Any rights of the proprietary lessees to renew the lease and the conditions, if any, of any renewal, or a
11718 statement that they do not have those rights.

11719 B. Acquisition of the leasehold interest of any proprietary lessee by the owner of the reversion or remainder
11720 does not merge the leasehold and fee simple interests unless the leasehold interests of all proprietary lessees
11721 subject to that reversion or remainder are acquired.

11722 C. If the expiration or termination of a lease decreases the number of units in a cooperative, the allocated
11723 interests shall be reallocated in accordance with subsection A of § 55.1-2118 as though those units had been
11724 taken by eminent domain. Reallocations shall be confirmed by an amendment to the declaration prepared,
11725 executed, and recorded by the association.

11726 **§ 55.1-2118. Allocation of ownership interests, votes, and common expense liabilities.**

11727 A. The declaration shall allocate an ownership interest in the association a fraction or percentage of the
11728 common expenses of the association and a portion of the votes in the association, or to each cooperative interest
11729 in the cooperative, and state the formulas used to establish those allocations. Those allocations shall not
11730 discriminate in favor of cooperative interests owned by the declarant or an affiliate of the declarant.

11731 B. If units may be added to or withdrawn from the cooperative, the declaration shall state the formulas to
11732 be used to reallocate the allocated interests among all cooperative interests included in the cooperative after
11733 the addition or withdrawal.

11734 C. The declaration may provide (i) that different allocations of votes shall be made to the cooperative
11735 interests on particular matters specified in the declaration, (ii) for cumulative voting only for the purpose of
11736 electing members of the executive board, and (iii) for class voting on specified issues affecting the class if
11737 necessary to protect valid interests of the class. No declarant shall utilize cumulative or class voting for the
11738 purpose of evading any limitation imposed on declarants by this chapter, nor shall cooperative interests
11739 constitute a class because they are owned by a declarant.

11740 D. Except for minor variations due to rounding, the sum of the common expense liabilities allocated at any
11741 time to all the cooperative interests must equal one if stated as a fraction or 100 percent if stated as a
11742 percentage. In the event of a discrepancy between an allocated interest and the result derived from application
11743 of the pertinent formula, the allocated interest prevails.

11744 E. Any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of the
11745 ownership interest in the association made without the possessory interest in the unit to which that interest is
11746 related is void.

11747 **§ 55.1-2119. Limited common elements.**

11748 A. Except for the limited common elements described in subdivisions 2 and 4 of § 55.1-2113, the declaration
11749 shall specify to which of the units each limited common element is allocated. That allocation may not be altered
11750 without the consent of the proprietary lessees whose units are affected.

11751 B. Unless the declaration provides otherwise, a limited common element may be reallocated by an
11752 amendment to the declaration executed by the proprietary lessees between or among whose units the
11753 reallocation is made. The persons executing the amendment shall provide a copy to the association, which shall
11754 record it. The amendment shall be recorded in the names of the parties and the cooperative.

11755 C. A common element not previously allocated as a limited common element shall not be so allocated except
11756 pursuant to provisions in the declaration made in accordance with subdivision A 7 of § 55.1-2116. The
11757 allocations shall be made by amendments to the declaration.

11758 **§ 55.1-2120. Exercise of development rights.**

11759 A. To exercise any development right reserved under subdivision A 8 of § 55.1-2116, the declarant shall
11760 prepare, execute, and record an amendment to the declaration as specified in § 55.1-2127. The amendment to
11761 the declaration must assign an identifying number to each new unit created and, except in the case of
11762 subdivision or conversion of units described in subsection B, reallocate the allocated interests among all
11763 cooperative interests. The amendment must describe any common elements and any limited common elements
11764 created by such amendment and, in the case of limited common elements, designate to which of the units each
11765 is allocated to the extent required by § 55.1-2119.

11766 B. Development rights may be reserved within any real estate added to the cooperative if the amendment
11767 adding that real estate includes all matters required by § 55.1-2116 or 55.1-2117, as appropriate. This

11768 provision does not extend the time limit on the exercise of development rights imposed by the declaration
11769 pursuant to subdivision A 8 of § 55.1-2116.

11770 C. Whenever a declarant exercises a development right to subdivide or convert a unit previously created
11771 into additional units, common elements, or both:

11772 1. If the declarant converts the unit entirely to common elements, the amendment to the declaration must
11773 reallocate all the allocated interests of the cooperative interest of which that unit is a part among the other
11774 cooperative interests as if that unit had been taken by eminent domain.

11775 2. If the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted
11776 into common elements, the amendment to the declaration must reallocate all the allocated interests of the
11777 cooperative interest of which that unit is a part among the cooperative interests created by the subdivision in
11778 any reasonable manner prescribed by the declarant.

11779 D. If the declaration provides, pursuant to subdivision A 8 of § 55.1-2116, that all of or a portion of the
11780 real estate is subject to the development right of withdrawal:

11781 1. If all the real estate is subject to withdrawal, and the declaration does not describe separate portions of
11782 real estate subject to that right, none of the real estate may be withdrawn after a cooperative interest has been
11783 conveyed to a purchaser; and

11784 2. If a portion or portions are subject to withdrawal, no portion may be withdrawn after a cooperative
11785 interest in that portion has been conveyed to a purchaser.

11786 **§ 55.1-2121. Alterations of units.**

11787 Subject to the provisions of the declaration and other provisions of law, a proprietary lessee:

11788 1. May make any improvements or alterations to his unit that do not impair the structural integrity or the
11789 electrical or mechanical systems of any portion of the cooperative;

11790 2. Shall not change the appearance of the common elements, or the exterior appearance of a unit or any
11791 other portion of the cooperative, other than the interior of the unit, without permission of the association;

11792 3. After acquiring a cooperative interest of which an adjoining unit or an adjoining part of an adjoining
11793 unit is a part, may remove or alter any intervening partition or create apertures therein, even if the partition in
11794 whole or in part is a common element, if those acts do not impair the structural integrity or electrical or
11795 mechanical systems of any portion of the cooperative. Removal of partitions or creation of apertures under this
11796 subdivision is not an alteration of boundaries.

11797 **§ 55.1-2122. Relocation of boundaries between adjoining units.**

11798 A. Subject to the provisions of the declaration and other provisions of law, the boundaries between
11799 adjoining units may be relocated by an amendment to the declaration upon application to the association by
11800 the proprietary lessees of those units. If the proprietary lessees of the adjoining units have specified a
11801 reallocation between their cooperative interests of their allocated interests, the application shall state the
11802 proposed reallocations. Unless the executive board determines within 30 days that the reallocations are
11803 unreasonable, the association shall prepare an amendment that identifies the units involved, states the
11804 reallocations, is executed by those proprietary lessees, contains words of conveyance between them, and upon
11805 recordation is indexed in the name of the grantor and the grantee.

11806 B. The association shall prepare and record amendments to the declaration, including any plans necessary
11807 to show or describe the altered boundaries between adjoining units and their sizes and identifying numbers. All
11808 costs for such preparation and recordation shall be borne by the proprietary lessees involved.

11809 **§ 55.1-2123. Subdivision of units.**

11810 A. If the declaration expressly so permits, a unit may be subdivided into two or more units. Subject to the
11811 provisions of the declaration and other provisions of law, upon application of a proprietary lessee to subdivide
11812 a unit, the association shall prepare, execute, and record an amendment to the declaration subdividing that
11813 unit. All costs for such preparation, execution, and recordation shall be borne by the proprietary lessees
11814 involved.

11815 B. The amendment to the declaration must (i) be executed by the proprietary lessee of the unit to be
11816 subdivided, (ii) assign an identifying number to each unit created, and (iii) reallocate the allocated interests
11817 formerly allocated to the cooperative interest of which the subdivided unit is a part to the new cooperative
11818 interests in any reasonable manner prescribed by the proprietary lessee of the cooperative interest of which the
11819 subdivided unit is a part.

11820 **§ 55.1-2124. Easement for encroachments.**

11821 *To the extent that any unit or common element encroaches on any other unit or common element, a valid*
11822 *easement for the encroachment exists. The easement does not relieve a proprietary lessee of liability in case of*
11823 *his willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any*
11824 *representation in the public offering statement.*

11825 **§ 55.1-2125. Use for sales purposes.**

11826 *A declarant may maintain sales offices, management offices, and models in units or on common elements*
11827 *in the cooperative only if the declaration so provides and specifies the rights of a declarant with regard to the*
11828 *number, size, location, and relocation of such offices or models. Any sales office, management office, or model*
11829 *not designated a unit by the declaration is a common element, and if a declarant ceases to have an ownership*
11830 *interest in the association, he ceases to have any rights with regard to such offices or models, unless it is*
11831 *removed promptly from the cooperative in accordance with a right to remove reserved in the declaration.*
11832 *Subject to any limitations in the declaration, a declarant may maintain signs on the common elements*
11833 *advertising the cooperative. The provisions of this section are subject to the provisions of other state law and*
11834 *to local ordinances.*

11835 **§ 55.1-2126. Easement rights.**

11836 *Subject to the provisions of the declaration, a declarant has an easement through the common elements as*
11837 *may be reasonably necessary for the purpose of discharging a declarant's obligations or exercising special*
11838 *declarant rights, whether arising under this chapter or reserved in the declaration.*

11839 **§ 55.1-2127. Amendment of declaration.**

11840 *A. Except in cases of amendments that may be executed by a declarant under § 55.1-2120, the association*
11841 *under § 55.1-2105, subsection C of § 55.1-2117, subsection C of § 55.1-2119, subsection A of § 55.1-2122, or*
11842 *§ 55.1-2123, or certain proprietary lessees under subsection B of § 55.1-2119, subsection A of § 55.1-2122,*
11843 *subsection B of § 55.1-2123, or subsection B of § 55.1-2128 and except as limited by subsection D, the*
11844 *declaration may be amended only by vote or agreement of proprietary lessees of cooperative interests to which*
11845 *at least two-thirds of the votes in the association are allocated, or a larger percentage if the declaration so*
11846 *specifies. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to*
11847 *nonresidential use.*

11848 *B. No action to challenge the validity of an amendment adopted by the association pursuant to this section*
11849 *may be brought more than one year after the amendment is recorded.*

11850 *C. Every amendment to the declaration must be recorded in every county or city in which any portion of*
11851 *the cooperative is located and is effective only upon recordation. An amendment shall be indexed in the*
11852 *grantee's index in the name of the cooperative and the association and in the grantor's index in the name of the*
11853 *parties executing the amendment.*

11854 *D. The declaration may be amended to extend the time limit within which special declarant rights imposed*
11855 *by the declaration pursuant to subdivision A 8 of § 55.1-2116 may be exercised only by vote or agreement of*
11856 *proprietary lessees of cooperative interests to which at least two-thirds of the votes in the association are*
11857 *allocated to cooperative interests not owned by a declarant, or any larger percentage the declaration specifies.*
11858 *Except to the extent expressly permitted or required by this subsection or other provisions of this chapter, no*
11859 *amendment may create or increase special declarant rights, increase the number of units, or change the*
11860 *boundaries of any unit, the allocated interests of a cooperative interest, or the uses to which any unit is*
11861 *restricted, in the absence of unanimous consent of the proprietary lessees.*

11862 *E. If the time limit specified in the declaration for the creation of cooperative interests or the exercise of*
11863 *special declarant rights has expired, with the approval of the persons entitled to cast at least two-thirds of the*
11864 *votes in the association, other than any votes allocated to cooperative interests owned by the declarant, or any*
11865 *larger percentage as the declaration specifies, the declaration may be amended to (i) revive and reinstate any*
11866 *or all of the expired rights to create additional cooperative interests and any or all of the expired special*
11867 *declarant rights and (ii) vest in any person, including the original declarant, any or all of the powers, rights,*
11868 *privileges, and authority to which a declarant is entitled under this chapter regarding the exercise of the revived*
11869 *and reinstated rights with respect to any parcel of real estate that is a common element or any additional real*
11870 *estate that such amendment permits to be added to the cooperative. In no event, however, shall any such*
11871 *amendment extend or renew a period of declarant control of the association or provide a new period of*
11872 *declarant control.*

11873 *F. Amendments to the declaration required by this chapter to be recorded by the association shall be*
11874 *prepared, executed, recorded, and certified on behalf of the association by any officer of the association*
11875 *designated for that purpose or, in the absence of such designation, by the president of the association.*

11876 **§ 55.1-2128. Termination of cooperative ownership.**

11877 *A. Except in the case of a taking of all the units by eminent domain, or in the case of foreclosure of a security*
11878 *interest against the entire cooperative that has priority over the declaration, cooperative ownership may be*
11879 *terminated only by agreement of proprietary lessees of cooperative interests to which at least four-fifths of the*
11880 *votes in the association are allocated or any larger percentage the declaration specifies. The declaration may*
11881 *specify a smaller percentage only if all of the units in the cooperative are restricted exclusively to nonresidential*
11882 *uses.*

11883 *B. An agreement to terminate must be evidenced by the execution of a termination agreement or ratification*
11884 *of such agreement in the same manner as a deed by the requisite number of proprietary lessees. The termination*
11885 *agreement must specify a date after which the agreement will be void unless it is recorded before that date. A*
11886 *termination agreement and all such ratifications must be recorded in every county or city in which a portion of*
11887 *the cooperative is situated and is effective only upon recordation.*

11888 *C. The association, on behalf of the proprietary lessees, may contract for the sale of real estate in the*
11889 *cooperative, but the contract is not binding until approved pursuant to subsections A and B. After such*
11890 *approval, the association has all powers necessary and appropriate to effect the sale. Until the sale has been*
11891 *concluded, and the proceeds of such sale are distributed, the association continues in existence with all powers*
11892 *it had before termination. Except to the extent that any provisions in the declaration limit the amount that may*
11893 *be received by a proprietary lessee upon termination, as set forth in subdivision A 12 of § 55.1-2116, proceeds*
11894 *of the sale must be distributed to holders of liens against the association and against the cooperative interests*
11895 *and to proprietary lessees, all as their interests may appear, in accordance with subsections D and E. Unless*
11896 *otherwise specified in the termination agreement, as long as the association holds title to the real estate, each*
11897 *proprietary lessee and his successors in interest have an exclusive right to occupancy of the portion of the real*
11898 *estate that formerly constituted his unit. During the period of such occupancy, each proprietary lessee and his*
11899 *successors in interest remain liable for all assessments and other obligations imposed on proprietary lessees*
11900 *by this chapter or the declaration.*

11901 *D. Following termination of the cooperative, the proceeds of any sale of real estate, together with the assets*
11902 *of the association, are held by the association as trustee for proprietary lessees and holders of liens against the*
11903 *association and the cooperative interests, as their interests may appear. The declaration may provide that all*
11904 *creditors of the association have priority over any interests of proprietary lessees and creditors of proprietary*
11905 *lessees. Where the declaration provides such a priority, following termination, creditors of the association*
11906 *holding liens on the cooperative that were recorded or docketed before termination may enforce their liens in*
11907 *the same manner as any lienholder, and all other creditors of the association are to be treated as if they had*
11908 *perfected liens against the cooperative immediately before termination. Unless the declaration provides that*
11909 *all creditors of the association have such priority:*

11910 *1. The lien of each creditor of the association that was perfected against the association before termination*
11911 *becomes a lien against each cooperative interest upon termination as of the date the lien was perfected;*

11912 *2. All other creditors of the association are to be treated as if they had perfected liens against the*
11913 *cooperative interests immediately before termination;*

11914 *3. The amounts of the liens of the association's creditors described in subdivisions 1 and 2 against each of*
11915 *the cooperative interests must be proportionate to the ratio that that cooperative interest's common expense*
11916 *liability bears to the common expense liability of all the cooperative interests;*

11917 *4. The lien of each creditor of each proprietary lessee that was perfected before termination continues as*
11918 *a lien against that proprietary lessee's cooperative interest as of the date the lien was perfected; and*

11919 *5. The assets of the association shall be distributed to all proprietary lessees and all lienholders against*
11920 *their cooperative interests as their interests may appear in the order described in subdivisions 1 through 4, and*
11921 *creditors of the association are not entitled to payment from any proprietary lessee in excess of the amount of*
11922 *the creditor's lien against that proprietary lessee's cooperative interest.*

11923 *E. The respective interests of proprietary lessees referred to in subsections C and D are as follows:*

11924 *1. Except as provided in subdivision 2, the respective interests of proprietary lessees are the fair market*
11925 *values of their cooperative interests immediately before the termination, as determined by one or more*
11926 *independent appraisers selected by the association. Appraisers selected shall hold a designation awarded by a*

11927 major, nationwide testing or certifying professional appraisal society or association. The decision of the
11928 independent appraisers shall be distributed to the proprietary lessees and becomes final unless disapproved
11929 within 30 days after distribution by proprietary lessees of cooperative interests to which 25 percent of the votes
11930 in the association are allocated. The proportion of any proprietary lessee's interest to that of all proprietary
11931 lessees is determined by dividing the fair market value of that proprietary lessee's cooperative interest by the
11932 total fair market values of all the cooperative interests.

11933 2. If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market
11934 value of the unit or limited common element before destruction cannot be made, the interests of all proprietary
11935 lessees are their respective ownership interests in the association immediately before the termination.

11936 **§ 55.1-2129. Rights of secured lenders.**

11937 The declaration may require that all or a specified number or percentage of the lenders holding security
11938 interests encumbering the cooperative interests approve specified actions of the proprietary lessees or the
11939 association as a condition to the effectiveness of those actions, but no requirement for approval shall operate
11940 to (i) deny or delegate control over the general administrative affairs of the association by the proprietary
11941 lessees or the executive board; (ii) prevent the association or the executive board from commencing, intervening
11942 in, or settling any litigation or proceeding; or (iii) receive and distribute any insurance proceeds except
11943 pursuant to § 55.1-2145.

11944 **§ 55.1-2130. Master associations.**

11945 A. If the declaration provides that any of the powers described in § 55.1-2134 are to be exercised by or
11946 may be delegated to a for-profit or nonprofit corporation or unincorporated association that exercises those or
11947 other powers on behalf of one or more cooperatives or for the benefit of the proprietary lessees of one or more
11948 cooperatives, all provisions of this chapter applicable to associations apply to any such corporation or
11949 unincorporated association, except as modified by this section.

11950 B. Unless a master association is acting in the capacity of an association described in § 55.1-2132, it may
11951 exercise the powers set forth in subdivision A 2 of § 55.1-2133 only to the extent expressly permitted in the
11952 declarations of the cooperatives that are part of the master association or expressly described in the delegations
11953 of power from those cooperatives to the master association.

11954 C. If the declaration of any cooperative provides that the executive board may delegate certain powers to
11955 a master association, the members of the executive board have no liability for the acts or omissions of the
11956 master association with respect to the delegated powers.

11957 D. The rights and responsibilities of proprietary lessees with respect to the association set forth in §§ 55.1-
11958 2134, 55.1-2140, 55.1-2141, 55.1-2142, and 55.1-2144 apply in the conduct of the affairs of a master
11959 association only to those persons who elect the board of a master association, whether or not those persons are
11960 otherwise proprietary lessees within the meaning of this chapter.

11961 E. Notwithstanding the provisions of subsection F of § 55.1-2134, with respect to the election of the
11962 executive board of an association by all proprietary lessees after the period of declarant control ends, and even
11963 if a master association is also an association as described in § 55.1-2132, the certificate of incorporation or
11964 other instrument creating the master association and the declaration of each cooperative, the powers of which
11965 are assigned by the declaration or delegated to the master association, may provide that the executive board
11966 of the master association must be elected after the period of declarant control in any of the following ways:

11967 1. All proprietary lessees of all cooperatives subject to the master association may elect all members of that
11968 executive board.

11969 2. All members of the executive boards of all cooperatives subject to the master association may elect all
11970 members of that executive board.

11971 3. All proprietary lessees of each cooperative subject to the master association may elect specified members
11972 of that executive board.

11973 4. All proprietary lessees of the executive board of each cooperative subject to the master association may
11974 elect specified members of that executive board.

11975 **§ 55.1-2131. Merger or consolidation of cooperatives.**

11976 A. Any two or more cooperatives, by agreement of the proprietary lessees as provided in subsection B, may
11977 be merged or consolidated into a single cooperative. In the event of a merger or consolidation, unless the
11978 agreement otherwise provides, the resultant cooperative is, for all purposes, the legal successor of all of the
11979 preexisting cooperatives. The operations and activities of all associations of the preexisting cooperatives shall

11980 *be merged or consolidated into a single association, which shall hold all powers, rights, obligations, assets,*
 11981 *and liabilities of all preexisting associations.*

11982 *B. An agreement of two or more cooperatives to merge or consolidate pursuant to subsection A must be*
 11983 *evidenced by an agreement prepared, executed, recorded, and certified by the president of the association of*
 11984 *each of the preexisting cooperatives following approval by proprietary lessees of cooperative interests to which*
 11985 *are allocated the percentage of votes in each cooperative required to terminate that cooperative. Any such*
 11986 *agreement must be recorded in every county or city in which a portion of the cooperative is located and is not*
 11987 *effective until recorded.*

11988 *C. Every merger or consolidation agreement must provide for the reallocation of the allocated interests in*
 11989 *the new association among the cooperative interests of the resultant cooperative either (i) by stating the*
 11990 *reallocations or the formulas upon which they are based or (ii) by stating the percentage of overall allocated*
 11991 *interest of the new cooperative that are allocated to all of the cooperative interests comprising each of the*
 11992 *preexisting cooperatives and providing that the portion of the percentages allocated to each cooperative*
 11993 *interest formerly comprising a part of the preexisting cooperative must be equal to the percentages of allocated*
 11994 *interests allocated to that cooperative interest by the declaration of the preexisting cooperative.*

11995 Article 3.

11996 Management of Cooperatives.

11997 § 55.1-2132. **Organization of the association.**

11998 *An association must be organized no later than the date the first cooperative interest in the cooperative is*
 11999 *conveyed. The membership of the association at all times shall consist exclusively of all the proprietary lessees*
 12000 *or, following termination of the cooperative, of all former proprietary lessees entitled to distributions of*
 12001 *proceeds under § 55.1-2128 or their heirs, successors, or assigns. The association shall be organized as a stock*
 12002 *or nonstock corporation, trust, trustee, unincorporated association, or partnership.*

12003 § 55.1-2133. **Powers of the association.**

12004 *A. Except as provided in subsection B, and subject to the provisions of the declaration, the association,*
 12005 *even if unincorporated, may:*

- 12006 *1. Adopt and amend bylaws and rules and regulations;*
- 12007 *2. Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common*
 12008 *expenses from proprietary lessees;*
- 12009 *3. Hire and discharge managing agents and other employees, agents, and independent contractors;*
- 12010 *4. Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of*
 12011 *itself or two or more proprietary lessees on matters affecting the cooperative;*
- 12012 *5. Make contracts and incur liabilities;*
- 12013 *6. Regulate the use, maintenance, repair, replacement, and modification of common elements;*
- 12014 *7. Cause additional improvements to be made as a part of the common elements;*
- 12015 *8. Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal*
 12016 *property, but part of the cooperative may be conveyed, or all or part of the cooperative may be subjected to, a*
 12017 *security interest only pursuant to § 55.1-2144;*
- 12018 *9. Grant easements, leases, licenses, and concessions through or over the common elements;*
- 12019 *10. Impose and receive any payments, fees, or charges for the use, rental, or operation of the common*
 12020 *elements, other than limited common elements described in subdivisions 2 and 4 of § 55.1-2113, and for services*
 12021 *provided to proprietary lessees;*
- 12022 *11. Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy*
 12023 *finest not to exceed \$50 for each instance for violations of the declaration, bylaws, and rules and regulations of*
 12024 *the association;*
- 12025 *12. Impose reasonable charges for the preparation and recordation of amendments to the declaration,*
 12026 *resale certificates required by § 55.1-2161, or statements of unpaid assessments;*
- 12027 *13. Provide for the indemnification of its officers and executive board and maintain directors' and officers'*
 12028 *liability insurance;*
- 12029 *14. Assign its right to future income, including the right to receive common expense assessments, but only*
 12030 *to the extent the declaration expressly so provides;*
- 12031 *15. Exercise any other powers conferred by the declaration or bylaws;*
- 12032 *16. Exercise all other powers that may be exercised in the Commonwealth by legal entities of the same type*
 12033 *as the association; and*

- 12034 17. Exercise any other powers necessary and proper for the governance and operation of the association.
- 12035 B. The declaration shall not impose limitations on the power of the association to deal with the declarant
- 12036 that are more restrictive than the limitations imposed on the power of the association to deal with other persons.
- 12037 **§ 55.1-2134. Executive board members and officers.**
- 12038 A. Except as provided in the declaration, the bylaws, subsection B, or other provisions of this chapter, the
- 12039 executive board may act in all instances on behalf of the association. In the performance of their duties, the
- 12040 officers and members of the executive board are required to exercise (i) the care required of fiduciaries of the
- 12041 proprietary lessees if appointed by the declarant and (ii) ordinary and reasonable care if elected by the
- 12042 proprietary lessees.
- 12043 B. The executive board may not act on behalf of the association to amend the declaration; to terminate the
- 12044 cooperative; to elect members of the executive board, except as provided in the declaration pursuant to
- 12045 subsection F; or to determine the qualifications, powers, and duties or terms of office of executive board
- 12046 members. The executive board may fill vacancies in its membership for the unexpired portion of any term.
- 12047 C. Within 30 days after adoption of any proposed budget for the cooperative, the executive board shall
- 12048 provide a summary of the budget to all the proprietary lessees and shall set a date for a meeting of the
- 12049 proprietary lessees to consider ratification of the budget. Such meeting shall be held not less than 14 nor more
- 12050 than 30 days after mailing of the summary. The meeting place, date, and time shall be provided with the budget
- 12051 summary. Unless at that meeting a majority of all the proprietary lessees or any larger vote specified in the
- 12052 declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the
- 12053 proposed budget is rejected, the periodic budget last ratified by the proprietary lessees shall be continued until
- 12054 such time as the proprietary lessees ratify a subsequent budget proposed by the executive board.
- 12055 D. Subject to subsection E, the declaration may provide for a period of declarant control of the association,
- 12056 during which period a declarant, or persons designated by him, may appoint and remove the officers and
- 12057 members of the executive board. Regardless of the period provided in the declaration, a period of declarant
- 12058 control terminates no later than the earlier of (i) 60 days after conveyance of 75 percent of the cooperative
- 12059 interests that may be created to proprietary lessees other than a declarant, (ii) two years after all declarants
- 12060 have ceased to offer cooperative interests for sale in the ordinary course of business, or (iii) two years after
- 12061 any development right to add new units was last exercised. A declarant may voluntarily surrender the right to
- 12062 appoint and remove officers and members of the executive board before termination of that period, but in that
- 12063 event he may require, for the duration of the period of declarant control, that specified actions of the association
- 12064 or executive board, as described in a recorded instrument executed by the declarant, be approved by the
- 12065 declarant before they become effective.
- 12066 E. No later than 60 days after conveyance of 25 percent of the cooperative interests that may be created to
- 12067 proprietary lessees other than a declarant, at least one member and at least 25 percent of the members of the
- 12068 executive board must be elected by proprietary lessees other than the declarant. No later than 60 days after
- 12069 conveyance of 50 percent of the cooperative interests that may be created to proprietary lessees other than a
- 12070 declarant, at least one-third of the members of the executive board must be elected by proprietary lessees other
- 12071 than the declarant.
- 12072 F. Unless the declaration provides for the selection of one or more independent members of the executive
- 12073 board, no later than the termination of any period of declarant control the proprietary lessees shall elect an
- 12074 executive board of at least three members, at least a majority of whom must be proprietary lessees. To the extent
- 12075 that the declaration so provides, the members of the executive board appointed by the declarant may continue
- 12076 to serve out their terms, and the declarant may continue to appoint a minority of the members of the executive
- 12077 board until all of the development rights reserved by the declarant have been exercised or have expired. In
- 12078 addition, the declaration may provide for the selection of one or more independent members of the executive
- 12079 board, who are neither proprietary lessees nor affiliated directly or indirectly in any way with the declarant,
- 12080 by a vote of two-thirds of the members of the executive board. The executive board shall elect the officers. The
- 12081 executive board members and officers shall take office upon election.
- 12082 G. Notwithstanding any provision of the declaration or bylaws to the contrary, the proprietary lessees, by
- 12083 a two-thirds vote of all persons entitled to vote at any meeting of the proprietary lessees at which a quorum is
- 12084 present, may remove any member of the executive board with or without cause, other than a member appointed
- 12085 by the declarant.
- 12086 **§ 55.1-2135. Transfer of special declarant rights.**

12087 A. No special declarant rights created or reserved under this chapter may be transferred except by an
12088 instrument evidencing the transfer recorded in every county or city in which any portion of the cooperative is
12089 located. The instrument is not effective unless executed by the transferee.

12090 B. Upon transfer of any special declarant right, the liability of a transferor declarant is as follows:

12091 1. A transferor is not relieved of any obligation or liability arising before the transfer and remains liable
12092 for warranty obligations imposed upon him by this chapter. Lack of privity does not deprive any proprietary
12093 lessee of standing to maintain an action to enforce any obligation of the transferor.

12094 2. If a successor to any special declarant right is an affiliate of a declarant, the transferor is jointly and
12095 severally liable with the successor for any obligations or liabilities of the successor relating to the cooperative.

12096 3. If a transferor retains any special declarant rights, but transfers other special declarant rights to a
12097 successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities
12098 imposed on a declarant by this chapter or by the declaration relating to the retained special declarant rights
12099 and arising after the transfer.

12100 4. A transferor has no liability for any act or omission or any breach of a contractual or warranty obligation
12101 arising from the exercise of a special declarant right by a successor declarant who is not an affiliate of the
12102 transferor.

12103 C. Unless otherwise provided in a security agreement, in case of foreclosure of a security agreement, tax
12104 sale, judicial sale, sale by a trustee under a security agreement or sale under receivership proceedings or the
12105 Bankruptcy Code as codified in Title 11 of the United States Code, of any cooperative interests owned by a
12106 declarant or of real estate in a cooperative subject to development rights:

12107 1. A person acquiring all the cooperative interests or real estate being foreclosed or sold shall succeed, but
12108 only upon his request, to all special declarant rights related to that property held by that declarant or only to
12109 any rights reserved in the declaration pursuant to § 55.1-2125 and held by that declarant to maintain models,
12110 sales offices, and signs.

12111 2. The judgment or instrument conveying title shall provide for transfer of only the special declarant rights
12112 requested.

12113 D. Upon foreclosure, tax sale, judicial sale, sale by a trustee under a security agreement, or sale under
12114 receivership proceedings or the Bankruptcy Code as codified in Title 11 of the United States Code, of all
12115 cooperative interests or real estate in a cooperative owned by a declarant:

12116 1. The declarant ceases to have any special declarant rights, and

12117 2. The period of declarant control as provided in subsection D of § 55.1-2134 terminates unless the
12118 judgment or instrument conveying title provides for transfer of all special declarant rights held by that declarant
12119 to a successor declarant.

12120 E. The liabilities and obligations of a person who succeeds to special declarant rights are as follows:

12121 1. A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations
12122 and liabilities imposed on the transferor by this chapter or by the declaration.

12123 2. A successor to any special declarant right, other than a successor described in subdivision 3 or 4, who
12124 is not an affiliate of a declarant is subject to all obligations and liabilities imposed by this chapter or the
12125 declaration:

12126 a. On a declarant that relate to his exercise or non-exercise of special declarant rights; or

12127 b. On his transferor, other than:

12128 (1) Misrepresentations by any previous declarant;

12129 (2) Warranty obligations on improvements made by any previous declarant or made before the cooperative
12130 was created;

12131 (3) Breach of any fiduciary obligation by any previous declarant or his appointees to the executive board;
12132 or

12133 (4) Any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions
12134 after the transfer.

12135 3. A successor to only a right reserved in the declaration to maintain models, sales offices, and signs
12136 pursuant to § 55.1-2125, if he is not an affiliate of a declarant, may not exercise any other special declarant
12137 right and is not subject to any liability or obligation as a declarant, except the obligation to provide a current
12138 public offering statement, any liability arising as a result of providing a public offering statement, and
12139 obligations under Article 5 (§ 55.1-2173 et seq.).

12140 4. A successor to all special declarant rights held by his transferor who is not an affiliate of that declarant
 12141 and who succeeded to those rights pursuant to a deed or other instrument of conveyance in lieu of foreclosure
 12142 or a judgment or instrument conveying title to cooperative interests or real estate subject to development rights
 12143 under subsection C may declare his intention in a recorded instrument to hold those rights solely for transfer
 12144 to another person. After declaring such an intention in a recorded instrument, until transferring all special
 12145 declarant rights to any person acquiring title to any cooperative interest or real estate subject to development
 12146 rights owned by the successor, or until recording an instrument permitting exercise of all those rights, that
 12147 successor may not exercise any of those rights other than any right held by his transferor to control the executive
 12148 board in accordance with the provisions of subsection D of § 55.1-2134 for the duration of any period of
 12149 declarant control, and any attempted exercise of those rights is void. So long as a successor declarant may not
 12150 exercise special declarant rights under this subsection, he is not subject to any liability or obligation as a
 12151 declarant other than liability for his acts and omissions under subsection D of § 55.1-2134.

12152 F. Nothing in this section subjects any successor to a special declarant right to any claims against or other
 12153 obligations of a transferor declarant, other than claims and obligations arising under this chapter or the
 12154 declaration.

12155 **§ 55.1-2136. Termination of contracts and leases of declarant.**

12156 If entered into before the executive board elected by the proprietary lessees pursuant to subsection F of §
 12157 55.1-2134 takes office, (i) any management contract, employment contract, or lease of recreational or parking
 12158 areas or facilities, (ii) any other contract or lease between the association and a declarant or an affiliate of a
 12159 declarant, or (iii) any contract or lease that is not bona fide or was unconscionable to the proprietary lessees
 12160 at the time entered into under the circumstances then prevailing may be terminated without penalty by the
 12161 association at any time after the executive board elected by the proprietary lessees pursuant to subsection F of
 12162 § 55.1-2134 takes office after giving at least 90 days' notice to the other party. However, a management contract
 12163 that is not unconscionable between an association directly or indirectly providing assisted living or nursing
 12164 services to proprietary lessees and a declarant or an affiliate of a declarant may not be terminated while a
 12165 member of the executive board appointed by the declarant continues to serve unless such termination is
 12166 approved by a vote of a majority of the members of the executive board and a majority vote of the proprietary
 12167 lessees, other than the declarant.

12168 This section does not apply to any proprietary lease or any lease the termination of which would terminate
 12169 the cooperative or reduce its size, unless the real estate subject to that lease was included in the cooperative
 12170 for the purpose of avoiding the right of the association to terminate a lease under this section. This section does
 12171 not apply to any contract, incidental to the disposition of a cooperative interest, to provide to a proprietary
 12172 lessee for the duration of such proprietary lessee's life, or for any term in excess of one year, nursing services,
 12173 medical services, other health-related services, board and lodging, and care as necessary, or any combination
 12174 of such services. The rule of property law known as the rule restricting unreasonable restraints on alienation
 12175 shall not be applied to defeat any provision of the declaration, bylaws, or proprietary leases requiring that the
 12176 proprietary lessees be parties to such contracts.

12177 **§ 55.1-2137. Bylaws.**

12178 A. The bylaws of the association shall provide for:

- 12179 1. The number of members of the executive board and the titles of the officers of the association;
- 12180 2. Election by the executive board of a president, treasurer, secretary, and any other officers of the
 12181 association the bylaws specify;
- 12182 3. The qualifications, powers and duties, terms of office, and manner of electing and removing executive
 12183 board members and officers and filling vacancies;
- 12184 4. Which, if any, of its powers and responsibilities the executive board or officers may delegate to other
 12185 persons or to a managing agent;
- 12186 5. Which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf
 12187 of the association; and
- 12188 6. The method of amending the bylaws.

12189 B. Subject to the provisions of the declaration, the bylaws may provide for any other matters the association
 12190 deems necessary and appropriate, including a provision for the arbitration of disputes or other means of
 12191 alternative dispute resolution in accordance with subsection B of § 55.1-2169.

12192 **§ 55.1-2138. Upkeep of cooperative.**

12193 A. Except to the extent otherwise provided by the declaration, by subsection B, or by subsection G of § 55.1-
12194 2145, the association is responsible for maintenance, repair, and replacement of the common elements, and
12195 each proprietary lessee is responsible for maintenance, repair, and replacement of his unit. Each proprietary
12196 lessee shall afford to the association and the other proprietary lessees, and to their agents or employees, access
12197 through his unit reasonably necessary for those purposes. If damage is inflicted on the common elements or on
12198 any unit through which access is taken, the proprietary lessee responsible for the damage, or the association if
12199 it is responsible, is liable for the prompt repair and all costs associated with such repair.

12200 B. In addition to the liability that a declarant as a proprietary lessee has under this chapter, the declarant
12201 alone is liable for all expenses in connection with real estate subject to development rights. No other proprietary
12202 lessee and no other portion of the cooperative is subject to a claim for payment of those expenses. Unless the
12203 declaration provides otherwise, any income or proceeds from real estate subject to development rights inures
12204 to the declarant.

12205 **§ 55.1-2139. Common elements; notice of pesticide application.**

12206 Associations shall post notification of all pesticide applications in or upon the common elements. Such
12207 notice shall consist of conspicuous signs placed in or upon the common elements where the pesticide will be
12208 applied at least 48 hours prior to the application.

12209 **§ 55.1-2140. Meetings.**

12210 A meeting of the association must be held at least once each year. Special meetings of the association may
12211 be called by (i) the president, (ii) a majority of the executive board, or (iii) 20 percent, or any lower percentage
12212 if so specified in the bylaws, of the proprietary lessees. No less than 10 or more than 60 days in advance of any
12213 meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand delivered or sent
12214 prepaid by United States mail to the mailing address of each unit or to any other mailing address designated
12215 in writing by the proprietary lessee. The notice of any meeting shall state the time and place of the meeting and
12216 the items on the agenda including the general nature of any proposed amendment to the declaration or bylaws,
12217 any budget changes, and any proposal to remove a director or officer.

12218 **§ 55.1-2141. Quorums.**

12219 A. Unless the bylaws provide otherwise, a quorum is present throughout any meeting of the association if
12220 persons entitled to cast 20 percent of the votes that may be cast for election of the executive board are present
12221 in person or by proxy at the beginning of the meeting.

12222 B. Unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of
12223 the executive board if persons entitled to cast 50 percent of the votes on that board are present at the beginning
12224 of the meeting.

12225 **§ 55.1-2142. Voting; proxies.**

12226 A. If only one of the multiple proprietary lessees of a unit is present at a meeting of the association, he is
12227 entitled to cast all the votes allocated to the cooperative interest of which that unit is a part. If more than one
12228 of the multiple proprietary lessees are present, the votes allocated to that cooperative interest may be cast only
12229 in accordance with the agreement of a majority in interest of the multiple proprietary lessees, unless the
12230 declaration expressly provides otherwise. There is majority agreement if any one of the multiple proprietary
12231 lessees casts the votes allocated to that cooperative interest without protest being made promptly to the person
12232 presiding over the meeting by any of the other proprietary lessees of the cooperative interest.

12233 B. Votes allocated to a cooperative interest may be cast pursuant to a proxy duly executed by a proprietary
12234 lessee. If there is more than one proprietary lessee of a unit, each proprietary lessee of the unit may vote or
12235 register protest to the casting of votes by the other proprietary lessees of the unit through a duly executed proxy.
12236 A proprietary lessee may not revoke a proxy given pursuant to this section except by actual notice of revocation
12237 to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be
12238 revocable without notice. A proxy terminates one year after its date, unless a shorter term is specified.

12239 C. If the declaration requires that votes on specified matters affecting the cooperative be cast by lessees
12240 other than proprietary lessees of leased units: (i) the provisions of subsections A and B apply to lessees as if
12241 they were proprietary lessees; (ii) proprietary lessees who have leased their units to other persons may not cast
12242 votes on those specified matters; and (iii) lessees are entitled to notice of meetings, access to records, and other
12243 rights respecting those matters as if they were proprietary lessees. Proprietary lessees must also be given notice,
12244 in the manner provided in § 55.1-2140, of all meetings at which such lessees may be entitled to vote.

12245 *D. All votes allocated to a cooperative interest owned by the association shall be deemed present for*
12246 *quorum purposes at all duly called meetings of the association and shall be deemed cast in the same proportions*
12247 *as the votes cast by proprietary lessees, other than the association.*

12248 **§ 55.1-2143. Tort and contract liability.**

12249 *Neither the association nor any proprietary lessee except the declarant is liable for that declarant's torts*
12250 *in connection with any part of the cooperative that that declarant has the responsibility to maintain. Otherwise,*
12251 *an action alleging wrongdoing by the association shall be brought against the association and not against any*
12252 *proprietary lessee. If such wrongdoing occurred during any period of declarant control, and the association*
12253 *gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who*
12254 *then controlled the association is liable to the association or to any proprietary lessee (i) for all tort losses not*
12255 *covered by insurance suffered by the association or that proprietary lessee and (ii) for all costs that the*
12256 *association would not have incurred but for a breach of contract or other wrongful act or omission. Whenever*
12257 *the declarant is liable to the association under this section, the declarant is also liable for all litigation expenses,*
12258 *including reasonable attorney fees, incurred by the association. Any statute of limitation affecting the*
12259 *association's right of action under this section is tolled until the period of declarant control terminates.*

12260 *A proprietary lessee is not precluded from bringing an action contemplated by this subsection because he*
12261 *is a proprietary lessee or a member or officer of the association. Liens resulting from judgments against the*
12262 *association are governed by § 55.1-2151.*

12263 **§ 55.1-2144. Conveyance or encumbrance of the cooperative.**

12264 *A. Part of the cooperative may be conveyed, and all or part of the cooperative may be subjected to a security*
12265 *interest, by the association if persons entitled to cast at least 80 percent of the votes in the association, including*
12266 *a simple majority of the votes allocated to cooperative interests not owned by a declarant, or any larger*
12267 *percentage the declaration specifies, agree to that action. If fewer than all the units or limited common elements*
12268 *are to be conveyed or subjected to a security interest, then all the proprietary lessees of those units, or the units*
12269 *to which those limited common elements are allocated, must agree in order to convey those units or limited*
12270 *common elements or subject them to a security interest. The declaration may specify a smaller percentage only*
12271 *if all of the units are restricted exclusively to nonresidential uses. Proceeds of the sale are an asset of the*
12272 *association.*

12273 *B. An agreement to convey a part of the cooperative or subject it to a security interest must be evidenced*
12274 *by the execution of an agreement, or ratifications of such an agreement, in the same manner as a deed, by the*
12275 *requisite number of proprietary lessees. The agreement must specify a date after which the agreement will be*
12276 *void unless recorded before that date. The agreement and such ratifications must be recorded in every county*
12277 *or city in which a portion of the cooperative is situated and is effective only upon recordation.*

12278 *C. The association, on behalf of the proprietary lessees, may contract to convey a part of the cooperative*
12279 *or subject it to a security interest, but the contract is not enforceable against the association until approved*
12280 *pursuant to subsections A and B. After such approval, the association has all powers necessary and appropriate*
12281 *to effect the conveyance or encumbrance including the power to execute deeds or other instruments.*

12282 *D. Any purported conveyance, encumbrance, or other voluntary transfer of the cooperative, unless made*
12283 *pursuant to this section or pursuant to subsection C of § 55.1-2128, is void.*

12284 *E. A conveyance or encumbrance of the cooperative pursuant to this section does not deprive any unit of*
12285 *its rights of access and support.*

12286 **§ 55.1-2145. Insurance.**

12287 *A. Commencing not later than the time of the first conveyance of a cooperative interest to a person other*
12288 *than a declarant, the association shall maintain to the extent reasonably available:*

12289 *1. Property insurance on the common elements and units insuring against all risks of direct physical loss*
12290 *commonly insured against or, in the case of a conversion building, against fire and extended coverage perils.*
12291 *The total amount of insurance after application of any deductibles shall be not less than 80 percent of the actual*
12292 *cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive*
12293 *of land, excavations, foundations, and other items normally excluded from property policies; and*

12294 *2. Liability insurance, including medical payments insurance, in an amount determined by the executive*
12295 *board but not less than any amount specified in the declaration, covering all occurrences commonly insured*
12296 *against for death, bodily injury, and property damage arising out of or in connection with the use, ownership,*
12297 *or maintenance of the common elements and units.*

12298 *B. If the insurance described in subsection A is not reasonably available, the association shall notify all*
12299 *proprietary lessees by hand delivery or by United States mail, sent prepaid. The declaration may require the*
12300 *association to carry any other insurance, and the association may carry any other insurance it deems*
12301 *appropriate to protect the association or the proprietary lessees.*

12302 *C. Insurance policies carried pursuant to subsection A must provide that:*

- 12303 *1. Each proprietary lessee is an insured person under the policy with respect to liability arising out of his*
12304 *interest in the common elements or membership in the association;*
- 12305 *2. The insurer waives its right to subrogation under the policy against any proprietary lessee or member of*
12306 *his household;*
- 12307 *3. No act or omission by any proprietary lessee, unless acting within the scope of his authority on behalf of*
12308 *the association, will void the policy or be a condition to recovery under the policy; and*
- 12309 *4. If, at the time of a loss under the policy, there is other insurance in the name of a proprietary lessee*
12310 *covering the same risk covered by the policy, the association's policy provides primary insurance.*

12311 *D. Any loss covered by the property policy under subdivision A 1 must be adjusted with the association, but*
12312 *the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or*
12313 *otherwise to the association, and not to any mortgagee or beneficiary under a deed of trust. The insurance*
12314 *trustee or the association shall hold any insurance proceeds in trust for the association, proprietary lessees,*
12315 *and lien holders as their interests may appear. Subject to the provisions of subsection G, the proceeds must be*
12316 *disbursed first for the repair or restoration of the damaged property. The association, proprietary lessees, and*
12317 *lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of*
12318 *proceeds after the property has been completely repaired or restored, or the cooperative is terminated.*

12319 *E. An insurance policy issued to the association does not prevent a proprietary lessee from obtaining*
12320 *insurance for his own benefit.*

12321 *F. An insurer that has issued an insurance policy under this section shall issue certificates or memoranda*
12322 *of insurance to the association and, upon written request, to any proprietary lessee or holder of a security*
12323 *interest. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the*
12324 *proposed cancellation or nonrenewal has been mailed to the association, each proprietary lessee, and each*
12325 *holder of a security interest to whom a certificate or memorandum of insurance has been issued at their*
12326 *respective last known address.*

12327 *G. Any portion of the cooperative for which insurance is required under this section that is damaged or*
12328 *destroyed shall be repaired or replaced promptly by the association unless (i) the cooperative is terminated;*
12329 *(ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or*
12330 *(iii) 80 percent of the proprietary lessees, including every proprietary lessee of a unit or assigned limited*
12331 *common element that will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of*
12332 *insurance proceeds and reserves is a common expense. If the entire cooperative is not repaired or replaced,*
12333 *(a) the insurance proceeds attributable to the damaged common elements must be used to restore the damaged*
12334 *area to a condition compatible with the remainder of the cooperative and (b) except to the extent that other*
12335 *persons will be distributees, the insurance proceeds attributable to units and limited common elements that are*
12336 *not rebuilt must be distributed to the proprietary lessees of those units and the proprietary lessees of the units*
12337 *to which those limited common elements were allocated, or to lien holders, as their interests may appear, and*
12338 *the remainder of the proceeds must be distributed to all the proprietary lessees or lien holders, as their interests*
12339 *may appear, in proportion to the common expense liabilities of all the cooperative interests. If the proprietary*
12340 *lessees vote not to rebuild any unit, the allocated interests of the cooperative interest of which that unit is a part*
12341 *are automatically reallocated upon the vote as if the unit had been condemned under subsection A of § 55.1-*
12342 *2105, and the association shall promptly prepare, execute, and record an amendment to the declaration*
12343 *reflecting the reallocations. Notwithstanding the provisions of this subsection, § 55.1-2128 governs the*
12344 *distribution of insurance proceeds if the cooperative is terminated.*

12345 *H. The provisions of this section may be varied or waived in the case of a cooperative whose units are all*
12346 *restricted to nonresidential use.*

12347 **§ 55.1-2146. Assessments for common expenses.**

12348 *A. Until the association makes a common expense assessment, the declarant shall pay all common expenses.*
12349 *After any assessment has been made by the association, assessments must be made at least annually, based on*
12350 *a budget adopted at least annually by the association.*

12351 *B. Except for assessments under subsections C, D, E, and F, all common expenses shall be assessed against*
12352 *all the cooperative interests in accordance with the allocations set forth in the declaration pursuant to*
12353 *subsection A of § 55.1-2118.*

12354 *Any past-due common expense assessment or installment bears interest at the rate established by the*
12355 *association not exceeding 18 percent per year.*

12356 *C. To the extent required by the declaration:*

12357 *1. Any common expense associated with the maintenance, repair, or replacement of a limited common*
12358 *element must be assessed equally against the cooperative interests for the units to which that limited common*
12359 *element is assigned, or in any other proportion that the declaration provides;*

12360 *2. Any common expense or portion benefiting fewer than all of the units must be assessed exclusively against*
12361 *the cooperative interests for the units benefited; and*

12362 *3. The costs of insurance must be assessed in proportion to risk, and the costs of utilities must be assessed*
12363 *in proportion to usage.*

12364 *D. Assessments to pay a judgment against the association may be made only against the cooperative*
12365 *interests in the cooperative at the time the judgment was entered, in proportion to their common expense*
12366 *liabilities.*

12367 *E. If any common expense is caused by the negligence or other misconduct of any proprietary lessee, or of*
12368 *his family members, tenants, or other invitees, the association may assess that expense exclusively against his*
12369 *cooperative interest.*

12370 *F. Notwithstanding any other provision in this section, in any cooperative where permanent residency is,*
12371 *in general, restricted to individuals age 55 and over, and the primary purpose of the association is to provide*
12372 *services and amenities to the residents of the cooperative that are consistent with the services and amenities*
12373 *typically provided to residents of full service senior housing communities in the United States, the declaration*
12374 *may provide, or may be amended to provide by vote or agreement of proprietary lessees of cooperative interests*
12375 *to which at least two-thirds of the votes in the association are allocated, or any larger percentage if so specified*
12376 *in the declaration, that:*

12377 *1. Common expenses may be assessed against all cooperative interests in accordance with the standards*
12378 *in general use from time to time among full-service senior housing communities in the United States for the*
12379 *purpose of fairly and equitably establishing the fees and charges imposed on their residents to pay for all*
12380 *common expenses of such senior housing communities, including the expenses of providing services and*
12381 *amenities, such standards to be determined by the executive board of the association, acting reasonably;*

12382 *2. Common expenses may be assessed against any cooperative interest that has been created pursuant to*
12383 *the declaration but as to which construction of the unit appurtenant to such cooperative interest has not been*
12384 *completed, provided that nothing contained in this subdivision shall relieve the declarant of its obligations*
12385 *under subsection B of § 55.1-2138; and*

12386 *3. Common expenses may be assessed against any cooperative interest as to which the unit appurtenant to*
12387 *such cooperative interest has been completed until the unit is initially permanently occupied, provided,*
12388 *however, that all such cooperative interests shall pay all direct expenses of the association related to such*
12389 *cooperative interests and any common expenses that directly benefit such cooperative interest, in each case,*
12390 *determined in accordance with the provisions set forth in the declaration or the association's bylaws, provided,*
12391 *however, that if neither the declaration nor the bylaws contain such provisions, then such expenses shall be*
12392 *paid in accordance with the allocations set forth in the declaration pursuant to subsection A of § 55.1-2118.*

12393 *G. If common expense liabilities are reallocated, common expense assessments and any installment not yet*
12394 *due shall be recalculated in accordance with the reallocated common expense liabilities.*

12395 **§ 55.1-2147. Reserves for capital components.**

12396 *A. Except to the extent otherwise provided in the declaration and unless the declaration imposes more*
12397 *stringent requirements, the executive board shall:*

12398 *1. Conduct at least once every five years a study to determine the necessity and amount of reserves required*
12399 *to repair, replace, and restore the capital components;*

12400 *2. Review the results of that study at least annually to determine if reserves are sufficient; and*

12401 *3. Make any adjustments the executive board deems necessary to maintain reserves, as appropriate.*

12402 *B. To the extent that the reserve study conducted in accordance with this section indicates a need to budget*
12403 *for reserves, the association budget shall include:*

- 12404 1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital
12405 components;
- 12406 2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated
12407 cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected
12408 contribution to the reserve fund for that fiscal year; and
- 12409 3. A general statement describing the procedures used for the estimation and accumulation of cash reserves
12410 pursuant to this section and the extent to which the association is funding its reserve obligations consistent with
12411 the study currently in effect.
- 12412 **§ 55.1-2148. Remedies for nonpayment of assessments.**
- 12413 A. The association has a lien on a cooperative interest for any assessment levied against that cooperative
12414 interest or fines imposed against its owner from the time the assessment or fines become due. Unless the
12415 declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to subdivisions
12416 A 11 and 12 of § 55.1-2133 are enforceable as assessments under this section. If an assessment is payable in
12417 installments, the full amount of the assessment is a lien from the time the first installment becomes due. Upon
12418 nonpayment of the assessment, the proprietary lessee may be evicted in the same manner as provided by law in
12419 the case of an unlawful holdover by a commercial tenant, and the lien may be foreclosed as provided by this
12420 section. The association's lien may be foreclosed (i) by judicial sale in like manner as a mortgage on real estate
12421 or (ii) by power of sale as provided in subsection I.
- 12422 B. A lien under this section is prior to all other liens and encumbrances on a cooperative interest except (i)
12423 liens and encumbrances on the cooperative that the association creates, assumes, or takes subject to; (ii) any
12424 first security interest encumbering only the cooperative interest of a proprietary lessee and perfected before the
12425 date on which the assessment sought to be enforced became delinquent; and (iii) liens for real estate taxes and
12426 other governmental assessments or charges against the cooperative or the cooperative interest. The lien is also
12427 prior to the security interests described in clause (ii) to the extent of the common expense assessments based
12428 on the periodic budget adopted by the association pursuant to subsection A of § 55.1-2133 that would have
12429 become due in the absence of acceleration during the six months immediately preceding institution of an action
12430 to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens or the
12431 priority of liens for other assessments made by the association. The lien under this section is not subject to
12432 homestead or other exemptions.
- 12433 C. Unless the declaration otherwise provides, if two or more associations have liens for assessments created
12434 at any time on the same property, those liens have equal priority.
- 12435 D. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation
12436 or filing of any claim of lien for assessment under this section is required.
- 12437 E. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within
12438 three years after the full amount of the assessment becomes due.
- 12439 F. This section does not prohibit actions to recover sums for which subsection A creates a lien or prohibit
12440 an association from taking a transfer in lieu of foreclosure.
- 12441 G. A judgment in any action brought under this section shall include costs and reasonable attorney fees for
12442 the prevailing party.
- 12443 H. Upon written request, the association shall furnish to a proprietary lessee a statement setting forth the
12444 amount of unpaid assessments against his cooperative interest. The statement shall be in recordable form. The
12445 statement shall be furnished within 10 business days after receipt of the request and is binding on the
12446 association, the executive board, and every proprietary lessee.
- 12447 I. The association, upon nonpayment of assessments and compliance with this subsection, may sell the
12448 cooperative interest. Sale may be at a public sale or by private negotiation and at any time and place, but every
12449 aspect of the sale, including the method, advertising, time, place, and terms, must be reasonable. The
12450 association shall give to the proprietary lessee and any sublessees of the proprietary lessee reasonable written
12451 notice of the time and place of any public sale or, if a private sale is intended, of the intention of entering into
12452 a contract to sell and of the time after which a private disposition may be made. The same notice must also be
12453 sent to any other person who has a recorded interest in the cooperative interest that would be cut off by the
12454 sale, but only if the interest was on record seven weeks before the date specified in the notice as the date of any
12455 public sale or seven weeks before the date specified in the notice as the date after which a private sale may be
12456 made. The notices required by this subsection may be sent to any address reasonable in the circumstances. Sale

12457 may not be held until five weeks after the sending of the notice. The association may buy at any public sale and,
12458 if the sale is conducted by a fiduciary or other person not related to the association, at a private sale.

12459 J. The proceeds of a sale under subsection I shall be applied in the following order:

12460 1. The reasonable expenses of sale;

12461 2. The reasonable expenses of securing possession before sale; holding, maintaining, and preparing the
12462 cooperative interest for sale, including payment of taxes and other governmental charges, premiums on hazard
12463 and liability insurance, and, to the extent provided for by agreement between the association and the
12464 proprietary lessee, reasonable attorney fees and other legal expenses incurred by the association;

12465 3. Satisfaction in the order of priority of any prior claims of record;

12466 4. Satisfaction of the association's lien;

12467 5. Satisfaction in the order of priority of any subordinate claim of record; and

12468 6. Remittance of any excess to the proprietary lessee. Unless otherwise agreed, the proprietary lessee is
12469 liable for any deficiency.

12470 K. If a cooperative interest is sold under subsection I, a good faith purchaser for value acquires the
12471 proprietary lessee's interest in the cooperative interest free of the association's debt that gave rise to the lien
12472 under which the sale occurred and any subordinate interest, even though the association or other person
12473 conducting the sale failed to comply with the requirements of this section. The person conducting the sale under
12474 subsection I shall execute a conveyance to the purchaser sufficient to convey the cooperative interest that states
12475 that the conveyance is executed by him, after a foreclosure by power of sale of the association's lien and that
12476 he has power to make the sale. Signature and title or authority of the person signing the conveyance as grantor
12477 and a recital of the facts of nonpayment of the assessment and of the giving of the notices required by subsection
12478 I are sufficient proof of the facts recited and of his authority to sign. Further proof of authority is not required
12479 even though the association is named as grantee in the conveyance.

12480 L. At any time before the association has disposed of the cooperative interest or entered into a contract for
12481 its disposition under the power of sale, the proprietary lessee or the holder of any subordinate security interest
12482 may cure the proprietary lessee's default and prevent sale or other disposition by tendering the performance
12483 due under the security agreement, including any amounts due because of exercise of a right to accelerate, plus
12484 the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable
12485 attorney fees of the creditor.

12486 **§ 55.1-2149. Other liens affecting the cooperative.**

12487 A. Regardless of whether his cooperative interest is subject to the claims of the association's creditors, no
12488 property of a proprietary lessee other than his cooperative interest is subject to those claims.

12489 B. If the association receives notice of an impending foreclosure on all or any portion of the association's
12490 real estate, the association shall promptly transmit a copy of that notice to each proprietary lessee of a unit
12491 located within the real estate to be foreclosed. Failure of the association to transmit the notice does not affect
12492 the validity of the foreclosure.

12493 **§ 55.1-2150. Limitation of assumption of debt and encumbrances.**

12494 Unless approved by persons entitled to cast at least 80 percent of the votes in the association, including a
12495 simple majority of the votes allocated to cooperative interests not owned by a declarant or any larger
12496 percentage the declaration specifies, (i) the association shall not assume or take subject to any debt, inclusive
12497 of any principal and interest accrued thereon, incurred in the original acquisition, development, or construction
12498 of or the conversion of the cooperative in excess of the amounts disclosed in the public offering statement
12499 pursuant to § 55.1-2155 or 55.1-2156, nor shall the cooperative or any proprietary lessee's interest be
12500 encumbered by a security interest for any greater amount incurred for such purposes, and (ii) the declarant
12501 shall not amend the public offering statement to change the amounts disclosed after conveyance of the first unit
12502 to a proprietary lessee. However, the amounts disclosed shall not be subject to adjustment such that the
12503 association or the proprietary lessees are subjected to the construction or market risks of the declarant.

12504 **§ 55.1-2151. Association records.**

12505 The association shall keep financial records sufficiently detailed to enable the association to comply with
12506 § 55.1-2161. All financial and other records shall be made reasonably available for examination by any
12507 proprietary lessee and his authorized agents.

12508 **§ 55.1-2152. Association as trustee.**

12509 With respect to a third person dealing with the association in the association's capacity as a trustee, the
12510 existence of trust powers and their proper exercise by the association may be assumed without inquiry. A third

12511 person is not bound to inquire whether the association has power to act as trustee or is properly exercising
 12512 trust powers. A third person, without actual knowledge that the association is exceeding or improperly
 12513 exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised
 12514 the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets
 12515 paid or delivered to the association in its capacity as trustee.

12516 Article 4.

12517 Protection of Cooperative Purchasers.

12518 **§ 55.1-2153. Applicability; waiver.**

12519 A. This article applies to all cooperative interests subject to this chapter, except as provided in subsection
 12520 B or as modified or waived by agreement of purchasers of cooperative interests in a cooperative in which all
 12521 units are restricted to nonresidential use.

12522 B. Neither a public offering statement nor a resale certificate need be prepared or delivered in the case of:

12523 1. A gratuitous disposition of a cooperative interest;

12524 2. A disposition pursuant to court order;

12525 3. A disposition by a government or governmental agency;

12526 4. A disposition by foreclosure or transfer in lieu of foreclosure;

12527 5. A disposition to a person in the business of selling cooperative interests who intends to offer those
 12528 cooperative interests to purchasers; or

12529 6. A disposition that may be canceled at any time and for any reason by the purchaser without penalty.

12530 **§ 55.1-2154. Liability for public offering statement; requirements.**

12531 A. Except as provided in subsection B, a declarant, prior to the offering of any cooperative interest to the
 12532 public, shall prepare a public offering statement conforming to the requirements of §§ 55.1-2155, 55.1-2156,
 12533 55.1-2157, and 55.1-2158.

12534 B. A declarant may transfer responsibility for preparation of all or a part of the public offering statement
 12535 to a successor declarant or to a person in the business of selling cooperative interests who intends to offer
 12536 cooperative interests in the cooperative for his own account. In the event of any such transfer, the transferor
 12537 shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements
 12538 of subsection A.

12539 C. Any declarant or other person in the business of selling cooperative interests who offers a cooperative
 12540 interest for his own account to a purchaser shall deliver a public offering statement in the manner prescribed
 12541 in subsection A of § 55.1-2160. The person who prepared all or a part of the public offering statement is liable
 12542 under §§ 55.1-2160, 55.1-2169, 55.1-2178, and 55.1-2179 for any false or misleading statement set forth in
 12543 such public offering statement or for any omission of material fact from such public offering statement with
 12544 respect to that portion of the public offering statement that he prepared. If a declarant did not prepare any part
 12545 of a public offering statement that he delivers, he is not liable for any false or misleading statement set forth in
 12546 such public offering statement or for any omission of material fact from such public offering statement unless
 12547 he had actual knowledge of the statement or omission or, in the exercise of reasonable care, should have known
 12548 of the statement or omission.

12549 D. If a unit is part of a cooperative and is part of any other real estate regime in connection with the sale
 12550 of which the delivery of a public offering statement is required under the laws of the Commonwealth, a single
 12551 public offering statement, conforming to the requirements of §§ 55.1-2155, 55.1-2156, 55.1-2157, and 55.1-
 12552 2158 as those requirements relate to each regime in which the unit is located and to any other requirements
 12553 imposed under the laws of the Commonwealth, may be prepared and delivered in lieu of providing two or more
 12554 public offering statements.

12555 **§ 55.1-2155. Public offering statement; general provisions.**

12556 A. Except as provided in subsection B, a public offering statement shall contain or fully and accurately
 12557 disclose:

12558 1. The name and principal address of the declarant and of the cooperative;

12559 2. A general description of the cooperative, including to the extent possible the types, number, declarant's
 12560 schedule of commencement, and completion of construction of buildings and amenities that the declarant
 12561 anticipates including in the cooperative;

12562 3. The number of units in the cooperative;

12563 4. Copies and a brief narrative description of the significant features of the declaration and any other
 12564 recorded covenants, conditions, restrictions, and reservations affecting the cooperative; the bylaws and any

12565 rules or regulations of the association; copies of any contracts and leases to be signed by purchasers at closing;
12566 and a brief narrative description of any contracts or leases that will or may be subject to cancellation by the
12567 association under § 55.1-2136;

12568 5. Any current balance sheet and a projected budget for the association, either within or as an exhibit to
12569 the public offering statement, for one year after the date of the first conveyance to a purchaser, and thereafter
12570 the current budget of the association, a statement of who prepared the budget, and a statement of the budget's
12571 assumptions concerning occupancy and inflation factors. The budget shall include:

12572 a. A description of provisions made in the budget for reserves for repairs and replacement;

12573 b. A statement of any other reserves;

12574 c. The projected common expense assessment by category of expenditures for the association;

12575 d. The projected monthly common expense assessment for each type of unit; and

12576 e. The projected debt, inclusive of principal and any accrued interest, loan fees, and other similar charges,
12577 assumed or to be assumed by the association and an estimate of the payments necessary to service such debt.

12578 6. Any services not reflected in the budget that the declarant provides, or expenses that he pays and that he
12579 expects may become at any subsequent time a common expense of the association, and the projected common
12580 expense assessment attributable to each of those services or expenses for the association and for each type of
12581 unit;

12582 7. Any initial or special fee due from the purchaser at closing, together with a description of the purpose
12583 and method of calculating the fee;

12584 8. A description of any liens, defects, or encumbrances on or affecting the title to the cooperative;

12585 9. A description of any financing offered or arranged by the declarant;

12586 10. The terms and significant limitations of any warranties provided by the declarant, including statutory
12587 warranties and limitations on the enforcement of such warranties or on damages;

12588 11. A statement that:

12589 a. Within 10 days after receipt of a public offering statement a purchaser, before conveyance, may cancel
12590 any contract for purchase of a cooperative interest from a declarant; and

12591 b. If a declarant fails to provide a public offering statement to a purchaser before conveying a cooperative
12592 interest, that purchaser may recover from the declarant 10 percent of the sales price of the cooperative interest,
12593 plus 10 percent of the share, proportionate to his common expense liability, of the indebtedness of the
12594 association secured by mortgages or deeds of trust encumbering the cooperative;

12595 12. A statement of any unsatisfied judgments or pending actions against the association and the status of
12596 any pending actions material to the cooperative of which a declarant has actual knowledge;

12597 13. A statement that any deposit made in connection with the purchase of a cooperative interest will be held
12598 in an escrow account until closing and will be returned to the purchaser if the purchaser cancels the contract
12599 pursuant to § 55.1-2160, together with the name and address of the escrow agent;

12600 14. Any restrictions on (i) use and occupancy of the units; (ii) alienation of the cooperative interests; (iii)
12601 the amount for which a cooperative interest may be sold; or (iv) the amount that may be received by a
12602 proprietary lessee upon sale, condemnation, or casualty loss to the unit or the cooperative or termination of
12603 the cooperative;

12604 15. A description of the insurance coverage provided for the benefit of proprietary lessees;

12605 16. Any current or expected fees or charges to be paid by proprietary lessees for the use of the common
12606 elements and other facilities related to the cooperative;

12607 17. The extent to which financial arrangements have been provided for completion of all improvements
12608 labeled "MUST BE BUILT" pursuant to § 55.1-2171;

12609 18. A brief narrative description of any zoning and other land use requirements affecting the cooperative;

12610 19. A specified or maximum amount, if any, of acquisition, development, or construction debt, inclusive of
12611 principal and any accrued interest, loan fees, and other similar charges, assumed or to be assumed by the
12612 association and whether there will be a security interest encumbering the cooperative to secure repayment;

12613 20. All unusual and material circumstances, features, and characteristics of the cooperative and the units;

12614 21. Whether the proprietary lessees will be entitled, for federal, state, and local income tax purposes, to a
12615 pass-through of deductions for payments made by the association for real estate taxes and interest paid the
12616 holder of a security interest encumbering the cooperative; and

12617 22. A statement as to the effect on every proprietary lessee if the association fails to pay real estate taxes
12618 or payments due the holder of a security interest encumbering the cooperative.

12619 *B. If a cooperative composed of not more than three units is not subject to any development rights, and no*
12620 *power is reserved to a declarant to make the cooperative part of a larger cooperative, a group of cooperatives,*
12621 *or other real estate, a public offering statement may include the information otherwise required by subdivisions*
12622 *A 9 and 10 and 15 through 19 and the narrative descriptions of documents required by subdivision A 4.*

12623 *C. A declarant promptly shall amend the public offering statement to report any material change in the*
12624 *information required by this section.*

12625 *D. The declarant shall provide a copy of the public offering statement and all amendments to the*
12626 *association, and the association shall maintain them in its records.*

12627 **§ 55.1-2156. Public offering statement; cooperatives subject to development rights.**

12628 *If the declaration provides that a cooperative is subject to any development rights, the public offering*
12629 *statement shall disclose, in addition to the information required by § 55.1-2155:*

12630 *1. The maximum number of units and the maximum number of units per acre that may be created;*

12631 *2. A statement of how many or what percentage of the units that may be created will be restricted exclusively*
12632 *to residential use, or a statement that no representations are made regarding use restrictions;*

12633 *3. If any of the units that may be built within real estate subject to development rights are not to be restricted*
12634 *exclusively to residential use, a statement, with respect to each portion of that real estate, of the maximum*
12635 *percentage of the real estate areas and the maximum percentage of the floor areas of all units that may be*
12636 *created therein that are not restricted exclusively to residential use;*

12637 *4. A brief narrative description of any development rights reserved by a declarant and of any conditions*
12638 *relating to or limitations upon the exercise of development rights;*

12639 *5. A statement of the maximum extent to which each cooperative interest's allocated interests may be*
12640 *changed by the exercise of any development right described in subdivision 4;*

12641 *6. A statement of the extent to which any buildings may be erected or other improvements that may be made*
12642 *pursuant to any development right in any part of the cooperative will be compatible with existing buildings and*
12643 *improvements in the cooperative in terms of architectural style, quality of construction, and size, or a statement*
12644 *that no assurances are made in those regards;*

12645 *7. General descriptions of all other improvements that may be made, and limited common elements that*
12646 *may be created within any part of the cooperative pursuant to any development right reserved by the declarant,*
12647 *or a statement that no assurances are made in that regard;*

12648 *8. A statement of any limitations as to the locations of any building or other improvement that may be made*
12649 *within any part of the cooperative pursuant to any development right reserved by the declarant, or a statement*
12650 *that no assurances are made in that regard;*

12651 *9. A statement that any limited common elements created pursuant to any development right reserved by*
12652 *the declarant will be of the same general types and sizes as the limited common elements within other parts of*
12653 *the cooperative, a statement of the types and sizes planned, or a statement that no assurances are made in that*
12654 *regard;*

12655 *10. A statement that the proportion of limited common elements to units created pursuant to any*
12656 *development right reserved by the declarant will be approximately equal to the proportion existing within other*
12657 *parts of the cooperative, a statement of any other assurances in that regard, or a statement that no assurances*
12658 *are made in that regard;*

12659 *11. A statement that all restrictions in the declaration affecting use and occupancy of units and alienation*
12660 *of cooperative interests will apply to any units and cooperative interests created pursuant to any development*
12661 *right reserved by the declarant, a statement of any differentiations that may be made as to those units and*
12662 *cooperative interests, or a statement that no assurances are made in that regard;*

12663 *12. A specified or maximum amount, if any, of acquisition, development, or construction debt, inclusive of*
12664 *principal and any accrued interest, loan fees, and other similar charges, assumed or to be assumed by the*
12665 *association for each phase of the development and whether there will be a security interest encumbering the*
12666 *cooperative to secure repayment. If no such amount can be specified, a statement that no amount may be*
12667 *assumed unless approved by persons entitled to cast at least 80 percent of the votes in the association, including*
12668 *a simple majority of the votes allocated to cooperative interests not owned by a declarant, or any larger*
12669 *percentage the declaration specifies; and*

12670 *13. A statement of the extent to which any assurances made pursuant to this section apply or do not apply*
12671 *in the event that any development right is not exercised by the declarant.*

12672 **§ 55.1-2157. Public offering statement; time-shares.**

12673 *If the declaration provides that ownership of cooperative interests or occupancy of any units is or may be*
12674 *in time-shares, the public offering statement shall disclose, in addition to the information required by § 55.1-*
12675 *2155:*

- 12676 1. *The number and identity of units in which time-shares may be created;*
- 12677 2. *The total number of time-shares that may be created;*
- 12678 3. *The minimum duration of any time-shares that may be created; and*
- 12679 4. *The extent to which the creation of time-shares will or may affect the enforceability of the association's*
12680 *lien for assessments provided in § 55.1-2149.*

12681 **§ 55.1-2158. Public offering statement; cooperatives containing conversion building.**

12682 A. *In addition to the information required by § 55.1-2155, the public offering statement of a cooperative*
12683 *containing any conversion building shall contain:*

- 12684 1. *A statement by the declarant, based on a report prepared by an independent, registered architect or*
12685 *engineer, describing the present condition of all structural components and mechanical and electrical*
12686 *installations material to the use and enjoyment of the building;*
- 12687 2. *A statement by the declarant of the expected useful life of each item reported on in subdivision 1, or a*
12688 *statement that no representations are made in that regard; and*
- 12689 3. *A list of any outstanding notices of uncured violations of building code or other municipal regulations,*
12690 *together with the estimated cost of curing those violations.*

12691 B. *This section applies only to buildings containing units that may be occupied for residential use.*

12692 **§ 55.1-2159. Public offering statement; cooperative securities.**

12693 *If an interest in a cooperative is currently registered with the Securities and Exchange Commission of the*
12694 *United States, a declarant satisfies all requirements relating to the preparation of a public offering statement*
12695 *of this chapter if he delivers to the purchaser and files with the agency a copy of the public offering statement*
12696 *filed with the Securities and Exchange Commission. A cooperative interest is not a security under the provisions*
12697 *of the Securities Act, §§ 13.1-501 through 13.1-527.3.*

12698 **§ 55.1-2160. Purchaser's right to cancel.**

12699 A. *A person required to deliver a public offering statement pursuant to subsection C of § 55.1-2154 shall*
12700 *provide a purchaser with a copy of the public offering statement and all amendments to the public offering*
12701 *statement before conveyance of that cooperative interest and not later than the date of any contract of sale. The*
12702 *purchaser may cancel the contract within 10 days after signing the contract.*

12703 B. *If a purchaser elects to cancel a contract pursuant to subsection A, he may do so by hand delivering*
12704 *notice of such cancellation to the offeror or by mailing notice of such cancellation by prepaid United States*
12705 *mail to the offeror or to his agent for service of process. Cancellation is without penalty, and all payments made*
12706 *by the purchaser before cancellation shall be refunded promptly.*

12707 C. *If a person required to deliver a public offering statement pursuant to subsection C of § 55.1-2154 fails*
12708 *to provide to a purchaser to whom a cooperative interest is conveyed that public offering statement and all*
12709 *amendments as required by subsection A, the purchaser, in addition to any rights to damages or other relief, is*
12710 *entitled to receive from that person an amount equal to 10 percent of the sales price of the cooperative interest,*
12711 *plus 10 percent of the share, proportionate to his common expense liability, of the indebtedness of the*
12712 *association secured by mortgages or deeds of trust encumbering the cooperative. Execution of a purchase*
12713 *agreement for a cooperative interest that makes reference to the public offering statement and in which the*
12714 *purchaser acknowledges receipt of the public offering statement shall be sufficient proof that the declarant has*
12715 *fully satisfied this requirement.*

12716 **§ 55.1-2161. Resales of cooperative interests.**

12717 A. *Except in the case of a sale where delivery of a public offering statement is required, or unless exempt*
12718 *under subsection B of § 55.1-2153, a proprietary lessee shall furnish to a purchaser before execution of any*
12719 *contract for sale of a cooperative interest, or otherwise before conveyance, a copy of the declaration, the*
12720 *bylaws, the rules and regulations of the association, and a certificate containing:*

- 12721 1. *A statement disclosing the effect on the proposed disposition of any right of first refusal or other restraint*
12722 *on the free alienability of the cooperative interest;*
- 12723 2. *A statement setting forth the amount of the monthly common expense assessment and any unpaid common*
12724 *expense or special assessment currently due and payable from the selling proprietary lessee;*
- 12725 3. *A statement of any other fees payable by proprietary lessees;*

- 12726 4. A statement of any capital expenditures anticipated by the association for the current and next two
12727 succeeding fiscal years;
- 12728 5. The current reserve study report or a summary of such report and a statement of the status and amount
12729 of any reserve or replacement fund and of any portions of those reserves designated by the association for any
12730 specified projects;
- 12731 6. The most recent regularly prepared balance sheet and income and expense statement, if any, of the
12732 association, including the amount of any debt owed by the association or to be assumed by the association,
12733 inclusive of principal and any accrued interest, loan fees, and other similar charges;
- 12734 7. The current operating budget of the association;
- 12735 8. A statement of any unsatisfied judgments against the association and the status of any pending actions
12736 in which the association is a defendant;
- 12737 9. A statement describing any insurance coverage provided for the benefit of proprietary lessees;
- 12738 10. A statement as to whether the executive board has knowledge that any alterations or improvements to
12739 the unit or to the limited common elements assigned to such unit violate any provision of the declaration;
- 12740 11. A statement as to whether the executive board has knowledge of any violations of the health or building
12741 codes with respect to the unit, the limited common elements assigned to such unit, or any other portion of the
12742 cooperative;
- 12743 12. A statement of the remaining term of any leasehold estate affecting the cooperative and the provisions
12744 governing any extension or renewal of such leasehold;
- 12745 13. Except where no public offering statement was prepared, a statement that the public offering statement
12746 and any amendments to the public offering statement are records of the association available for inspection by
12747 the purchaser;
- 12748 14. An accountant's statement, if any was prepared, as to the deductibility for federal income taxes purposes
12749 by the proprietary lessee of real estate taxes and interest paid by the association;
- 12750 15. A statement of any restrictions in the declaration affecting the amount that may be received by a
12751 proprietary lessee upon sale, condemnation, or loss to the unit or the cooperative on termination of the
12752 cooperative; and
- 12753 16. Certification, if applicable, that the proprietary lessees' association has filed with the Common Interest
12754 Community Board the annual report required by § 55.1-2182; such certification shall indicate the filing number
12755 assigned by the Common Interest Community Board and the expiration date of such filing.
- 12756 B. The association, within 10 days after a request by a proprietary lessee, shall furnish a certificate
12757 containing the information necessary to enable the proprietary lessee to comply with this section. A proprietary
12758 lessee providing a certificate pursuant to subsection A is not liable to the purchaser for any erroneous
12759 information provided by the association and included in the certificate.
- 12760 C. A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the
12761 certificate prepared by the association. A proprietary lessee is not liable to a purchaser for the failure or delay
12762 of the association to provide the certificate in a timely manner, but the purchase contract is voidable by the
12763 purchaser until five days after the certificate is provided or until conveyance, whichever occurs first.
- 12764 **§ 55.1-2162. Escrow of deposits.**
- 12765 A. Any deposit made in connection with the purchase or reservation of a cooperative interest from a person
12766 required to deliver a public offering statement pursuant to subsection C of § 55.1-2154 shall be placed in escrow
12767 and held either in the Commonwealth or in the state in which the unit that is a part of that cooperative interest
12768 is located in an account designated solely for that purpose by a title insurance company, attorney, or real estate
12769 broker licensed under the laws of the Commonwealth, an independent bonded escrow company, or an institution
12770 whose accounts are insured by a governmental agency or instrumentality until (i) delivered to the declarant at
12771 closing, (ii) delivered to the declarant because of the purchaser's default under a contract to purchase the
12772 cooperative interest, or (iii) refunded to the purchaser.
- 12773 B. Any deposit made in connection with the purchase of a cooperative interest from a person not required
12774 to deliver a public offering statement shall be placed in escrow in the same manner as prescribed in subsection
12775 A. Upon receipt of the certificate called for in § 55.1-2161, should the purchaser elect to void the contract, the
12776 seller may deduct the actual charges by the association for preparation of the certificate. Otherwise, the deposit
12777 shall be promptly returned to the purchaser.
- 12778 **§ 55.1-2163. Release of liens.**

12779 A. In the case of a sale of a cooperative interest where delivery of a public offering statement is required
12780 pursuant to subsection C of § 55.1-2154, a seller shall, before conveying a cooperative interest, record or
12781 furnish to the purchaser releases of all liens affecting the unit that is a part of that cooperative interest and any
12782 limited common element assigned to such unit, except liens solely against the unit and any limited common
12783 element assigned to such unit, that the purchaser expressly agrees to take subject to or assume. Releases of
12784 liens shall be made pursuant to §§ 55.1-339 through 55.1-345. This subsection does not apply to any real estate
12785 that a declarant has the right to withdraw.

12786 B. Before conveying real estate to the association, the declarant shall have that real estate released from
12787 (i) all liens the foreclosure of which would deprive proprietary lessees of any right of access to or easement of
12788 support of their units and (ii) all other liens on such real estate unless the public offering statement describes
12789 certain real estate that may be conveyed subject to liens in specified amounts.

12790 **§ 55.1-2164. Conversion buildings.**

12791 A. For the purposes of this section:

12792 "Disabled" means suffering from a severe, chronic physical or mental impairment that results in substantial
12793 functional limitations.

12794 "Elderly" means not less than 62 years of age.

12795 B. A declarant of a cooperative containing conversion buildings shall give each of the tenants of a
12796 conversion building formal notice of the conversion at the time the cooperative is registered by the Common
12797 Interest Community Board. This notice shall advise each tenant of (i) the offering price of the cooperative
12798 interests for the unit he occupies; (ii) the projected common expense assessments against that cooperative
12799 interest for at least the first year of the cooperative's operation; (iii) any relocation services, public or private,
12800 of which the declarant is aware; (iv) any measure taken or to be taken by the declarant to reduce the incidence
12801 of tenant dislocation; and (v) the details of the relocation plan, if any is provided by the declarant, to assist
12802 tenants in relocating. No tenant or subtenant may be required to vacate upon less than 120 days' notice, except
12803 by reason of nonpayment of rent, waste, or conduct that disturbs other tenants' peaceful enjoyment of the
12804 premises, and the terms of the tenancy may not be altered during that period. Until the expiration of the 120-
12805 day period, the declarant shall have no right of access to the unit except as provided in this section and in
12806 subsection A of § 55.1-1229 except that, upon 45 days' written notice to the tenant, the declarant may enter the
12807 unit in order to make additional repairs, decorations, alterations, or improvements, provided that (a) the
12808 making of the same does not constitute an actual or constructive eviction of the tenant and (b) such entry is
12809 made either with the consent of the tenant or only at times when the tenant is absent from the unit. Failure to
12810 give notice as required by this section is a defense to an action for possession. The declarant shall also provide
12811 general notice to the tenants of the cooperative or proposed cooperative at the time of application to the
12812 Common Interest Community Board, in addition to the formal notice required by this subsection.

12813 C. For 60 days after delivery or mailing of the formal notice described in subsection A, the person required
12814 to give the notice shall offer to convey the cooperative interest for each unit or proposed unit occupied for
12815 residential use to the tenant who leases the unit associated with that cooperative interest. A specific statement
12816 of the purchase price and the amount of any initial or special cooperative fee due from the purchaser on or
12817 before settlement of the purchase contract and the basis of such fee shall be given to the tenant. If a tenant fails
12818 to purchase the cooperative interest during that 60-day period, the offeror shall not offer to dispose of an
12819 interest in that cooperative interest during the following 180 days at a price or on terms more favorable to the
12820 offeree than the price or terms offered to the tenant. This subsection does not apply to any cooperative interest
12821 in a conversion building if the unit that is part of that cooperative interest will be restricted exclusively to
12822 nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the
12823 residential unit before conversion.

12824 D. If a seller, in violation of subsection C, conveys a cooperative interest to a purchaser for value who has
12825 no knowledge of the violation, that conveyance extinguishes any right a tenant may have under subsection C to
12826 purchase that cooperative interest if the deed states that the seller has complied with subsection C but does not
12827 affect the right of a tenant to recover damages from the seller for a violation of subsection C.

12828 E. If a notice of conversion specifies a date by which a unit or proposed unit must be vacated, and otherwise
12829 complies with the provisions of §§ 55.1-1202 and 55.1-1225, the notice also constitutes a notice to vacate as
12830 specified by §§ 55.1-1410, 55.1-1202, and 55.1-1225. The details of the relocation plan, if any is provided by
12831 the declarant for assisting tenants in relocating, shall also be provided to the tenant.

12832 F. Any locality may require by ordinance that the declarant of a conversion cooperative file with that
12833 governing body all information required by the Common Interest Community Board pursuant to § 55.1-2176
12834 and a copy of the formal notice required by subsection A. Such information shall be filed with that governing
12835 body when the application for registration is filed with the Common Interest Community Board, and such copy
12836 of the formal notice shall be filed with that governing body whenever it is sent to tenants. No fee shall be
12837 imposed for such filings with a governing body.

12838 G. The governing body of any county utilizing the urban county executive form of optional government (§§
12839 15.2-800 through 15.2-858) or the county manager plan of optional government (§§ 15.2-702 through 15.2-
12840 749), or of any city or town adjoining any such county, may require by ordinance that the declarant of any
12841 residential cooperative containing conversion buildings converted from multi-family rental use shall reimburse
12842 any tenant displaced by the conversion for amounts actually expended to relocate as a result of such dislocation.
12843 The reimbursement shall not be required to exceed the amount that the tenant would have been entitled to
12844 receive under §§ 25.1-407 and 25.1-415 if the real estate comprising the condominium had been condemned
12845 by the Department of Highways and Transportation.

12846 H. Any locality may require by ordinance that elderly or disabled tenants, occupying as their residence up
12847 to 20 percent of the apartments or units in a cooperative containing conversion buildings at the time of issuance
12848 of the general notice required by subsection B, be offered leases or extensions of leases on the apartments or
12849 units they occupy or on other apartments or units of at least equal size and overall quality for up to three years
12850 beyond the date of such notice.

12851 The terms and conditions of such leases or extensions of leases shall be as agreed upon by the lessor and
12852 the lessee, provided that the rent for such apartment or unit shall not be in excess of reasonable rent for
12853 comparable apartments or units in the same market area as such conversion building.

12854 Such leases or extensions shall not be required, however, in the case of any apartments or units that will,
12855 in the course of the conversion, be substantially altered in physical layout, restricted exclusively to
12856 nonresidential use, or be converted in such a manner as to require relocation of the tenant in premises outside
12857 of the project being converted.

12858 I. Nothing in this section permits termination of a lease by a declarant in violation of its terms.

12859 **§ 55.1-2165. Express warranties of quality.**

12860 A. Express warranties made by any seller to a purchaser of a cooperative interest, if relied upon by the
12861 purchaser, are created as follows:

12862 1. Any affirmation of fact or promise that relates to the unit, its use, or rights appurtenant to such unit, area
12863 improvements to the cooperative that would directly benefit the unit, or the right to use or have the benefit of
12864 facilities not located in the cooperative creates an express warranty that the unit and related rights and uses
12865 will conform to the affirmation or promise;

12866 2. Any model or description of the physical characteristics of the cooperative, including plans and
12867 specifications of or for improvements, creates an express warranty that the cooperative will conform to the
12868 model or description;

12869 3. Any description of the quantity or extent of the real estate comprising the cooperative, including plats or
12870 surveys, creates an express warranty that the cooperative will conform to the description, subject to customary
12871 tolerances; and

12872 4. A provision that a buyer of a cooperative interest may put a unit that is part of that cooperative interest
12873 only to a specified use is an express warranty that the specified use is lawful.

12874 B. Neither formal words, such as "warranty" or "guarantee," nor a specific intention to make a warranty
12875 is necessary to create an express warranty of quality, but a statement purporting to be merely an opinion or
12876 commendation of the real estate or its value does not create a warranty.

12877 C. Any conveyance of a cooperative interest transfers to the purchaser all express warranties of quality
12878 made by previous sellers.

12879 **§ 55.1-2166. Implied warranties of quality.**

12880 A. A declarant and any person in the business of selling cooperative interests for his own account warrant
12881 that a unit will be in at least as good condition at the earlier of the time of the conveyance of a cooperative
12882 interest or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.

12883 B. A declarant and any person in the business of selling cooperative interests for his own account impliedly
12884 warrant that a unit and the common elements in the cooperative are suitable for the ordinary uses of real estate

12885 of its type and that any improvements made or contracted for by him or made by any person before the creation
12886 of the cooperative will be:

12887 1. Free from defective materials; and

12888 2. Constructed in accordance with applicable law, according to sound engineering and construction
12889 standards, and in a workmanlike manner.

12890 C. In addition, a declarant and any person in the business of selling cooperative interests for his own
12891 account warrant to a purchaser of a cooperative interest for a unit that may be used for residential use that an
12892 existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier
12893 of the time of conveyance or delivery of possession.

12894 D. Warranties imposed by this section may be excluded or modified as specified in § 55.1-2167.

12895 E. For purposes of this section, improvements made or contracted for by an affiliate of a declarant are
12896 made or contracted for by the declarant.

12897 F. Any conveyance of a cooperative interest transfers to the purchaser all of the declarant's implied
12898 warranties of quality.

12899 **§ 55.1-2167. Exclusion or modification of implied warranties of quality.**

12900 A. Except as limited by subsection B with respect to a purchaser of a cooperative interest for a unit that
12901 may be used for residential use, implied warranties of quality (i) may be excluded or modified by agreement of
12902 the parties and (ii) are excluded by expression of disclaimer, such as "as is," "with all faults," or other language
12903 that in common understanding calls the buyer's attention to the exclusion of warranties.

12904 B. With respect to a purchaser of a cooperative interest for a unit that may be occupied for residential use,
12905 no general disclaimer of implied warranties of quality is effective, nor shall any disclaimer of implied
12906 warranties of quality be effective as to defects in materials or construction as to any unit, brought to the
12907 attention of the declarant within two years from the date of the first conveyance of the cooperative interest
12908 associated with such unit, or as to any such defect in the common elements brought to the attention within two
12909 years (i) after that common element has been completed or, if later, (ii) after the first cooperative interest has
12910 been conveyed in the cooperative. The first conveyance of a cooperative interest associated with a unit situated
12911 in real estate subject to development rights shall be treated as the first conveyance of a cooperative interest in
12912 the cooperative for the purposes of the preceding sentence as to any such defects in the common elements within
12913 that real estate. A declarant, and any person in the business of selling cooperative interests for his own account,
12914 may disclaim liability in an instrument signed by the purchaser for a specified defect or specified failure to
12915 comply with applicable law, if the defect or failure entered into became a part of the basis of the bargain.

12916 **§ 55.1-2168. Statute of limitations for warranties.**

12917 A. A judicial proceeding for breach of any obligation arising under § 55.1-2165 or 55.1-2166 must be
12918 commenced within six years after the cause of action accrues, but the parties may agree to reduce the period
12919 of limitation to not less than two years. With respect to a unit that may be occupied for residential use, an
12920 agreement to reduce the period of limitation must be evidenced by a separate instrument executed by the
12921 purchaser of the cooperative interest for that unit.

12922 B. Subject to subsection C, a cause of action for breach of warranty of quality, regardless of the purchaser's
12923 lack of knowledge of the breach, accrues:

12924 1. As to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a
12925 possessory interest was conveyed, or at the time of acceptance of the instrument of conveyance if a
12926 nonpossessory interest was conveyed; and

12927 2. As to each common element, at the time the common element is completed or, if later, (i) as to a common
12928 element that may be added to the cooperative or portion of the cooperative, at the time the first cooperative
12929 interest for a unit in such cooperative interest is conveyed to a bona fide purchaser, or (ii) as to a common
12930 element within any other portion of the cooperative, at the first time a cooperative interest in the cooperative
12931 is conveyed to a bona fide purchaser.

12932 C. If a warranty of quality explicitly extends to future performance or duration of any improvement or
12933 component of the cooperative, the cause of action accrues at the time the breach is discovered or at the end of
12934 the period for which the warranty explicitly extends, whichever is earlier.

12935 **§ 55.1-2169. Effect of violation on rights of action; attorney fees; arbitration of disputes.**

12936 A. If a declarant or any other person subject to this chapter fails to comply with any provision of this
12937 chapter or any provision of the declaration or bylaws, any person or class of persons adversely affected by the

12938 *failure to comply has a claim for appropriate relief. Punitive damages may be awarded for a willful failure to*
 12939 *comply with this chapter. The court, in an appropriate case, may award reasonable attorney fees.*

12940 *B. A declaration may provide for the arbitration of disputes or other means of alternative dispute resolution.*
 12941 *Any such arbitration held in accordance with this subsection shall be consistent with the provisions of this*
 12942 *chapter and Chapter 21 (§ 8.01-577 et seq.) of Title 8.01. The place of any such arbitration or alternative*
 12943 *dispute resolution shall be held in the county or city in which the development is located or as mutually agreed*
 12944 *by the parties.*

12945 **§ 55.1-2170. Labeling of promotional material.**

12946 *No promotional material may be displayed or delivered to prospective purchasers that describes or*
 12947 *portrays improvements that are not in existence, unless the description or portrayal of the improvement in the*
 12948 *promotional material is conspicuously labeled or identified either as "MUST BE BUILT" or "NEED NOT BE*
 12949 *BUILT."*

12950 **§ 55.1-2171. Declarant's obligation to complete and restore.**

12951 *A. The declarant shall complete all improvements depicted on any site plan or other graphic representation*
 12952 *included in the public offering statement or in any promotional material distributed by or for the declarant*
 12953 *unless that improvement is labeled "NEED NOT BE BUILT."*

12954 *B. The declarant is subject to liability for the prompt repair and restoration, to a condition compatible with*
 12955 *the remainder of the cooperative, of any portion of the cooperative affected by the exercise of rights reserved*
 12956 *pursuant to or created by §§ 55.1-2120, 55.1-2121, 55.1-2122, 55.1-2123, 55.1-2125, and 55.1-2126.*

12957 **§ 55.1-2172. Substantial completion of units.**

12958 *In the case of a sale of a cooperative interest where delivery of a public offering statement is required, a*
 12959 *contract of sale may be executed, but no interest in that cooperative interest may be conveyed, except pursuant*
 12960 *to subsection B of § 55.1-2176, until the declaration is recorded and the unit that is a part of that cooperative*
 12961 *interest is substantially completed, as evidenced by a recorded certificate of substantial completion executed*
 12962 *by an independent, registered architect, surveyor, or engineer or by issuance of a certificate of occupancy*
 12963 *authorized by law.*

12964 **Article 5.**

12965 **Administration and Registration of Cooperatives.**

12966 **§ 55.1-2173. Common Interest Community Board.**

12967 *This chapter shall be administered by the Common Interest Community Board.*

12968 **§ 55.1-2174. General powers and duties of the Common Interest Community Board.**

12969 *A. The Common Interest Community Board may adopt, amend, and repeal regulations and issue orders*
 12970 *consistent with and in furtherance of the objectives of this chapter, but the Common Interest Community Board*
 12971 *shall not intervene in the internal activities of an association except to the extent necessary to prevent or cure*
 12972 *violations of this chapter. The Common Interest Community Board may prescribe forms and procedures for*
 12973 *submitting information to the Common Interest Community Board.*

12974 *B. If it appears that any person has engaged, is engaging, or is about to engage in any act or practice in*
 12975 *violation of this chapter or any of the Common Interest Community Board's regulations or orders, the Common*
 12976 *Interest Community Board without prior administrative proceedings may bring an action in the appropriate*
 12977 *court to enjoin that act or practice or for other appropriate relief. The Common Interest Community Board is*
 12978 *not required to post a bond or prove that no adequate remedy at law exists.*

12979 *C. The Common Interest Community Board may intervene in any action involving the powers or*
 12980 *responsibilities of a declarant in connection with any cooperative for which an application for registration is*
 12981 *on file.*

12982 *D. The Common Interest Community Board may accept grants-in-aid from any governmental source and*
 12983 *may contract with agencies charged with similar functions in this or other jurisdictions in furtherance of the*
 12984 *objectives of this chapter.*

12985 *E. The Common Interest Community Board may cooperate with agencies performing similar functions in*
 12986 *this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and*
 12987 *uniform administrative practices and may develop information that may be useful in the discharge of the*
 12988 *agency's duties.*

12989 *F. In issuing any cease and desist order or order rejecting or revoking registration of a cooperative, the*
 12990 *Common Interest Community Board shall state the basis for the adverse determination and the underlying facts.*

12991 G. The Common Interest Community Board, in its sound discretion, may require bonding, escrow of
12992 portions of sales proceeds, or other safeguards it may prescribe by its regulations to guarantee completion of
12993 all improvements labeled "MUST BE BUILT" pursuant to § 55.1-2171.

12994 **§ 55.1-2175. Registration required.**

12995 A declarant shall not offer or dispose of a cooperative interest intended for residential use unless the
12996 cooperative and the cooperative interest are registered with the Common Interest Community Board. A
12997 cooperative consisting of no more than three units that is not subject to development rights is exempt from the
12998 requirements of this section.

12999 **§ 55.1-2176. Application for registration; approval of uncompleted unit.**

13000 A. An application for registration must contain the information and be accompanied by any reasonable fees
13001 required by the Common Interest Community Board's regulations. A declarant promptly shall file amendments
13002 to report any factual or expected material change in any document or information contained in his application.

13003 B. If a declarant files with the Common Interest Community Board a declaration or proposed declaration,
13004 or an amendment or proposed amendment to a declaration, creating units for which he proposes to convey
13005 cooperative interests before the units are substantially completed in the manner required by § 55.1-2172, the
13006 declarant shall also file with the Common Interest Community Board:

13007 1. A verified statement showing all costs involved in completing the buildings containing those units;
13008 2. A verified estimate of the time of completion of construction of the buildings containing those units;
13009 3. Satisfactory evidence of sufficient funds to cover all costs to complete the buildings containing those
13010 units;

13011 4. A copy of the executed construction contract and any other contracts for the completion of the buildings
13012 containing those units;

13013 5. A 100 percent payment and performance bond covering the entire cost of construction of the buildings
13014 containing those units;

13015 6. Plans for the units;

13016 7. If purchasers' funds are to be utilized for the construction of the cooperative, an executed copy of the
13017 escrow agreement with an escrow company or financial institution authorized to do business within the state
13018 that provides:

13019 a. That disbursements of purchasers' funds may be made from time to time to pay for construction of the
13020 cooperative, architectural, and engineering costs, finance and legal fees, and other costs for the completion of
13021 the cooperative in proportion to the value of the work completed by the contractor as certified by an
13022 independent, registered architect or engineer, on bills submitted and approved by the lender of construction
13023 funds or the escrow agent;

13024 b. That disbursement of the balance of purchasers' funds remaining after completion of the cooperative
13025 shall be made only when the escrow agent or lender receives satisfactory evidence that the period for filing
13026 mechanic's and materialman's liens has expired, or that the right to claim those liens has been waived, or that
13027 adequate provision has been made for satisfaction of any claimed mechanic's or materialman's lien; and

13028 c. Any other restriction relative to the retention and disbursement of purchasers' funds required by the
13029 Common Interest Community Board; and

13030 8. Any other materials or information the agency may require by its regulations.

13031 The Common Interest Community Board shall not register the units described in the declaration or the
13032 amendment unless the Common Interest Community Board determines, on the basis of the material submitted
13033 by the declarant and any other information available to the Common Interest Community Board, that there is
13034 a reasonable basis to expect that the cooperative interests to be conveyed will be completed by the declarant
13035 following conveyance.

13036 **§ 55.1-2177. Receipt of application; order or registration.**

13037 A. The Common Interest Community Board shall acknowledge receipt of an application for registration
13038 within five business days after receiving it. Within 60 days after receiving the application, the Common Interest
13039 Community Board shall determine whether:

13040 1. The application and the proposed public offering statement satisfy the requirements of this chapter and
13041 the Common Interest Community Board's regulations;

13042 2. The declaration and bylaws comply with this chapter; and

13043 3. It is likely that the improvements the declarant has undertaken to make can be completed as represented.

13044 *B. If the Common Interest Community Board makes a favorable determination, it shall issue promptly an*
13045 *order registering the cooperative. Otherwise, unless the declarant has consented in writing to a delay, the*
13046 *Common Interest Community Board shall issue promptly an order rejecting registration.*

13047 **§ 55.1-2178. Cease and desist order.**

13048 *If the Common Interest Community Board determines, after notice and hearing, that any person has*
13049 *disseminated or caused to be disseminated orally or in writing any false or misleading promotional materials*
13050 *in connection with a cooperative or that any person has otherwise violated any provision of this chapter or the*
13051 *Common Interest Community Board's regulations or orders, the Common Interest Community Board may issue*
13052 *an order to cease and desist from that conduct to comply with the provisions of this chapter and the Common*
13053 *Interest Community Board's regulations and orders or to take affirmative action to correct conditions resulting*
13054 *from that conduct or failure to comply.*

13055 **§ 55.1-2179. Revocation of registration.**

13056 *A. The Common Interest Community Board, after providing notice stating the deficiency complained of and*
13057 *holding a hearing, may issue an order revoking the registration of a cooperative upon determination that a*
13058 *declarant or any officer or principal of a declarant has:*

13059 *1. Failed to comply with a cease and desist order issued by the Common Interest Community Board*
13060 *affecting that cooperative;*

13061 *2. Concealed, diverted, or disposed of any funds or assets of any person in a manner impairing rights of*
13062 *purchasers of cooperative interests in that cooperative;*

13063 *3. Failed to perform any stipulation or agreement made to induce the Common Interest Community Board*
13064 *to issue an order relating to that cooperative;*

13065 *4. Intentionally misrepresented or failed to disclose a material fact in the application for registration; or*

13066 *5. Failed to meet any of the conditions described in §§ 55.1-2176 and 55.1-2177 necessary to qualify for*
13067 *registration.*

13068 *B. Without the consent of the Common Interest Community Board, a declarant shall not convey, cause to*
13069 *be conveyed, or contract for the conveyance of any cooperative interest while an order revoking the registration*
13070 *of the cooperative is in effect.*

13071 *C. In appropriate cases, the Common Interest Community Board may issue a cease and desist order in lieu*
13072 *of an order of revocation.*

13073 **§ 55.1-2180. Investigative powers of the Common Interest Community Board.**

13074 *A. The Common Interest Community Board may initiate public or private investigations within or outside*
13075 *the Commonwealth to determine whether any representation in any document or information filed with the*
13076 *Common Interest Community Board is false or misleading or whether any person has engaged, is engaging, or*
13077 *is about to engage in any unlawful act or practice.*

13078 *B. In the course of any investigation or hearing, the Common Interest Community Board may subpoena*
13079 *witnesses and documents, administer oaths and affirmations, and adduce evidence. If a person fails to comply*
13080 *with a subpoena or to answer questions propounded during the investigation or hearing, the Common Interest*
13081 *Community Board may apply to the appropriate court for a contempt order or for injunctive or other*
13082 *appropriate relief to secure compliance.*

13083 **§ 55.1-2181. Annual report and amendments.**

13084 *A. A declarant, within 30 days after the anniversary date of the order of registration, shall file annually a*
13085 *report to bring up to date the material contained in the application for registration and the public offering*
13086 *statement. This provision does not relieve the declarant of the obligation to file amendments pursuant to*
13087 *subsection B.*

13088 *B. A declarant shall file promptly amendments to the public offering statement with the Common Interest*
13089 *Community Board.*

13090 *C. If an annual report reveals that a declarant owns or controls cooperative interests representing less than*
13091 *25 percent of the voting power in the association and that a declarant has no power to increase the number of*
13092 *units in the cooperative or to cause a merger or confederation of the cooperative with other cooperatives, the*
13093 *Common Interest Community Board shall issue an order relieving the declarant of any further obligation to*
13094 *file annual reports. After such order is issued, so long as the declarant is offering any cooperative interests for*
13095 *sale, the Common Interest Community Board has jurisdiction over the declarant's activities but has no other*
13096 *authority to regulate the cooperative.*

13097 **§ 55.1-2182. Annual report by associations.**

13098 A. The association shall file an annual report in a form and at such time as prescribed by regulations of
 13099 the Common Interest Community Board. The filing of the annual report required by this section shall commence
 13100 upon the termination of any declarant control period reserved pursuant to § 55.1-2134. The annual report shall
 13101 be accompanied by a fixed fee in an amount established by the Common Interest Community Board.

13102 B. The agency may accept copies of forms submitted to other state agencies to satisfy the requirements of
 13103 this section if such forms contain substantially the same information required by the Common Interest
 13104 Community Board.

13105 C. The association shall also remit to the Common Interest Community Board an annual payment as
 13106 follows:

13107 1. The lesser of:

13108 a. \$1,000 or such other amount as established by Common Interest Community Board regulation; or

13109 b. Five hundredths of one percent (0.05%) of the association's gross assessment income during the
 13110 preceding year.

13111 2. For the purposes of subdivision 1 b, no minimum payment shall be less than \$10.

13112 D. The annual payment shall be remitted to the State Treasurer and shall be credited to the Common
 13113 Interest Community Management Information Fund established pursuant to § 54.1-2354.2.

13114 **§ 55.1-2183. Common Interest Community Board regulation of public offering statement.**

13115 A. The Common Interest Community Board at any time may require a declarant to alter or supplement the
 13116 form or substance of a public offering statement to assure adequate and accurate disclosure to prospective
 13117 purchasers.

13118 B. The public offering statement shall not be used for any promotional purpose before registration and
 13119 shall be used afterwards only if it is used in its entirety. No person shall advertise or represent that the Common
 13120 Interest Community Board has approved or recommended the cooperative, the disclosure statement, or any of
 13121 the documents contained in the application for registration.

13122 C. In the case of a cooperative situated wholly outside of the Commonwealth, no application for registration
 13123 or proposed public offering statement filed with the Common Interest Community Board that has been approved
 13124 by an agency in the state where the cooperative is located and substantially complies with the requirements of
 13125 this chapter shall be rejected by the Common Interest Community Board on the grounds of noncompliance with
 13126 any different or additional requirements imposed by this chapter or by the Common Interest Community Board's
 13127 regulations. However, the Common Interest Community Board may require additional documents or
 13128 information in particular cases to assure adequate and accurate disclosure to prospective purchasers.

13129 **§ 55.1-2184. Penalties.**

13130 Any person who willfully violates § 55.1-2155, 55.1-2158, 55.1-2159, 55.1-2162, 55.1-2164, 55.1-2176, or
 13131 55.1-2181 or any regulation adopted under, or order issued pursuant to, § 55.1-2174, or any person who
 13132 willfully in an application for registration makes any untrue statement of a material fact or omits to state a
 13133 material fact, is guilty of a misdemeanor and may be (i) fined not less than \$1,000 or double the amount of gain
 13134 from the transaction, whichever is larger, but not more than \$50,000 or (ii) imprisoned for not more than six
 13135 months, or both, for each offense.

CHAPTER 22.

VIRGINIA REAL ESTATE TIME-SHARE ACT.

Article 1.

General Provisions.

13140 **§ 55.1-2200. Definitions.**

13141 As used in this chapter, or in a time-share instrument, unless the context requires a different meaning:

13142 "Additional land" means all land that a time-share developer has identified as land that may be added to a
 13143 time-share project.

13144 "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is
 13145 controlled by, or is under common control with the person specified.

13146 "Alternative purchase" means anything valued in excess of \$100 that is offered to a potential purchaser by
 13147 the developer during the developer's sales presentation and that is purchased by such potential purchaser for
 13148 more than \$100, even though the purchaser did not purchase a time-share. An alternative purchase is not a
 13149 time-share. A membership camping contract as defined in § 59.1-313 is not an alternative purchase. An
 13150 alternative purchase shall be registered with the Board unless it is otherwise registered as a travel service

13151 under the Virginia Travel Club Act (§ 59.1-445 et seq.) and shall include vacation packages, however
13152 denominated, and exit programs, however denominated.

13153 "Association" means the association organized under the provisions of § 55.1-2209.

13154 "Board" means the Common Interest Community Board.

13155 "Board of directors" means an executive and administrative entity, by whatever name denominated,
13156 designated in a time-share instrument as the governing body of the time-share estate owners' association.

13157 "Common elements" means the real estate, improvements on such real estate, and the personalty situated
13158 within the time-share project that are subject to the time-share program. "Common elements" does not include
13159 the units and the time-shares.

13160 "Consumer documents" means the aggregate of the following documents: the reverter deed, the note, the
13161 deed of trust, and any document that is to be provided to consumers in connection with an offering.

13162 "Contact information" means any information that can be used to contact an owner, including the owner's
13163 name, address, telephone number, email address, or user identity on any electronic networking service.

13164 "Contract," "sales contract," "purchase contract," "contract of purchase," or "contract to purchase," which
13165 shall be interchangeable throughout this chapter, means any legally binding instrument executed by the
13166 developer and a purchaser by which the developer is obligated to sell and the purchaser is obligated to purchase
13167 either a time-share and its incidental benefits or an alternative purchase registered under this chapter.

13168 "Conversion time-share project" means a real estate improvement that, prior to the disposition of any time-
13169 share, was wholly or partially occupied by persons as their permanent residence or on a transient pay-as-you-
13170 go basis other than those who have contracted for the purchase of a time-share and those who occupy with the
13171 consent of such purchasers.

13172 "Cost of ownership" means all of the owner's expenses related to a resale time-share due between the date
13173 of a resale transfer contract and the transfer of the resale time-share.

13174 "Deed" means the instrument by which title to a time-share estate is transferred from one person to another
13175 person.

13176 "Deed of trust" means the instrument conveying the time-share estate that is given as security for the
13177 payment of the note.

13178 "Default" means either a failure to have made any payment in full and on time or a violation of a
13179 performance obligation required by a consumer document for a period of no less than 60 days.

13180 "Developer" means any person or group of persons acting in concert that (i) offers to dispose of a time-
13181 share or its interest in a time-share unit for which there has not been a previous disposition or (ii) applies for
13182 registration of the time-share program.

13183 "Developer control period" means a period of time during which the developer or a managing agent
13184 selected by the developer manages and controls the time-share project and the common elements and units it
13185 comprises.

13186 "Development right" means any right reserved by the developer to create additional units that may be
13187 dedicated to the time-share program.

13188 "Dispose" or "disposition" means a transfer of a legal or equitable interest in a time-share, other than a
13189 transfer or release of security for a debt.

13190 "Exchange agent" or "exchange company" means a person that exchanges or offers to exchange time-
13191 shares in an exchange program with other time-shares.

13192 "Exchange program" means any opportunity or procedure for the assignment or exchange of time-shares
13193 among owners in other time-share programs as evidenced by a past or present written agreement executed
13194 between an exchange company and the developer or the time-share estate association; however, an "exchange
13195 program" shall not be either an incidental benefit or an opportunity or procedure by which a time-share owner
13196 can exchange his time-share for another time-share within either the same time-share or another time-share
13197 project owned in part by the developer.

13198 "Guest" means (i) a person who is on the project, additional land, or development at the request of an
13199 owner, developer, association, or managing agent or (ii) a person otherwise legally entitled to be on such
13200 project, additional land, or development. "Guest" includes family members of owners; time-share exchange
13201 participants; merchants, purveyors, or vendors; and employees of such merchants, purveyors, and vendors; the
13202 developer; or the association.

13203 "Incidental benefit" means anything valued in excess of \$100 provided by the developer that is acquired by
13204 a purchaser upon acquisition of a time-share and includes exchange rights, travel insurance, bonus weeks,

13205 upgrade entitlements, travel coupons, referral awards, and golf and tennis packages. An incidental benefit is
13206 not a time-share or an exchange program. An incidental benefit shall not be registered with the Board.

13207 "Inherent risks of project activity" means those dangers or conditions that are an integral part of a project
13208 activity, including certain hazards, such as surface and subsurface conditions; natural conditions of land,
13209 vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or
13210 equipment ordinarily used in association or time-share operations. "Inherent risks of project activity" also
13211 includes the potential of a participant to act in a negligent manner that may contribute to injury to the
13212 participant or others, including failing to follow instructions given by the project professional or failing to
13213 exercise reasonable caution while engaging in the project activity.

13214 "Lead dealer" means a person that sells or otherwise provides to any other person contact information
13215 concerning five or more owners to be used for a resale service. "Lead dealer" does not mean developers,
13216 managing entities, or exchange companies to the extent that such entities are providing other persons with
13217 personal contact information about time-share owners in their own time-share plans or members of their own
13218 exchange program.

13219 "Lien holder" means either a person that holds an interest in an encumbrance that is not released of record
13220 as to a purchaser or such person's successor in interest that acquires title to the time-share project at
13221 foreclosure, by deed in lieu of foreclosure, or by any other instrument however denominated.

13222 "Managing agent" means a person that undertakes the duties, responsibilities, and obligations of the
13223 management of a time-share project.

13224 "Managing entity" means the managing agent or, if there is no managing agent, the time-share owners'
13225 association in a time-share estate project and the developer in a time-share use project.

13226 "Material change" means a change in any information or document disclosed in or attached to the public
13227 offering statement that renders inaccurate, incomplete, or misleading any information or document in such a
13228 way as to affect substantially a purchaser's rights or obligations, but does not include a change (i) in the real
13229 estate tax assessment or rate, utility charges or deposits, maintenance fees, association dues, assessments,
13230 special assessments, or any recurring time-share expense item, provided that such change is made known (a)
13231 immediately to the prospective purchaser by a written addendum in the public offering statement and (b) to the
13232 Board by filing with the developer's annual report copies of the updated changes occurring over the
13233 immediately preceding 12 months; (ii) that is an aspect or result of the orderly development of the time-share
13234 project in accordance with the time-share instrument; (iii) resulting from new, updated, or amended
13235 information contained in the annual report prepared and distributed pursuant to § 55.1-2213; (iv) correcting
13236 spelling, grammar, omissions, or other similar errors not affecting the substance of the public offering
13237 statement; or (v) occurring in the issuance of an exchange company's updated annual report or disclosure
13238 document, provided that, upon its receipt by the developer, it shall be distributed in lieu of all others in order
13239 to satisfy § 55.1-2217.

13240 "Note" means the instrument that evidences the debt occasioned by the deferred purchase of a time-share.

13241 "Offering" or "offer" means any act that originates in the Commonwealth to sell, solicit, induce, or
13242 advertise, whether by radio, television, telephone, newspaper, magazine, or mail, during which a person is
13243 given an opportunity to acquire a time-share.

13244 "Participant" means any person, other than a project professional, that engages in a project activity.

13245 "Person" means one or more natural persons, corporations, partnerships, associations, trustees of a trust,
13246 limited liability companies, or other entities, or any combination thereof, capable of holding title to real
13247 property.

13248 "Possibility of reverter" means a provision contained in a reverter deed by which the time-share estate
13249 automatically reverts or transfers back to the developer upon satisfaction of the requirements imposed by §
13250 55.1-2222.

13251 "Product" means each time-share and its incidental benefits and all alternative purchases that are
13252 registered with the Board pursuant to this chapter.

13253 "Project activity" means any activity carried out or conducted on a common element, within a time-share
13254 unit or elsewhere in the project, additional land, or development, that allows owners, their guests, and members
13255 of the general public to view, observe, participate, or enjoy activities. "Project activity" includes swimming
13256 pools, spas, sporting venues, and cultural, historical, or harvest-your-own activities; other amenities and
13257 events; or natural activities and attractions for recreational, entertainment, educational, or social purposes.
13258 Such activity is a project activity whether or not the participant paid to participate in the activity.

13259 *"Project professional" means any person that is engaged in the business of providing one or more project*
13260 *activities, whether or not for compensation. For the purposes of this definition, the developer, association, and*
13261 *managing entity shall each be deemed a project professional.*

13262 *"Public offering statement" means the statement required by § 55.1-2217.*

13263 *"Purchaser" means any person other than a developer or lender that owns or acquires a product or that*
13264 *otherwise enters into a contract for the purchase of a product.*

13265 *"Resale cost of ownership" means all of the owner's expenses related to a resale time-share due between*
13266 *the date of a resale transfer contract and the transfer of such resale time-share.*

13267 *"Resale purchase contract" means an agreement negotiated by a reseller by which an owner or a reseller*
13268 *agrees to sell, and a subsequent purchaser agrees to buy, a resale time-share.*

13269 *"Resale service" means engaging, directly or indirectly, for compensation, in any of the following either in*
13270 *person or by any medium of communication: (i) selling or offering to sell or list for sale for the owner a resale*
13271 *time-share, (ii) buying or offering to buy a resale time-share for transfer to a subsequent purchaser, (iii)*
13272 *transferring a resale time-share acquired from an owner to a subsequent purchaser or offering to assist in such*
13273 *transfer, (iv) invalidating or offering to invalidate for an owner the title of a resale time-share, or (v) advertising*
13274 *or soliciting to advertise or promote the transfer or invalidation of a resale time-share. Resale service does not*
13275 *include an individual's selling or offering to sell his own time-share unit.*

13276 *"Resale time-share" means a time-share, wherever located, that has previously been sold to an owner who*
13277 *is a natural person for personal, family, or household use and that is transferred, or is intended to be*
13278 *transferred, through a resale service.*

13279 *"Resale transfer contract" means an agreement between a reseller and the owner by which the reseller*
13280 *agrees to transfer or assist in the transfer of the owner's resale time-share.*

13281 *"Reseller" means any person who, directly or indirectly, engages in a resale service.*

13282 *"Reverter deed" means the deed from a developer to a grantee that contains a possibility of reverter.*

13283 *"Sales person" means a person who sells or offers to sell time-share interests in a time-share program.*

13284 *"Situs" means the place outside the Commonwealth where a developer's time-share project is located.*

13285 *"Subsequent purchaser" means the purchaser or transferee of a resale time-share.*

13286 *"Time-share" means either a time-share estate or a time-share use plus its incidental benefits.*

13287 *"Time-share estate" means a right to occupy a unit or any of several units during five or more separated*
13288 *time periods over a period of at least five years, including renewal options, coupled with a freehold estate or*
13289 *an estate for years in a time-share project or a specified portion of such time-share project.*

13290 *"Time-share estate occupancy expense" means all costs and expenses incurred in (i) the formation,*
13291 *organization, operation, and administration, including capital contributions thereto, of the association and*
13292 *both its board of directors and its members and (ii) all owners' use and occupancy of the time-share estate*
13293 *project, including without limitation its completed and occupied time-share estate units and common elements*
13294 *available for use. Such costs and expenses include maintenance and housekeeping charges; repairs;*
13295 *refurbishing costs; insurance premiums, including the premium for comprehensive general liability insurance*
13296 *required by subdivision 8 of § 55.1-2209; taxes; properly allocated labor, operational, and overhead costs;*
13297 *general and administrative expenses; the managing agent's fee; utility charges and deposits; the cost of periodic*
13298 *repair and replacement of walls and window treatments and furnishings, including furniture and appliances;*
13299 *filing fees and annual registration charges of the State Corporation Commission and the Board; attorney fees*
13300 *and accountant charges; and reserves for any of the foregoing.*

13301 *"Time-share estate subject to reverter" means a time-share estate (i) entitling the holder thereof to occupy*
13302 *units not more than four weeks in any one-year period and (ii) for which the down payment is not more than 20*
13303 *percent of the total purchase price of the time-share estate.*

13304 *"Time-share expense" means (i) expenditures, fees, charges, or liabilities incurred with respect to the*
13305 *operation, maintenance, administration, or insuring of the time-shares, units, and common elements comprising*
13306 *the entire time-share project, whether or not incurred for the repair, renovation, upgrade, refurbishing, or*
13307 *capital improvements, and (ii) any allocations of reserves.*

13308 *"Time-share instrument" or "project instrument" means any document, however denominated, that creates*
13309 *the time-share project and program and that may contain restrictions or covenants regulating the use,*
13310 *occupancy, or disposition of time-shares in a project.*

13311 *"Time-share owner" or "owner" means a person that is an owner or co-owner of a time-share other than*
13312 *as security for an obligation.*

13313 "Time-share program" or "program" means any arrangement of time-shares in one or more time-share
 13314 projects by which the use, occupancy, or possession of real property has been made subject to either a time-
 13315 share estate or time-share use in which such use, occupancy, or possession circulates among owners of the
 13316 time-shares according to a fixed or floating time schedule on a periodic basis occurring over any period of time
 13317 in excess of five years.

13318 "Time-share project" or "project" means all of the real property subject to a time-share program created
 13319 by the execution of a time-share instrument.

13320 "Time-share unit" or "unit" means the real property or real property improvement in a project that is
 13321 divided into time-shares and designated for separate occupancy and use.

13322 "Time-share use" means a right to occupy a time-share unit or any of several time-share units during five
 13323 or more separated time periods over a period of at least five years, including renewal options, not coupled with
 13324 a freehold estate or an estate for years in a time-share project or a specified portion of such time-share project.

13325 "Time-share use" does not mean a right to use that is subject to a first-come, first-served, space-available basis
 13326 as might exist in a country club, motel, hotel, health spa, campground, or membership or resort facility.

13327 "Transfer" means a voluntary conveyance of a resale time-share to a person other than the developer,
 13328 association, or managing entity of the time-share program of which the resale time-share is a part or to a
 13329 person taking ownership by gift, foreclosure, or deed in lieu of foreclosure.

13330 **§ 55.1-2201. Applicability.**

13331 A. This chapter shall have exclusive jurisdiction and shall apply to any product offering or disposition made
 13332 within the Commonwealth after July 1, 1985, in a time-share project located within the Commonwealth.
 13333 Sections 55.1-2200, 55.1-2201, 55.1-2202, 55.1-2203, 55.1-2204, 55.1-2206, 55.1-2210, 55.1-2211, 55.1-2213,
 13334 55.1-2215, 55.1-2216, 55.1-2220, 55.1-2227, 55.1-2229, 55.1-2230, 55.1-2232, 55.1-2233, 55.1-2237, and
 13335 55.1-2252 shall apply to a time-share project within the Commonwealth that was created prior to July 1, 1985.

13336 B. This chapter shall not affect rights or obligations created by preexisting provisions of any time-share
 13337 instrument that transfers an estate or interest in real property.

13338 C. This chapter shall apply to any product offering or disposition in a time-share project located outside
 13339 the Commonwealth and offered for sale in the Commonwealth with the exception that Articles 2 (§ 55.1-2207
 13340 et seq.), 3 (§ 55.1-2217 et seq.), and 4 (§ 55.1-2235 et seq.) shall apply only to the extent permitted by the laws
 13341 of the situs.

13342 **§ 55.1-2202. Administrative agency.**

13343 The Common Interest Community Board shall administer this chapter.

13344 **§ 55.1-2203. Status of time-share estates with respect to real property interests.**

13345 A. A document transferring or encumbering a time-share estate shall not be rejected for recordation within
 13346 the Commonwealth because of the nature or duration of that estate or interest, provided that the document
 13347 complies with all other recordation requirements.

13348 B. Each time-share estate constitutes for purposes of title a separate estate or interest in a unit.

13349 C. For purposes of local real property taxation, each time-share unit, other than a unit operated for time-
 13350 share use, shall be valued in the same manner as if such unit were owned by a single taxpayer. The total
 13351 cumulative purchase price paid by the time-share owners for a unit shall not be utilized by the commissioner
 13352 of revenue or other local assessing officer as a factor in determining the assessed value of such unit. A unit
 13353 operated as a time-share use, however, may be assessed the same as other income-producing and investment
 13354 property. The commissioner of revenue or other local assessing officer shall list in the land book a time-share
 13355 unit in the name of the association.

13356 **§ 55.1-2204. Applicability of local ordinances, regulations, and building codes.**

13357 A zoning, subdivision, or other ordinance or regulation shall not impose any requirement upon a time-
 13358 share project that it would not otherwise impose upon a similar project under a different form of ownership.

13359 **§ 55.1-2205. Use of terms.**

13360 A developer in its offering or disposition of a time-share may use interchangeably any term recognized in
 13361 the industry, including "time-share," "time-share interest," "interval ownership," "interval ownership interest,"
 13362 "vacation ownership," "vacation ownership interest," and "product." A developer shall not use the term
 13363 "incidental benefit" or "alternative purchase" except in the proper context.

13364 **§ 55.1-2206. Severability of provisions of time-share instruments.**

13365 All provisions of the time-share instruments shall be deemed severable, and any unlawful provision of such
 13366 instrument shall be void.

- 13367 Article 2.
 13368 Creation, Termination, and Management.
 13369 § 55.1-2207. **Time-sharing permitted.**
 13370 A time-share project shall be permitted on any land or improvement on such land lying within the
 13371 Commonwealth unless prohibited by zoning then in effect or by the express language of any legally enforceable
 13372 covenant, condition, or restriction, however denominated, contained in the governing documents of record for
 13373 such land, including condominium instruments under the Condominium Act (§ 55.1-1900 et seq.), a time-share
 13374 instrument under this chapter, a declaration under the Virginia Real Estate Cooperative Act (§ 55.1-2100 et
 13375 seq.), or a master deed under the Horizontal Property Act (§ 55.1-2000 et seq.). This chapter shall not be
 13376 construed to affect the validity of any provision of any time-share program or any expansion of such a program
 13377 or time-share instrument recorded or in existence prior to July 1, 1981.
 13378 § 55.1-2208. **Instruments.**
 13379 A. In order to create a time-share program for a time-share estate project, the developer shall execute a
 13380 time-share instrument prepared and executed in accordance with this chapter and record it in the clerk's office
 13381 where such time-share project is located. The time-share instrument shall contain the following:
 13382 1. The name of the time-share project, which shall include or be followed by a qualifying adjective or term
 13383 outlined in § 55.1-2205;
 13384 2. The name of the locality and the state or situs in which the time-share project is situated;
 13385 3. The legal description, street address, or other description sufficient to identify the time-share project;
 13386 4. A legally sufficient description of the real estate constituting the time-share project;
 13387 5. A statement of the form of time-share program, i.e., whether it is a time-share estate or time-share use;
 13388 6. Identification of time periods by letter, name, number, or combination thereof;
 13389 7. Identification of time-shares and, where applicable, the method by which additional time-shares may be
 13390 created or withdrawn;
 13391 8. The formula, fraction, or percentage of the common expenses and any voting rights assigned to each
 13392 time-share;
 13393 9. Any restrictions on the use, occupancy, enjoyment, alteration, or alienation of time-shares;
 13394 10. The ownership interest, if any, in personal property available to time-share owners;
 13395 11. The program by which the managing entity, if any, will provide management of the project;
 13396 12. The period for which units are designated and committed to the time-share program and the property
 13397 classification of the units at the expiration of such period;
 13398 13. Any provision for amending the time-share instrument;
 13399 14. A description of the events, including condemnation and damage or destruction, upon which the time-
 13400 share program may or shall be terminated before the expiration of its full term and the consequences of such
 13401 termination, including the manner in which the time-share project or the proceeds from the disposition of such
 13402 project shall be held or distributed among owners;
 13403 15. A statement of whether or not the developer reserves the right to add to or delete any incidental benefit;
 13404 16. A statement of whether or not the developer reserves the right to add to or delete any alternative
 13405 purchase; and
 13406 17. Such other matters as the developer deems appropriate.
 13407 B. In order to create a time-share program for a time-share use project, the developer shall (i) execute and
 13408 record a time-share instrument as required by subsection A or (ii) execute a time-share instrument that takes
 13409 the form of and is a part of the contract that contains the information required by subsection A.
 13410 C. If the developer explicitly reserves the right to develop additional time-shares, the time-share instrument
 13411 shall also contain the following:
 13412 1. A legally sufficient description of all land that may be added to the time-share project, which shall be
 13413 referred to as "additional land";
 13414 2. A statement outlining the order in which portions of the additional land may be subjected to the exercise
 13415 of each development right or a statement that no assurances are made in that regard;
 13416 3. A statement of the time limit upon which the option to develop shall expire, together with a statement of
 13417 the circumstances, if any, that will terminate that option prior to the expiration of the specified time limit;
 13418 4. A statement of the maximum number of units that may be added to the time-share project, if known, or,
 13419 if the maximum number of units that may be added to the time-share project is not known, a statement to that
 13420 effect; and

13421 5. A statement of the property classification of the additional land if the developer fails to exercise the
 13422 development rights as reserved in the time-share instrument.

13423 **§ 55.1-2209. Time-share instrument for time-share estate project.**

13424 In addition to the requirements of § 55.1-2208, the time-share instrument for a time-share estate project
 13425 shall outline or prescribe reasonable arrangements for the management and operation of the time-share estate
 13426 program and for the maintenance, repair, and furnishing of units it comprises, which shall include provisions
 13427 for the following:

13428 1. Creation of an association, the members of which shall be the time-share estate owners. The association
 13429 may be formed pursuant to the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.); however, the
 13430 association shall be formed prior to the time the project and program are registered with the Board. Nothing
 13431 shall affect the validity of the association, once formed, and the rights applicable to it as granted by this chapter,
 13432 notwithstanding the time when such association was formed;

13433 2. Payment of costs and expenses of operating the time-share estate program and owning and maintaining
 13434 the units it comprises;

13435 3. Employment and termination of employment of the managing agent for the project. Any agreement
 13436 pertaining to the employment of the managing agent and executed during the developer control period shall be
 13437 voidable by the association at any time after termination of the developer control period for the time-share
 13438 project, and any provision in such agreement to the contrary is hereby declared to be void;

13439 4. Termination of leases and contracts for goods and services for the time-share estate project that are
 13440 entered into during the developer control period. Any such lease or contract shall become voidable at the option
 13441 of the association upon termination of the developer control period for the entire time-share project, or sooner
 13442 if the provisions of such lease or contract so state;

13443 5. Preparation and dissemination to time-share estate owners of the annual report required by § 55.1-2213;

13444 6. Adoption of standards and rules of conduct for the use, enjoyment, and occupancy of units by the time-
 13445 share estate owners;

13446 7. Collection of regular assessments, fees or dues, or special assessments from time-share estate owners to
 13447 defray all time-share expenses;

13448 8. Comprehensive general liability insurance for death, bodily injury, and property damage arising out of,
 13449 or in connection with, the use and enjoyment of the project by time-share estate owners, their guests, and other
 13450 users. The costs associated with securing and maintaining such insurance shall be a time-share expense.
 13451 Nothing in this subdivision shall be construed to obligate the managing entity to secure insurance on the
 13452 conduct of the time-share estate owners, their guests, and other users or the personal effects or property of such
 13453 owners, guests, and users;

13454 9. Methods for providing compensation or alternate use periods or monetary compensation to a time-share
 13455 estate owner if his contracted-for unit cannot be made available for the period to which the owner is entitled
 13456 by schedule or by confirmed reservation;

13457 10. Procedures for imposing a monetary penalty or suspension of a time-share estate owner's rights and
 13458 privileges in the time-share estate program or time-share project for failure of such owner to comply with
 13459 provisions of the time-share instrument or the rules and regulations of the association with respect to the use
 13460 and enjoyment of the units and the time-share project. Under these procedures, a time-share estate owner shall
 13461 be given reasonable notice and reasonable opportunity to be heard and explain the charges against him in
 13462 person or in writing to the board of directors of the association before a decision to impose discipline is
 13463 rendered; and

13464 11. Employment of attorneys, accountants, and other professional persons as necessary to assist in the
 13465 management of the time-share estate program and the units it comprises.

13466 **§ 55.1-2210. Developer control in time-share estate program.**

13467 A. The time-share instrument for a time-share estate program shall provide for a developer control period.
 13468 All costs associated with the control, management, and operation of the time-share estate project during the
 13469 developer control period shall belong to the developer, except for time-share estate occupancy expenses that
 13470 shall, if required by the developer in the time-share instrument, be allocated only to and paid by time-share
 13471 estate owners other than the developer. Nothing shall preclude the developer, during the developer control
 13472 period and at any time after the lapse of a purchaser's right of cancellation and without regard to the
 13473 recordation of the deed, provided that the deed has been delivered to the purchaser or the purchaser's agent,
 13474 from collecting an annual or specially assessed charge from each time-share estate owner for the payment of

13475 *the time-share estate occupancy expenses by way of a maintenance fee. However, any such funds received and*
13476 *not spent, or any other funds received and allocated to the benefit of the association, shall be transferred to the*
13477 *association by the developer at the termination of the developer control period.*

13478 *B. Except to the extent that the purchase contract or time-share instrument expressly provides otherwise,*
13479 *fee simple title to the common elements shall be transferred to the time-share estate owners' association, free*
13480 *of charge, no later than at such time as the developer (i) transfers to purchasers legal or equitable ownership*
13481 *of at least 90 percent of the time-share estates, excluding any reacquisitions by the developer; (ii) is no longer*
13482 *the beneficiary on deeds of trust secured on at least 20 percent of the time-share estates; or (iii) has completed*
13483 *all of the promised common elements and facilities that the time-share estate project comprises, whichever*
13484 *occurs last. The developer may make such transfer when the period has ended for a phase or portion of the*
13485 *time-share estate project. The transfer required of the developer by this subsection shall not exonerate the*
13486 *developer from the responsibility of completion of the promised and incomplete common elements once the*
13487 *transfer occurs. Upon transfer of the time-share project or portion to the association, the developer control*
13488 *period for such project or portion of such project shall terminate.*

13489 **§ 55.1-2211. Time-share estate owners' association control liens.**

13490 *A. The board of directors of the association shall have the authority to adopt regular annual assessments*
13491 *and to levy periodic special assessments against each of the time-share estate unit owners and to collect the*
13492 *same from such owners according to law if the purpose in so doing is determined by the board of directors to*
13493 *be in the best interest of the time-share project or time-share program and the proceeds are used to either pay*
13494 *common expenses or fund a reserve. In addition, the board of directors of the association shall have the*
13495 *authority to collect, on behalf of the developer or on its own account, the maintenance fee imposed by the*
13496 *developer pursuant to § 55.1-2210. The authority hereby granted and conferred upon the association shall exist*
13497 *notwithstanding any covenants and restrictions of record applicable to the project stated to the contrary, and*
13498 *any such covenants and restrictions are hereby declared void.*

13499 *B. The developer may provide that it not be obligated to pay all or a portion of any assessment, dues, or*
13500 *other charges of the association, however denominated, passed, or adopted, pursuant to subsection A, if such*
13501 *developer so provides, in bold type, in the time-share instrument for the time-share estate project. If no such*
13502 *provision exists, the developer shall be responsible to pay the same assessment, dues, or other charges that a*
13503 *time-share estate owner is obligated to pay for each of its unsold time-shares existing at the end of the fiscal*
13504 *year of the association and no more if the board of directors of the association so determines. In no event shall*
13505 *either a time-share expense or the dues, assessment, or charges of the association discriminate against the*
13506 *developer.*

13507 *C. The association shall have a lien on every time-share estate within its project for unpaid and past due*
13508 *regular or special assessments levied against that estate in accordance with the provisions of this chapter and*
13509 *for all unpaid and past due maintenance fees. The exemption created by § 34-4 shall not be claimed against the*
13510 *debt or lien of the association created by this section.*

13511 *The association, in order to perfect the lien given by this subsection, shall file, before the expiration of four*
13512 *years from the time such special or regular assessment or maintenance fee became due, in the clerk's office of*
13513 *the county or city in which the project is situated, a memorandum verified by the oath of any officer of the*
13514 *association or its managing agent and containing the following information:*

- 13515 *1. The name and location of the project;*
- 13516 *2. The name and address of each owner of the time-share on which the lien exists and a description of the*
13517 *unit in which the time-share is situated;*
- 13518 *3. The amount of past due special or regular assessments or past due maintenance fees applicable to the*
13519 *time-share, together with the date when each became due;*
- 13520 *4. The amount of any other charges owing occasioned by the failure of the owner to pay the assessments or*
13521 *maintenance fees, including late charges, interest, postage and handling, attorney fees, recording costs, and*
13522 *release fees;*
- 13523 *5. The name, address, and telephone number of the association's trustee, if known at the time, who will be*
13524 *called upon by the association to foreclose on the lien upon the owner's failure to pay as provided in this*
13525 *subsection; and*
- 13526 *6. The date of issuance of the memorandum.*

13527 *Notwithstanding any other provision of this chapter, or any other provision of law requiring documents to*
13528 *be recorded in the deed books of the clerk's office of any court, from July 1, 1981, all memoranda of liens*

13529 arising under this subsection shall be recorded in the deed books in such clerk's office. Any such memorandum
13530 shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for time-
13531 share estate regular or special assessments or maintenance fees.

13532 The clerk in whose office such memorandum is filed as provided in this subsection shall record and index
13533 such memorandum as provided in this subsection, in the names of the persons identified in such memorandum
13534 as well as in the name of the time-share estates owners' association. The cost of recording such memorandum
13535 shall be taxed against the owner of the time-share on which the lien is placed. The filing with the clerk of one
13536 memorandum on which is listed two or more delinquent time-share estate unit owners is permitted in order to
13537 perfect the lien hereby allowed, and the cost of filing in this event shall be the clerk's fee as prescribed in
13538 subdivision A 2 of § 17.1-275.

13539 D. At any time after perfecting the lien pursuant to this section, the association may sell the time-share
13540 estate at a public sale, subject to prior liens. For purposes of this section, the association shall have the power
13541 both to sell and convey the time-share estate and shall be deemed the time-share estate owner's statutory agent
13542 for the purpose of transferring title to the time-share estate. A nonjudicial foreclosure sale shall be conducted
13543 by a trustee and in accordance with the following:

13544 1. The association shall give notice to the time-share estate owner, prior to advertisement, as required by
13545 subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to
13546 satisfy the debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is
13547 given to the time-share estate owner, by which the debt secured by the lien shall be satisfied; and (iv) that
13548 failure to satisfy the debt secured by the lien on or before the date specified in the notice may result in the sale
13549 of the time-share estate. The notice shall further inform the time-share estate owner of the right to bring a court
13550 action in the circuit court of the county or city where the time-share project is located to assert the nonexistence
13551 of a debt or any other defenses of the time-share estate owner to the sale.

13552 2. After expiration of the 60-day notice period provided in subdivision 1, the association may appoint a
13553 trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the circuit court
13554 in the county or city in which the time-share project is located. It shall be the duty of the clerk in whose office
13555 such appointment is filed to record and index the same, as provided in this subsection, in the names of the
13556 persons identified therein as well as in the name of the association. The association, at its option, may from
13557 time to time remove the trustee and appoint a successor trustee.

13558 3. If, prior to the date of the foreclosure sale, the time-share estate owner (i) satisfies the debt secured by
13559 lien that is the subject of the nonjudicial foreclosure sale and (ii) pays all expenses and costs incurred in
13560 perfecting and enforcing the lien, including advertising costs and reasonable attorney fees, the time-share estate
13561 owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the time-
13562 share estate.

13563 4. In addition to the advertisement required by subdivision 5, the association shall give written notice of
13564 the time, date, and place of any proposed sale in execution of the lien, including the name, address, and
13565 telephone number of the trustee, by personal delivery or by mail to (i) the present owner of the time-share estate
13566 to be sold at his last known address as such owner and address appear in the records of the association, (ii)
13567 any lienholder that holds a note against the time-share estate secured by a deed of trust recorded at least 30
13568 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii) any assignee of
13569 such a note secured by a deed of trust, provided that the assignment and address of the assignee are likewise
13570 recorded at least 30 days prior to the proposed sale. Mailing a copy of the advertisement or the notice
13571 containing the same information to the owner by certified or registered mail no less than 14 days prior to such
13572 sale and to the lienholders and their assigns, at the addresses noted in the memorandum of lien, by regular mail
13573 no less than 14 days prior to such sale shall be a sufficient compliance with the requirement of notice.

13574 5. The advertisement of sale by the association shall be in a newspaper having a general circulation in the
13575 county or city wherein the time-share estate to be sold and the time-share project, or any portion of such project,
13576 lies pursuant to the following provisions:

13577 a. The association shall advertise once a week for four successive weeks; however, if the time-share estate
13578 and the time-share project or some portion of such project is located in a city or in a county immediately
13579 contiguous to a city, publication of the advertisement five different days, which may be consecutive days, shall
13580 be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no
13581 earlier than eight days following the first advertisement nor more than 30 days following the last advertisement.

13582 *b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where*
13583 *the type of time-share estate being sold is generally advertised for sale. The advertisement of sale, in addition*
13584 *to such other matters as the association finds appropriate, shall set forth:*

13585 *(1) A description of the time-share estate to be sold, which description need not be as extensive as that*
13586 *contained in the deed of trust, but shall identify the time-share project by street address, if any, or, if none, shall*
13587 *give the general location of such time-share project with reference to streets, routes, or known landmarks with*
13588 *further identification of the time-share estate to be sold. Where available, tax map identification may be used.*

13589 *The advertisement shall also include the date, time, place, and terms of sale and the name of the association. It*
13590 *shall set forth the name, address, and telephone number of the representative, agent, or attorney who is*
13591 *authorized to respond to inquiries concerning the sale; or*

13592 *(2) In lieu of the requirements of subdivision (1), the advertisement shall set forth the date, time, place, and*
13593 *terms of sale and the name of the association; the street address of the time-share estate to be sold, if any, or,*
13594 *if none, the general location of the time-share project; and the name, address, and telephone number of the*
13595 *representative, agent, or attorney who is authorized to respond to inquiries and give additional information*
13596 *concerning the time-share estate to be sold, including providing in hard copy or electronic form a description*
13597 *of the time-share estate to be sold by street address, if any, or, if none, by the general location of the time-share*
13598 *project with reference to streets, routes, or known landmarks, and, where available, tax map identification. The*
13599 *advertisement under this subdivision (2) shall also include a website address where the information contained*
13600 *in subdivision (1) is displayed for the time-share estate to be sold.*

13601 *c. In addition to the advertisement required by subdivisions 5 a and b, the association may give such other*
13602 *further and different advertisement as the association finds appropriate.*

13603 *6. In the event of postponement of the sale, which postponement shall be at the discretion of the association,*
13604 *advertisement of the postponed sale shall be in the same manner as the original advertisement of sale.*

13605 *7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition,*
13606 *render a sale of the property voidable by the court. Such petition shall be filed within 60 days of the sale or the*
13607 *right to do so shall lapse.*

13608 *8. In the event of a sale, the association shall have the following powers and duties:*

13609 *a. The association may sell two or more time-share estates at the sale. Written one-price bids may be made*
13610 *and shall be received by the trustee from the association or any person for entry by announcement at the sale.*
13611 *Any person other than the trustee may bid at the foreclosure sale, including a person that has submitted a*
13612 *written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be*
13613 *permitted to inspect written bids. Unless otherwise provided in the time-share instrument, the association may*
13614 *bid to purchase the time-share estate at a foreclosure sale. The association may own, lease, encumber,*
13615 *exchange, sell, or convey the time-share estate. Whenever the written bid of the association is the highest bid*
13616 *submitted at the sale, such written bid shall be filed by the trustee with his account of sale required under*
13617 *subdivision 10 of this subsection and § 64.2-1309. The written bid submitted pursuant to this subsection may*
13618 *be prepared by the association, its agent, or its attorney.*

13619 *b. The association may require of any bidder at any sale a cash deposit of as much as one-third of the sale*
13620 *price before his bid is received, which shall be refunded to him if the time-share estate is not sold to him through*
13621 *action of the trustee. The deposit of the successful bidder shall be applied to his credit at settlement; if such*
13622 *bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the*
13623 *sale, and the balance, if any, shall be retained by the association in connection with that sale.*

13624 *c. The association shall receive and receipt for the proceeds of sale, no purchaser being required to see to*
13625 *the application of the proceeds, and shall apply such proceeds in the following order: first, to the reasonable*
13626 *expenses of sale, including reasonable attorney fees; second, to the satisfaction of all taxes, levies, and*
13627 *assessments, with costs and interest; third, to the satisfaction of the lien for the time-share estate owners'*
13628 *assessments; fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and*
13629 *fifth, to pay the residue of the proceeds to the time-share estate owner or his assigns, provided, however, that*
13630 *the association as to such residue shall not be bound by any inheritance, devise, conveyance, assignment, or*
13631 *lien of or upon the unit owner's equity, without actual notice thereof prior to distribution.*

13632 *9. The trustee shall deliver to the purchaser a trustee's deed conveying the time-share estate with special*
13633 *warranty of title. The trustee shall not be required to take possession of the time-share estate prior to the sale*
13634 *of such estate or deliver possession of the time-share estate to the purchaser at the sale.*

13635 10. If the sale of a time-share estate is made pursuant to this subsection and the accounting is made by the
 13636 trustee, the title of the purchaser at such sale shall not be disturbed unless, within six months from the date of
 13637 foreclosure, the sale is set aside by the court or an appeal is allowed by the Supreme Court of Virginia and an
 13638 order is entered requiring such sale to be set aside.

13639 When payment or satisfaction is made of a debt secured by the lien perfected by this subsection, such lien
 13640 shall be released in accordance with the provisions of § 55.1-339. For the purposes of § 55.1-339, any officer
 13641 of the time-share estate owners' association or its managing agent shall be deemed the duly authorized agent
 13642 of the lien creditor.

13643 E. The commissioner of accounts to whom an account of sale is returned in connection with the foreclosure
 13644 of either a lien under subsection C or a purchase money deed of trust taken back by the developer in the sale
 13645 of a time-share in order to satisfy § 64.2-1309 shall be entitled to a fee, not to exceed \$70, on each foreclosure
 13646 of a lien under subsection C and not to exceed \$125 on each foreclosure of a purchase money deed of trust
 13647 taken back by the developer.

13648 F. Any time-share owner within the project having executed a contract for the disposition of the time-share
 13649 shall be entitled, upon request, to a recordable statement setting forth the amount of unpaid regular or special
 13650 assessments or maintenance fees currently levied against that time-share. Such request shall be in writing,
 13651 directed to the president of the time-share estate owners' association, and delivered to the principal office of
 13652 the association. Failure of the association to furnish or make available such statement within 20 days from the
 13653 actual receipt of such written request shall extinguish the lien created by subsection C as to the time-share
 13654 involved. Payment of a fee reflecting the reasonable cost of materials and labor, not to exceed the actual cost
 13655 of such materials and labor, may be required as a prerequisite to the issuance of such a statement.

13656 **§ 55.1-2212. Time-share owners' association books and records; meetings; use of email.**

13657 A. Subject to the provisions of subsection B, all books and records, or copies of such books and records,
 13658 kept by or on behalf of the association shall be maintained so that such books and records, or copies of such
 13659 books and records, are reasonably available for inspection after written request by a member in good standing
 13660 or his authorized agent. The association may charge such member or his agent a reasonable fee for copying
 13661 the requested information. No books or records shall be removed from their location by the examining member
 13662 or his agent. The right of inspection shall exist without reference to the duration of membership and may be
 13663 exercised only during reasonable business hours and at a mutually convenient time and location, under the
 13664 supervision of the custodian, and upon 15 days' written notice.

13665 For purposes of this subsection, the requested books and records shall be considered "reasonably
 13666 available" if copies of such books and records are delivered to the requesting member or his agent within seven
 13667 business days of the date the association receives the written request. However, the requesting member or his
 13668 agent shall be permitted to inspect the books and records wherever located at any reasonable time, under
 13669 reasonable conditions, and under the supervision of the custodian of the records. The custodian shall supply
 13670 copies of the records where requested and upon payment of the copying fee.

13671 The association shall provide members of the association with the location of the books and records, along
 13672 with the name and address of the custodian, by any reasonable method, which may include posting in a
 13673 reasonable location at the situs of the time-share project or in the annual report required by § 55.1-2213.

13674 B. Books and records kept by or on behalf of an association may be withheld from inspection to the extent
 13675 that they concern:

- 13676 1. Personnel records;
- 13677 2. An individual's medical records;
- 13678 3. Records relating to business transactions that are currently in negotiation;
- 13679 4. Privileged communications with legal counsel;
- 13680 5. Complaints against an individual member of the association;
- 13681 6. Agreements containing confidentiality requirements;
- 13682 7. Pending litigation;
- 13683 8. The name, address, phone number, electronic mail address, or other personal information of time-share
 13684 owners or members of the association, unless such owner or member first approves of the disclosure in writing;
- 13685 9. Disclosure of information in violation of law; or
- 13686 10. Meeting minutes or other records of an executive session of the board of directors held in accordance
 13687 with subsection D.

13688 *The association shall be under no obligation to provide requested records to the extent that they are matters*
 13689 *of public record or are otherwise readily obtainable from another source.*

13690 *C. The association shall maintain among its records a complete, up-to-date list of the names and addresses*
 13691 *of all current members in good standing who are owners of time-share estates in the time-share project. The*
 13692 *association shall not publish such list or provide a copy of it to any time-share owner or to any third party*
 13693 *except the board of directors or the developer. However, the association shall mail to those persons named on*
 13694 *the list materials provided by any member in good standing, upon written request of that member, if the purpose*
 13695 *of the mailing is to advance legitimate association business. The use of any proxies solicited in this manner*
 13696 *shall comply with the provisions of the time-share instrument and this chapter. A mailing requested for the*
 13697 *purpose of advancing legitimate association business shall occur within 45 days after receipt of a request from*
 13698 *a member in good standing. The board of directors of the association shall be responsible for determining the*
 13699 *appropriateness of any mailing requested pursuant to this subsection whose decision in this regard shall be*
 13700 *final. The association shall be paid in advance for the association's actual costs in performing the mailing,*
 13701 *including postage, supplies, reasonable labor, and attorney fees.*

13702 *D. Meetings of the board of directors shall be open to all members of record who are eligible to vote and*
 13703 *who are in good standing. Minutes shall be recorded and shall be available as provided in subsection A. The*
 13704 *board of directors may convene in closed session to consider personnel matters; consult with legal counsel;*
 13705 *discuss and consider contracts, potential or pending litigation, and matters involving violations of the time-*
 13706 *share instrument or rules and regulations adopted pursuant to such instrument for which a member, his family*
 13707 *members, tenants, or guests, or other invitees are responsible; or discuss and consider the personal liability of*
 13708 *members to the association upon the affirmative vote in open meeting to assemble in closed session. The motion*
 13709 *shall state specifically the purpose for the closed session. Reference to the motion and the stated purpose for*
 13710 *the closed session shall be included in the minutes. The board of directors shall restrict the consideration of*
 13711 *matters during the closed portions of meetings only to those purposes specifically exempted and stated in the*
 13712 *motion. No contract, motion, or other action adopted, passed, or agreed to in closed session shall become*
 13713 *effective unless the board of directors, following the closed session, reconvenes in an open meeting and takes*
 13714 *a vote on such contract, motion, or other action, which shall have its substance reasonably identified in the*
 13715 *open meeting. The requirements of this section shall not require the disclosure of information in violation of*
 13716 *law.*

13717 *E. Notwithstanding any provisions of the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) to the*
 13718 *contrary:*

13719 *1. The bylaws of the association may prescribe different quorum requirements for meetings of its members;*
 13720 *and*

13721 *2. A director of the association may be removed from the office pursuant to any procedure provided in its*
 13722 *articles of incorporation and, if none is provided, may be removed at a meeting called expressly for that*
 13723 *purpose, with or without cause, by such vote as would suffice for his election.*

13724 *F. Whenever this chapter requires communication between the board of directors and a member of the*
 13725 *association by mail, any electronic means may be used in the alternative, including email, provided that such*
 13726 *electronic communication is personal and only between such board and such member.*

13727 *G. Filings with the board may be made by any electronic means, provided that such board is willing to*
 13728 *accept such format.*

13729 **§ 55.1-2213. Time-share estate owners' association annual report.**

13730 *A. Commencing with the time-share estate program and within 180 days after the close of each fiscal year*
 13731 *thereafter, an annual report shall be prepared and distributed to all time-share estate owners. Such annual*
 13732 *report shall be prepared and distributed for each time-share estate project registered with the Board. During*
 13733 *the developer control period, the annual report shall be prepared and distributed to all time-share purchasers*
 13734 *by the developer or its designated managing entity. After the developer control period, such annual report shall*
 13735 *be prepared and distributed by the association.*

13736 *B. The annual report shall contain the following:*

13737 *1. The full legal name of the time-share project and its address;*

13738 *2. The full legal name of the association;*

13739 *3. A list of the names and mailing addresses of the members of the association's board of directors and the*
 13740 *name of the person who prepared the report;*

13741 *4. The managing entity's name, address, and contact person, if any, for the project;*

- 13742 5. A statement of whether or not the developer control period has terminated for the time-share estate
 13743 project;
- 13744 6. Financial statements of the association audited by an independent certified public accounting firm of the
 13745 association that contain at least the following:
- 13746 a. A balance sheet as of the end of the fiscal year;
- 13747 b. An income statement as of the end of the fiscal year; and
- 13748 c. A statement of the net changes in the financial position of the association for the fiscal year just ended;
- 13749 7. A statement of the time-share estates occupancy expenses, the regular assessment, and any special
 13750 assessments or other charges due for the current year from each time-share estate owner;
- 13751 8. A copy of the current budget reflecting the anticipated time-share estate occupancy expenses along with:
- 13752 a. A statement as to who prepared the budget;
- 13753 b. A statement of the budgetary assumptions concerning occupancy factors;
- 13754 c. A description of any provision made in the budget for reserves for repairs and replacement;
- 13755 d. A statement of any other reserves;
- 13756 e. The projected financial liability for each time-share estate owner, including a statement of (i) the nature
 13757 of all charges, assessments, maintenance fees, and other expenses that may be assessed; (ii) the current amounts
 13758 assessed; and (iii) the method and formula for changing any such assessments; and
- 13759 f. A statement of any services not reflected in the budget that the developer provides, or expenses that it
 13760 pays, that the association expects may become a time-share expense at any subsequent time, and the projected
 13761 time-share expense assessment attributable to each of those services or expenses for the association and for
 13762 each time-share; and
- 13763 9. A statement of the location of the books and records of the association along with the name and contact
 13764 address of the custodian of such books and records.
- 13765 C. In lieu of the annual report required by subsection A, during the first 12 months of the time-share
 13766 program, the developer or the association shall prepare a budget that shall contain the information contained
 13767 in subdivision B 8.
- 13768 **§ 55.1-2214. Time-share instrument for project.**
- 13769 In addition to the requirements of § 55.1-2208, the time-share instrument for a time-share use program
 13770 shall prescribe and outline reasonable arrangements for the management and operation of the time-share use
 13771 program and for the maintenance, repair, and furnishing of time-share use units it comprises. Such
 13772 arrangements shall include provisions for the following:
- 13773 1. Standards and procedures for upkeep, repair, and interior furnishing of time-share use units, for the
 13774 replacements of such furnishings, and for providing maid, cleaning, linen, and similar services to the units
 13775 during use and occupancy periods;
- 13776 2. Adoption of standards and rules of conduct governing the use, enjoyment, and occupancy of time-share
 13777 use units by owners;
- 13778 3. Payment by the developer of the costs and expenses of operating the time-share use program and owning
 13779 and maintaining the time-share use units it comprises;
- 13780 4. Selection of a managing agent to act for and on behalf of the developer should the developer elect not to
 13781 undertake the duties, responsibilities, and obligations of the management of the time-share use program;
- 13782 5. Procedures for establishing the rights of time-share use owners to occupancy, use, and enjoyment of
 13783 time-share use units by prearrangement or under a first-reserved, first-served priority system;
- 13784 6. Procedures for imposing and collecting regular or special assessments, maintenance fees, or use fees
 13785 from time-share use owners as necessary to defray all time-share expenses and in providing materials and
 13786 services to the units, as required of the developer in this chapter;
- 13787 7. Comprehensive general liability insurance for death, bodily injury, and property damage arising out of,
 13788 or in connection with, the occupancy, use, and enjoyment of time-share use units by time-share use owners,
 13789 their guests, and other users. The costs associated with securing and maintaining such insurance shall be a
 13790 time-share expense. Nothing in this subdivision shall be construed to obligate the developer to secure insurance
 13791 on the conduct of the time-share use owners, their guests, and other users or the personal effects or property of
 13792 such owners, guests, and users;
- 13793 8. Methods for providing compensating or alternate use periods or monetary compensation to a time-share
 13794 use owner if a time-share use unit cannot be made available for the period to which the owner is entitled by
 13795 schedule or by a confirmed reservation; and

13796 9. Procedures for imposing a monetary penalty or suspension of a time-share use owner's rights and
13797 privileges in the time-share use program or project or termination of the time-share use itself for failure of the
13798 time-share use owner to (i) comply with the provisions of the time-share use instrument; (ii) comply with the
13799 rules and regulations established by the developer with respect to the occupancy, use, and enjoyment of the
13800 time-share use units; or (iii) pay the charges imposed by the developer against the time-share use owner for
13801 providing the materials and services as required of the developer in this chapter. Except in matters where the
13802 time-share use owner has failed to pay the charge imposed by the developer for a period of less than 60 days
13803 after it has become due and payable, the owner shall be given notice and the opportunity to be heard.

13804 **§ 55.1-2215. Partition.**

13805 No action for partition of a unit may be maintained except as permitted by the time-share instrument or by
13806 subsection C of § 55.1-2216.

13807 **§ 55.1-2216. Termination of certain time-shares.**

13808 A. This section applies to all time-share estate programs and, when provided by the time-share instrument,
13809 to time-share use programs.

13810 B. A time-share project may be terminated in whole by the developer at any time and for any reason if such
13811 developer is the sole owner of all time-shares within the time-share project. Such termination shall be
13812 accomplished by the developer executing and recording a termination document where the time-share
13813 instrument is recorded. Time-shares subject to this section also may be terminated by written agreement of the
13814 time-share owners having at least 51 percent of the time-shares or by written agreement of such larger
13815 percentage of the time-share owners as may otherwise be provided in the time-share instrument. The
13816 termination agreement shall specify a date upon which it shall become void, unless it is recorded before that
13817 date in the clerk's office of the appropriate court where the time-share project is located.

13818 C. If the termination agreement sets forth the material terms of a contract or proposed contract under which
13819 an estate or interests equal to the sum of the time-shares are to be sold and designates a trustee to effect the
13820 sale, the termination agreement becomes effective upon recordation, and title to that estate or interest vests
13821 upon termination in the trustee for the benefit of the time-share owners, to be transferred pursuant to the
13822 contract. If the termination agreement does not set forth the material terms of a contract or proposed contract
13823 under which an estate or interests equal to the sum of the time-shares are to be sold and designates a trustee to
13824 effect the sale, the termination agreement becomes effective upon recordation, and title to an estate or interests
13825 equal to the sum of the time-shares therein vests upon termination in the time-share owners in proportion to
13826 their respective interests as provided in subsection F. Liens on the time-shares shall accordingly encumber the
13827 respective interests; and in this instance, any co-owner of that estate or interest may maintain an action for
13828 partition or for allotment or sale in lieu of partition pursuant to the laws of the Commonwealth.

13829 D. Except as otherwise specified in the termination agreement, so long as the former time-share owners or
13830 their trustee holds title to the estate or interests equal to the sum of the time-shares, each former time-share
13831 owner and his successor in interest have the same rights with respect to the use, enjoyment, and occupancy in
13832 the former time-share unit that such former time-share owner and his successor in interest would have had if
13833 termination had not occurred, together with the same liabilities and other obligations imposed by this act or
13834 the time-share instrument.

13835 E. After termination of all time-shares in a time-share project and adequate provision for payment of the
13836 claims of the creditors for time-share expenses, distribution shall be made, in proportion to their respective
13837 interests as provided in subsection F, to the former time-share owners and their successors in interest of (i) the
13838 proceeds of any sale pursuant to this section, (ii) the proceeds of any personalty held for the use and benefit of
13839 the former time-share owners, and (iii) any other funds held for the use and benefit of the former time-share
13840 owners.

13841 F. The time-share instrument may specify the respective fractional or percentage interest that will be owned
13842 by each former time-share owner after termination, in accordance with the provisions of this section. Otherwise,
13843 not more than 180 days prior to the termination, an appraisal shall be made of the fair market value of each
13844 time-share by one or more impartial qualified appraisers selected either by the trustee designated in the
13845 termination agreement or by the managing entity if no trustee was so designated. The appraisal shall also state
13846 the corresponding fractional or percentage interests calculated in proportion to those values and in accordance
13847 with this subsection. A notice stating all of those values and corresponding interests and the return address of
13848 the sender shall be sent by certified or registered mail, by the managing entity or the trustee designated in the
13849 termination agreements, to all of the time-share owners. The appraisal governs the magnitude of each interest

13850 unless (i) at least 25 percent of the time-share owners deliver, within 60 days after the date the notices were
 13851 mailed, written disapprovals to the return address of the sender of the notice or (ii) the final judgment of a court
 13852 of competent jurisdiction, entered during or after that period, holds that the appraisal should be set aside. The
 13853 appraisal and the calculation of interests shall be made in accordance with the following:

13854 1. If the termination agreement sets forth the material terms of a contract or proposed contract for the sale
 13855 of the estate or interests equal to the sum of the time-shares, each time-share conferring a right of occupancy
 13856 during a limited number of time periods shall be appraised as if the time until the date specified for the
 13857 conveyance of the property had already elapsed. Otherwise, each time-share of that kind shall be appraised as
 13858 if the time until the date specified pursuant to subsection B had already elapsed.

13859 2. The interest of each time-share owner is the value of the time-share he owned divided by the sum of the
 13860 values of all time-shares in the unit or units to which his time-share applies.

13861 G. Foreclosure or enforcement of a lien or encumbrance against all of the time-shares in a time-share
 13862 project does not of itself terminate those time-shares.

13863 Article 3.

13864 Protection of Purchasers.

13865 § 55.1-2217. **Public offering statement.**

13866 A. Prior to the execution of a contract for the purchase of a time-share, the developer shall prepare and
 13867 distribute to each prospective purchaser a copy of the current public offering statement regarding the time-
 13868 share. The public offering statement shall (i) fully and accurately disclose the material characteristics of the
 13869 time-share project registered under this chapter and such time-share offered and (ii) make known to each
 13870 prospective purchaser all material circumstances affecting such time-share project. A developer need not make
 13871 joint disclosures concerning two or more time-share projects owned by the developer or any related entity
 13872 unless such projects are included in the same time-share program and marketed jointly at any of the time-share
 13873 projects. The proposed public offering statement shall be filed with the Board and shall be in a form prescribed
 13874 by its regulations. The public offering statement may limit the information provided for the specific time-share
 13875 project to which the developer's registration relates. The public offering statement shall include the following
 13876 only to the extent that a given disclosure is applicable:

13877 1. The name and principal address of the developer and the time-share project registered with the Board
 13878 about which the public offering statement relates, including:

13879 a. The name, principal occupation, and address of every director, partner, limited liability company
 13880 manager, or trustee of the developer;

13881 b. The name and address of each person owning or controlling an interest of 20 percent or more in each
 13882 time-share project registered with the Board;

13883 c. The particulars of any indictment, conviction, judgment, or order of any court or administrative agency
 13884 against the developer or managing entity for violation of a federal, state, local, or foreign country law or
 13885 regulation in connection with activities relating to time-share sales, land sales, land investments, security sales,
 13886 construction or sale of homes or improvements, or any similar or related activity;

13887 d. The nature of each unsatisfied judgment, if any, against the developer or the managing entity, the status
 13888 of each pending action involving the sale or management of real estate to which the developer, the managing
 13889 entity, or any general partner, executive officer, director, limited liability company manager, or majority
 13890 stockholder thereof is a defending party, and the status of each pending action, if any, of significance to any
 13891 time-share project registered with the Board; and

13892 e. The name and address of the developer's agent for service of any notice permitted by this chapter.

13893 2. A general description of the time-share project registered with the Board and the units and common
 13894 elements promised available to purchasers, including the developer's estimated schedule of commencement and
 13895 completion of all promised and incomplete units and common elements.

13896 3. As to all time-shares offered by the developer:

13897 a. The form of time-share ownership offered in the project registered with the Board;

13898 b. The types, duration, and number of units and time-shares in the project registered with the Board;

13899 c. Identification of units that are subject to the time-share program;

13900 d. The estimated number of units that may become subject to the time-share program;

13901 e. Provisions, if any, that have been made for public utilities in the time-share project including water,
 13902 electricity, telephone, and sewerage facilities;

- 13903 *f. A statement to the effect of whether or not the developer has reserved the right to add to or delete from*
13904 *the time-share program a time-share project or any incidental benefit or alternative purchase; and*
- 13905 *g. If the developer utilizes the possibility of reverter, a statement to that effect referring the purchaser to*
13906 *the reverter deed for an explanation of such possibility of reverter.*
- 13907 *4. In a time-share estate program, a copy of the annual report or budget required by § 55.1-2213, which*
13908 *copy may take the form of an exhibit to the public offering statement. In the case where multiple time-share*
13909 *projects are registered with the Board, the copy or exhibit may be in summary form.*
- 13910 *5. In a time-share use program where the developer's net worth is no more than \$250,000, a current audited*
13911 *balance sheet and, where the developer's net worth exceeds such amount, a statement by such developer that*
13912 *its equity in the time-share program exceeds that amount.*
- 13913 *6. Any initial or special fee due from the purchaser at settlement together with a description of the purpose*
13914 *and method of calculating the fee.*
- 13915 *7. A description of any liens, defects, or encumbrances affecting the time-share project and in particular*
13916 *the time-share offered to the purchaser.*
- 13917 *8. A general description of any financing offered by or available through the developer.*
- 13918 *9. A statement that the purchaser has a nonwaivable right of cancellation, referring such purchaser to that*
13919 *portion of the contract in which such right may be found.*
- 13920 *10. If the time-share interest in a condominium unit may be conveyed before that unit is certified as*
13921 *substantially complete in accordance with § 55.1-1920, a statement of the developer's obligation to complete*
13922 *the unit. Such statement shall include the approximate date by which the condominium unit shall be completed,*
13923 *together with the form and amount of the bond filed in accordance with subsection B of § 55.1-1921.*
- 13924 *11. Any restraints on alienation of any number or portion of any time-shares.*
- 13925 *12. A description of the insurance coverage provided for the benefit of time-share owners.*
- 13926 *13. The extent to which financial arrangements, if any, have been provided for completion of any incomplete*
13927 *but promised time-share unit or common element being then offered for sale, including a statement of the*
13928 *developer's obligation to complete the promised units and common elements that the time-share project*
13929 *comprises that have not begun or that have begun but have not yet been completed.*
- 13930 *14. The extent to which a time-share unit may become subject to a tax or other lien arising out of claims*
13931 *against other owners of the same unit.*
- 13932 *15. The name and address of the managing entity for the project.*
- 13933 *16. Copies of the project instrument and the association's articles of incorporation and bylaws, each of*
13934 *which may be a supplement to the public offering statement.*
- 13935 *17. Any services that the developer provides or expense it pays and that it expects may become at any*
13936 *subsequent time a time-share expense of the owners, and the projected time-share expense liability attributable*
13937 *to each of those services or expenses for each time-share.*
- 13938 *18. A description of the terms of the deposit escrow requirements, including a statement that deposits may*
13939 *be removed from escrow at the termination of the cancellation period.*
- 13940 *19. A description of the facilities, if any, provided by the developer to the association in a time-share estate*
13941 *project for the management of the project.*
- 13942 *20. Any other information required by the Board to assure full and fair meaningful disclosure to prospective*
13943 *purchasers.*
- 13944 *B. If any prospective purchaser is offered the opportunity to subscribe to or participate in any exchange*
13945 *program, the public offering statement shall include, as an exhibit or supplement, the disclosure document*
13946 *prepared by the exchange company in accordance with § 55.1-2219 and a brief narrative description of the*
13947 *exchange program, which shall include the following:*
- 13948 *1. A statement of whether membership or participation in the program is voluntary or mandatory;*
13949 *2. The name and address of the exchange company together with the names of its top three officers and*
13950 *directors;*
- 13951 *3. A statement of whether the exchange company or any of its top three officers, directors, or holders of a*
13952 *10 percent or greater interest in the exchange company has any interest in the developer, the managing entity,*
13953 *or the time-share project;*
- 13954 *4. A statement that the purchaser's contract with the exchange company is a contract separate and distinct*
13955 *from the purchaser's contract with the developer; and*
13956 *5. A brief narrative description of the procedure by which exchanges are conducted.*

13957 C. The public offering statement of a conversion time-share project shall also include the following, which
13958 may take the form of an exhibit to the public offering statement:

13959 1. A specific statement of the amount of any initial or special fee, if any, due from the purchaser of a time-
13960 share on or before settlement of the purchase contract and the basis of such fee occasioned by the fact that the
13961 project is a conversion time-share project;

13962 2. Information on the actual expenditures, if available, made on all repairs, maintenance, operation, or
13963 upkeep of any building in the project within the last three years. This information shall be set forth in a tabular
13964 manner within the proposed budget of the project. If any such building has not been occupied for a period of
13965 three years, the information shall be set forth for the period during which such building was occupied;

13966 3. A description of any provisions made in the budget for reserves for capital expenditures and an
13967 explanation of the basis for such reserves occasioned by the fact that the project is a conversion time-share
13968 project, or, if no provision is made for such reserves, a statement to that effect; and

13969 4. A statement of the present condition of all structural components and major utility installations in the
13970 building, which statement shall include the approximate dates of construction, installations, and major repairs
13971 as well as the expected useful life of each such item, together with the estimated cost, in current dollars, of
13972 replacing each such component.

13973 D. In the case of a conversion project, the developer shall give at least 90 days' notice to each of the tenants
13974 of any building that the developer intends to submit to the provisions of this chapter. During the first 60 days
13975 of such 90-day period, each of these tenants shall have the exclusive right to contract for the purchase of a
13976 time-share from the unit he occupies, but only if such unit is to be retained in the conversion project without
13977 substantial alteration in its physical layout. Such notice shall be hand delivered or sent by first-class mail,
13978 return receipt requested, and shall inform the tenants of the developer's intent to create a conversion project.
13979 Such notice may also constitute the notice to terminate the tenancy as provided for in § 55.1-1410, except that,
13980 despite the provisions of § 55.1-1410, a tenancy from month to month may only be terminated upon 120 days'
13981 notice as set forth in this subsection when such termination is in regard to the creation of a conversion project.
13982 If, however, a tenant so notified remains in possession of the unit he occupies after the expiration of the 120-
13983 day period with the permission of the developer, in order to then terminate the tenancy, such developer shall
13984 give the tenant a further notice as provided in § 55.1-1410.

13985 The developer of a conversion project shall, in addition to the requirements of § 55.1-2239, include with
13986 the application for registration a copy of the notice required by this subsection and a certified statement that
13987 such notice fully complies with the provisions of this subsection shall be, at the time of the registration of
13988 the conversion project, mailed or delivered to each of the tenants in any building for which registration is
13989 sought.

13990 E. The developer shall amend the public offering statement to reflect any material change in the time-share
13991 program or time-share project. If the developer has reserved in the time-share instrument the right to add to or
13992 delete incidental benefits or alternative purchases, the addition or deletion of such benefits or purchases shall
13993 not constitute a material change. Prior to distribution, the developer shall file with the Board the public offering
13994 statement amended to reflect any material change.

13995 F. The Board may at any time require a developer to alter or supplement the form or substance of the public
13996 offering statement to assure full and fair disclosure to prospective purchasers. A developer may prepare and
13997 distribute a public offering statement for each product offered or one public offering statement for all products
13998 offered.

13999 G. In the case of a time-share project located outside the Commonwealth, (i) the developer may amend the
14000 public offering statement to reflect any additions or deletions of a time-share project to the existing time-share
14001 program registered in the Commonwealth and (ii) similar disclosure statements required by other situs laws
14002 governing time-sharing may be acceptable alternative disclosure statements.

14003 H. The public offering statement may be in any format, including any electronic format, provided that the
14004 prospective buyer has available for review, along with ample time for any questions and answers, a copy of the
14005 public offering statement prior to his execution of a contract.

14006 **§ 55.1-2218. Certain advertising practices regulated.**

14007 A. Any offering that includes a gift or prize shall disclose in such offering, with the same prominence as
14008 such offer:

14009 1. The retail value of each gift or prize;

- 14010 2. The approximate odds against any given person obtaining each gift or prize if all persons to whom the
14011 advertisement is disseminated do what is necessary to qualify for the award of the gift or prize;
- 14012 3. If the number of gifts or prizes to be awarded is limited, a statement of the number of gifts or prizes to
14013 be awarded or, in lieu of such statement, the nature of such limitation;
- 14014 4. All rules, terms, requirements, and conditions that shall be fulfilled before a prospective purchaser may
14015 claim any gift or prize, including whether the prospective purchaser is required to attend a sales presentation
14016 in order to receive the gift or prize;
- 14017 5. The date upon which the offer expires; and
- 14018 6. A statement to the effect that the offer is being made for the purpose of soliciting the purchase of a time-
14019 share, time-share interest, interval ownership, interval ownership interest, vacation ownership, vacation
14020 ownership interest, or product, as appropriate.
- 14021 B. Any gift or prize offered in connection with an offering shall be delivered to the prospective purchaser
14022 no later than the day the purchaser attends a sales presentation, if required, and if not, on the day the purchaser
14023 appears to claim it, whether or not he purchases a time-share. In the event that the supply of gifts or prizes is
14024 exhausted at the time required for delivery, the developer shall give the prospective purchaser a written,
14025 unconditional promise to deliver such gift or prize no later than 30 days from the date required for delivery. If
14026 such gift or prize is not obtainable, the developer shall deliver an item of equal or greater value.
- 14027 C. The offering or sale of any product registered with the Board is exempt from the Virginia Securities Act
14028 (§ 13.1-501 et seq.), Chapter 9 (§ 55.1-900 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the
14029 Subdivided Land Sales Act (§ 55.1-2300 et seq.), the Virginia Home Solicitation Sales Act (§ 59.1-21.1 et seq.),
14030 the Prizes and Gifts Act (§ 59.1-415 et seq.), and the Virginia Travel Club Act (§ 59.1-445 et seq.).
- 14031 **§ 55.1-2219. Exchange programs.**
- 14032 A. Any exchange company that offers an exchange program in the Commonwealth shall prepare and
14033 register with the Board a disclosure document including the following:
- 14034 1. The name and address of the exchange company;
- 14035 2. The names and addresses of the top three officers and all directors of the exchange company and, if the
14036 exchange company is privately held, all shareholders owning five percent or more interest in the exchange
14037 company;
- 14038 3. Whether the exchange company or any of its officers or directors has any legal or beneficial interest in
14039 any developer or managing agent for any time-share program participating in the exchange program and, if
14040 so, the name and location of the time-share project and the nature of the interest;
- 14041 4. Unless the exchange company is also the developer or an affiliate, a statement that the purchaser's
14042 contract with the exchange company is a contract separate and distinct from the sales contract;
- 14043 5. Whether the purchaser's participation in the exchange program is dependent upon the continued
14044 affiliation of the time-share project with the exchange program;
- 14045 6. Whether the purchaser's membership or participation, or both, in the exchange program is voluntary or
14046 mandatory;
- 14047 7. A complete and accurate description of the terms and conditions of the purchaser's contractual
14048 relationship with the exchange company and the procedure by which changes in the terms and conditions of
14049 the exchange contract may be made;
- 14050 8. A complete and accurate description of the procedure to qualify for and effectuate exchanges;
- 14051 9. A complete and accurate description of all limitations, restrictions, or priorities employed in the
14052 operation of the exchange program, including limitations on exchanges based on seasonality, unit size, or levels
14053 of occupancy, expressed in boldface type, and, in the event that such limitations, restrictions, or priorities are
14054 not uniformly applied by the exchange program, a clear description of the manner in which they are applied;
- 14055 10. Whether exchanges are arranged on a space available basis and whether any guarantees of fulfillment
14056 of specific requests for exchanges are made by the exchange program;
- 14057 11. Whether and under what circumstances an owner, in dealing with the exchange company, may lose the
14058 use of occupancy of his time-share in any properly-applied-for exchange, without being provided with substitute
14059 accommodations by the exchange company;
- 14060 12. The fees or range of fees for participation by owners in the exchange program, a statement of whether
14061 any such fees may be altered by the exchange company, and the circumstances under which alterations may be
14062 made;

14063 13. The name and address of the site of each time-share property, accommodation, or facility participating
14064 in the exchange program;

14065 14. The number of units in each property participating in the exchange program that are available for
14066 occupancy and that qualify for participation in the exchange program, expressed within the following numerical
14067 groupings: 1-5, 6-10, 11-20, 21-50, and 51 and over;

14068 15. The number of owners with respect to each time-share program or other property who are eligible to
14069 participate in the exchange program, expressed within the numerical groupings 1-100, 101-249, 250-499, 500-
14070 999, and 1,000 and over, and a statement of the criteria used to determine those owners currently eligible to
14071 participate in the exchange program;

14072 16. The disposition made by the exchange company of time-shares deposited with the exchange program
14073 by owners eligible to participate in the exchange program and not used by the exchange company in effecting
14074 exchanges;

14075 17. The following information, which, except as provided in subsection B, shall be independently audited
14076 by a certified public accountant or accounting firm in accordance with the standards of the Auditing Standards
14077 Board of the American Institute of Certified Public Accountants and reported for each year no later than July
14078 1 of the succeeding year:

14079 a. The number of owners enrolled in the exchange program. Such numbers shall disclose the relationship
14080 between the exchange company and owners as being either fee paying or gratuitous in nature;

14081 b. The number of time-share properties, accommodations, or facilities eligible to participate in the
14082 exchange program;

14083 c. The percentage of confirmed exchanges, which shall be the number of exchanges confirmed by the
14084 exchange company divided by the number of exchanges properly applied for, together with a complete and
14085 accurate statement of the criteria used to determine whether an exchange request was properly applied for;

14086 d. The number of time-shares for which the exchange company has an outstanding obligation to provide an
14087 exchange to an owner who relinquished a time-share during the year in exchange for a time-share in any future
14088 year; and

14089 e. The number of exchanges confirmed by the exchange company during the year.

14090 18. A statement in boldface type to the effect that the percentage described in subdivision 17 c is a summary
14091 of the exchange requests entered with the exchange company in the period reported and that the percentage
14092 does not indicate a purchaser's or owner's probabilities of being confirmed to any specific choice or range of
14093 choices, since availability at individual locations may vary.

14094 B. The information required by subsection A shall be accurate as of a date that is no more than 30 days
14095 prior to the date on which the information is delivered to the purchaser, except that the information required
14096 by subdivisions A 2, 12, 13, 14, 15, and 16 shall be accurate as of December 31 of the preceding year if the
14097 information is delivered between July 1 and December 31 of any year; information delivered between January
14098 1 and June 30 of any year shall be accurate as of December 31 of the year prior to the preceding year. At no
14099 time shall such information be accurate as of a date that is more than 18 months prior to the date of delivery.
14100 As used in this section, "year" means calendar year.

14101 C. In the event that an exchange company offers an exchange program directly to the purchaser, the
14102 exchange company shall deliver to such purchaser, simultaneously with such offering and prior to the execution
14103 of any contract between the purchaser and the exchange company, the information set forth in subsection A.
14104 The requirements of this subsection shall not apply to any renewal of a contract between a purchaser and an
14105 exchange company.

14106 D. Each exchange company shall include the statement set forth in subdivision A 18 on all promotional
14107 brochures, pamphlets, advertisements, or other materials disseminated by the exchange company that also
14108 contain the percentage of confirmed exchanges described in subdivision A 17 c.

14109 E. An exchange company shall, on or before July 1 of each year, file with the Board and the association for
14110 the time-share program in which the time-shares are offered or disposed the information required by this
14111 section with respect to the preceding year. If the Board determines that any of the information supplied fails to
14112 meet the requirements of this section, the Board may undertake enforcement action against the exchange
14113 company in accordance with the provisions of Article 6 (§ 55.1-2247 et seq.). No developer shall have any
14114 liability arising out of the use, delivery, or publication by the developer of written information provided to it by
14115 the exchange company pursuant to this section. Except for written information provided to the developer by the
14116 exchange company, no exchange company shall have any liability with respect to (i) any representation made

14117 by the developer relating to the exchange program or exchange company or (ii) the use, delivery, or publication
14118 by the developer of any information relating to the exchange program or exchange company. The failure of the
14119 exchange company to observe the requirements of this section, or the use by it of any unfair or deceptive act or
14120 practice in connection with the operation of the exchange program, shall be a violation of this section.

14121 F. The Board may establish by regulation reasonable fees for registration of the exchange company
14122 disclosure document. All fees shall be remitted by the Board to the State Treasurer and shall be placed to the
14123 credit of the Common Interest Community Management Information Fund established pursuant to § 54.1-
14124 2354.2.

14125 **§ 55.1-2220. Escrow of deposits; use of corporate surety bond or irrevocable letter of credit.**

14126 A. Any deposit made in connection with the purchase or reservation of a product shall be held in escrow.
14127 All deposits shall be held in escrow until (i) delivered to the developer upon expiration of the purchaser's
14128 cancellation period provided the purchaser's right of cancellation has not been exercised, (ii) delivered to the
14129 developer because of the purchaser's default under a contract to purchase a time-share, or (iii) refunded to the
14130 purchaser. Such funds shall be deposited in a separate account designated for this purpose that is federally
14131 insured and located in the Commonwealth; except where such deposits are being held by a real estate broker
14132 or attorney licensed under the laws of the Commonwealth, such funds may be placed in that broker's or
14133 attorney's regular escrow account and need not be placed in a separate designated account. Such escrow funds
14134 shall not be subject to attachment by the creditors of either the purchaser or the developer.

14135 B. In lieu of escrowing deposits as provided in subsection A, the developer of a time-share project consisting
14136 of more than 25 units may:

14137 1. Obtain and maintain a corporate surety bond issued by a surety authorized to do business in the
14138 Commonwealth, in the form and amount set forth in subsection C; or

14139 2. Obtain and maintain an irrevocable letter of credit issued by a financial institution whose accounts are
14140 insured by the FDIC, in the form and amount set forth in subsection D.

14141 The surety bond or letter of credit shall be maintained until (i) the expiration of the purchaser's cancellation
14142 period, (ii) the purchaser's default under a purchase contract for the time-share estate entitling the developer
14143 to retain the deposit, or (iii) the refund of the deposit to the time-share purchaser, whichever occurs first.

14144 C. The surety bond shall be payable to the Commonwealth for the use and benefit of every person protected
14145 under the provisions of this chapter. The developer shall file the bond with the Board. The surety bond may be
14146 either in the form of an individual bond for each deposit accepted by the developer or, if the total amount of the
14147 deposits accepted by the developer under this chapter exceeds \$10,000, it may be in the form of a blanket bond.

14148 If the bond is a blanket bond, the amount shall be as follows. If the amount of such deposits is:

14149 1. More than \$10,000 but not more than \$75,000, the blanket bond shall be \$75,000;

14150 2. More than \$75,000 but less than \$200,000, the blanket bond shall be \$200,000;

14151 3. \$200,000 or more but less than \$500,000, the blanket bond shall be \$500,000;

14152 4. \$500,000 or more but less than \$1 million, the blanket bond shall be \$1 million; and

14153 5. \$1 million or more, the blanket bond shall be 100 percent of the amount of such deposits.

14154 D. The letter of credit shall be payable to the Commonwealth for the use and benefit of every person
14155 protected under this chapter. The developer shall file the letter of credit with the Board. The letter of credit may
14156 be either in the form of an individual letter of credit for each deposit accepted by the developer or, if the total
14157 amount of the deposits accepted by the developer under this chapter exceeds \$10,000, it may be in the form of
14158 a blanket letter of credit. If the letter of credit is a blanket letter of credit, the amount shall be as follows. If the
14159 amount of such deposits is:

14160 1. More than \$10,000 but not more than \$75,000, the blanket letter of credit shall be \$75,000;

14161 2. More than \$75,000 but less than \$200,000, the blanket letter of credit shall be \$200,000;

14162 3. \$200,000 or more but less than \$500,000, the blanket letter of credit shall be \$500,000;

14163 4. \$500,000 or more but less than \$1 million, the blanket letter of credit shall be \$1 million; and

14164 5. \$1 million or more, the blanket letter of credit shall be 100 percent of the amount of such deposits.

14165 For the purposes of determining the amount of any blanket letter of credit that a developer maintains in
14166 any calendar year, the total amount of deposits considered held by the developer shall be determined as of May
14167 31 in each calendar year and the amount of the letter of credit shall be in accordance with the amount of
14168 deposits held as of May 31.

14169 E. The developer shall disclose in the contract or in the public offering that the deposit may not be held in
14170 escrow or protected by a surety bond or letter of credit after expiration of the cancellation period and that such

14171 deposit is not protected as an escrow after expiration of the cancellation period. This disclosure shall include
 14172 a statement of whether or not the developer reserves the option to sell or assign any promissory note given by
 14173 a purchaser to another entity, whether or not such entity is affiliated with the developer. Both disclosures shall
 14174 appear in boldface type of a minimum size of 10 points.

14175 **§ 55.1-2221. Purchaser's rights of cancellation.**

14176 A. A purchaser shall have the right to cancel the contract until midnight of the seventh calendar day
 14177 following the execution of such contract. If the seventh calendar day falls on a Sunday or legal holiday, then
 14178 the right to cancel the contract shall expire on the day immediately following that Sunday or legal holiday.
 14179 Cancellation shall be without penalty, and all payments made by the purchaser before cancellation shall be
 14180 refunded within 45 days after receipt of the notice of cancellation.

14181 B. If the purchaser elects to cancel a contract pursuant to subsection A, he shall do so only (i) by hand-
 14182 delivering the notice to the developer at its principal office or at the project or (ii) by mailing the notice by
 14183 certified United States mail, return receipt requested, to the developer or its agent designated in the contract.
 14184 Any such notice sent by certified mail shall be effective on the date postmarked.

14185 C. If, because of the occurrence of a material change, the public offering statement is amended between the
 14186 time of contracting to purchase a time-share and the time of settlement, the developer shall provide the amended
 14187 public offering statement to the purchaser and the right of cancellation shall renew from the date of delivery of
 14188 such amended public offering statement. This subsection shall not apply if the public offering statement is
 14189 amended by the developer because of a change that is not material or to disclose any change that is an aspect
 14190 or result of the orderly development of the time-share project in accordance with the project instrument.

14191 D. The right to cancel the contract as provided by this section shall not be waivable by the time-share
 14192 purchaser and any provision in the contract or time-share documents indicating a waiver shall be void.

14193 E. A statement of the purchaser's right of cancellation as set forth in subsections A and B shall appear in
 14194 the contract above the purchaser's signature line. Such statement shall appear in type no smaller than any other
 14195 provisions of the contract, and the caption "PURCHASER'S NONWAIVABLE RIGHT TO CANCEL" shall
 14196 appear immediately preceding it in conspicuous, boldface type.

14197 **§ 55.1-2222. Possibility of reverter.**

14198 A. A possibility of reverter contained in a reverter deed for a time-share estate subject to reverter is valid,
 14199 is enforceable in law and in equity, and shall operate to transfer title to the time-share estate from each grantee
 14200 in such deed back to the developer, provided that the following conditions are satisfied:

14201 1. The reverter deed from the developer contains the possibility of reverter by insertion of the language
 14202 required by subsection E;

14203 2. A grantee in the reverter deed is in default and has been provided after such default with at least two
 14204 written notices to this effect with no less than a 10-calendar day right to cure in each notice;

14205 3. A grantee in the reverter deed has been provided with no less than 30 calendar days within which to cure
 14206 the default before exercise of the possibility of reverter occurs;

14207 4. At the time of exercise of the possibility of reverter, the developer is the sole holder of the note and the
 14208 sole beneficiary under the deed of trust;

14209 5. The exercise by the developer of the possibility of reverter is evidenced by an affidavit duly recorded
 14210 where the reverter deed was recorded that contains the following information:

14211 a. A description of the time-share project and time-share estate and a statement that, upon recordation of
 14212 the affidavit, title to such time-share estate reverts back to the developer;

14213 b. A description and recitation of the reverter deed that contained the possibility of reverter and a reference
 14214 of when and where such deed was recorded and its recording information;

14215 c. A recitation that the purchaser defaulted in or violated a consumer document and failed to cure such
 14216 default or violation within a period of no less than 30 calendar days;

14217 d. A description of the note and deed of trust with a recitation that (i) the developer is the sole holder of the
 14218 note and the sole beneficiary under the deed of trust, (ii) such note is canceled and declared void, and (iii) such
 14219 deed of trust is automatically released;

14220 e. A recitation that such purchaser's rights and entitlements in the time-share estate, the time-share project,
 14221 and the time-share program are extinguished effective the date of recordation of the affidavit;

14222 f. The signature of a duly authorized representative of the developer verified under oath as to its truth of
 14223 the statements contained in such affidavit; and

14224 6. A copy of the recorded affidavit described in subdivision A 5 is sent by the developer to each purchaser
14225 at his address as maintained by the developer or the association, along with the statement from the developer
14226 explaining the consequences of such affidavit with emphasis on subdivisions A 5 a, d, and e.

14227 B. The recordation of the affidavit referred to in subdivision A 5 shall automatically:

14228 1. Transfer title to the time-share estate from each grantee in the reverter deed to the developer without the
14229 need of a deed to the developer or consent from such grantee;

14230 2. Declare null and void and act as an automatic release of the deed of trust or mortgage given by such
14231 grantee to finance a portion of the purchase price of the time-share estate with no deficiency resulting;

14232 3. Void and act as an automatic release of any debt from such grantee to the developer arising out of the
14233 purchase or financing of the time-share estate as evidenced by the note; and

14234 4. Extinguish any ownership or other property right or entitlements such grantee has in and to the time-
14235 share estate, the time-share project, and the time-share program.

14236 C. The clerk of the court shall record such affidavit in the land books where the time-share project is
14237 located, indexing the purchaser in the grantor indices and the developer in the grantee indices. For indexing
14238 purposes only, the purchaser shall be referred to as the grantor and the developer as the grantee. The cost of
14239 recording the affidavit shall be limited to the clerk's fee only.

14240 D. In the exercise of the possibility of reverter, the developer shall be liable to the purchaser for the
14241 developer's failure to comply with the provisions of this section; however, such failure shall not operate to
14242 defeat or diminish the transfer of title to the time-share estate from each grantee in the reverter deed to the
14243 developer upon recordation of the affidavit referred to in subdivision A 5. The developer's liability shall be
14244 limited to the amount paid by such purchaser toward the purchase price of the time-share estate, exclusive of
14245 interest and closing costs but without offset for the purchaser's utilization of the time-share program. The court
14246 shall award court costs and reasonable attorney fees to the prevailing party.

14247 E. The reverter deed shall contain the following statement in order to possess the possibility of reverter.
14248 The opening phrase shall be in 10-point boldface type as follows:

14249 "Loss of Time-Share Estate. Developer has inserted into this deed a "possibility of reverter." By this
14250 concept, should a grantee of this reverter deed default in or violate an obligation imposed by a consumer
14251 document for a period of at least 60 days and fail to cure such violation or default within no less than 30
14252 calendar days thereafter, title to the time-share will revert back to the developer upon the developer recording
14253 an affidavit to this effect where this reverter deed is recorded. Only the developer can elect to exercise the
14254 possibility of reverter. Each grantee in this reverter deed will be sent at least two notices of default or violation
14255 within the 30-day period with no less than 10 days to cure in each instance. The notice will be sent to the
14256 address of each grantee maintained at the office of the developer or the association. After the cure period has
14257 lapsed and the developer records the affidavit, title to the time-share estate will automatically vest in the
14258 developer and any note executed by grantee will be deemed canceled and any recorded deed of trust securing
14259 such note shall be automatically released. The possibility of reverter will itself lapse and become null and void
14260 at the soonest to occur of the following: (i) the deed of trust is released of record, (ii) a statement that the deed
14261 of trust is released of record is executed and recorded by the developer with a date of when the possibility of
14262 reverter was or is to lapse, or (iii) when the time-share program terminates pursuant to either the Virginia Real
14263 Estate Time-Share Act or the time-share instrument which created such program."

14264 F. The filing of the affidavit referred to in subdivision A 5 shall not result in the requirement of any filing
14265 under Chapter 12 (§ 64.2-1200 et seq.) of Title 64.2.

14266 G. Any possibility of reverter not otherwise exercised by the developer pursuant to this section shall itself
14267 lapse and become null and void at the soonest to occur of the following: (i) the deed of trust is released of
14268 record, (ii) a statement that the deed of trust is released of record is executed and recorded by the developer
14269 with a date of when the possibility of reverter was or is to lapse, or (iii) when the time-share program terminates
14270 pursuant to either this chapter or the time-share instrument.

14271 H. In exercising the possibility of reverter, the developer shall be entitled to retain as liquidated damages
14272 all moneys paid by the purchaser in conformity with any consumer document.

14273 I. The exercise of the possibility of reverter shall not operate to diminish or eliminate (i) any debt of the
14274 purchaser to the time-share association or other third party occasioned by ownership of the time-share estate
14275 or participation in the time-share program or (ii) any recorded lien junior in priority to the deed of trust lien
14276 referred to in this section.

14277 § 55.1-2223. Recording and delivery of deed.

14278 At such time as the time-share estate purchaser has fulfilled all of his obligations under the contract and is
 14279 entitled to a deed for his time-share estate, the developer shall file or cause to be filed within 180 days after
 14280 such date, with the clerk of the circuit court where the time-share project is located, such deed for recordation.
 14281 Upon receipt of the recorded deed returned from the clerk's office, the developer shall, within 45 days after
 14282 such receipt, send or cause to be sent the original deed to the time-share estate purchaser.

14283 **§ 55.1-2224. Liability limited; liability actions prohibited.**

14284 A. Except as provided in subsection B, a project professional is not liable for injury to or death of a
 14285 participant resulting from the inherent risks of project activity, so long as the warning contained in § 55.1-2225
 14286 is posted as required. Except as provided in subsection B, no participant or participant's representative may
 14287 maintain an action against or recover from a project professional for injury, loss, damage, or death of the
 14288 participant resulting exclusively from any of the inherent risks of project activity, provided that in any action
 14289 for damages against a project professional for a project activity, the project professional shall plead the
 14290 affirmative defense of assumption of the inherent risks of project activity by the participant.

14291 B. Nothing in subsection A shall prevent or limit the liability of a project professional if the project
 14292 professional does any one or more of the following:

14293 1. Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of
 14294 the participant, and that act or omission proximately causes injury, damage, or death to the participant;

14295 2. Has actual knowledge or reasonably should have known of a dangerous condition on the land or in the
 14296 facilities or equipment used in the project activity, or the dangerous propensity of a particular animal used in
 14297 such activity, and does not make the danger known to the participant, and the danger proximately causes injury,
 14298 damage, or death to the participant; or

14299 3. Intentionally injures the participant.

14300 C. Any limitation on legal liability afforded by this section to a project professional is in addition to any
 14301 other limitations of legal liability otherwise provided by law.

14302 **§ 55.1-2225. Warning required.**

14303 A. The developer, association, or other project professional shall post and maintain signs that contain the
 14304 warning notice specified in subsection B. One sign shall be placed in a clearly visible location at the entrance
 14305 to the project and another at the site of the project activity. The warning notice shall consist of a sign in black
 14306 letters, with each letter to be a minimum of one inch in height. Every written contract entered into by a project
 14307 professional for the providing of professional services, instruction, or the rental of equipment to a participant,
 14308 whether or not the contract involves project activities on or off the time-share project or at the site of the project
 14309 activity, shall contain in clearly readable print the warning notice specified in subsection B.

14310 B. The signs and contracts described in subsection A shall contain the following notice of warning:

14311 "WARNING: Under Virginia law, there is no liability for an injury to or death of a participant in a project
 14312 activity conducted at this location if such injury or death results from the inherent risks of project activity.
 14313 Inherent risks of project activity include, among others, risks of injury inherent to land, equipment, and animals,
 14314 as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You
 14315 are assuming the inherent risks of participating in this project activity."

14316 C. Failure to comply with the requirements concerning warning signs and notices provided in this section
 14317 shall prevent a project professional from invoking the privileges of immunity provided by this chapter.

14318 **§ 55.1-2226. Buyer's Acknowledgment.**

14319 A. Prior to the execution of a purchase contract, a purchaser shall be given a separate written document,
 14320 titled "Buyer's Acknowledgment," to be signed by the purchaser and a representative of the developer other
 14321 than the salesperson for the transaction.

14322 B. The Buyer's Acknowledgment shall contain the following:

14323 1. The name and address of the developer;

14324 2. The name and address of the time-share project;

14325 3. Whether the developer currently offers a resale or rental program or a buy-back program; and

14326 4. The following statement in at least 10-point boldface type:

14327 "There is no assurance that a purchaser may resell a time-share for a certain price or on particular terms.
 14328 By signing below, purchaser acknowledges that this purchase is (i) for personal use and enjoyment and not for
 14329 commercial or investment purposes and (ii) not being made based upon any representation that the time-share
 14330 has any future market value or resale potential."

14331 **§ 55.1-2227. Resale of time-shares.**

14332 A. In the event of any resale of a time-share by a time-share owner, other than the developer, such owner
 14333 shall obtain from the developer or managing agent in the case of a time-share use program or from the time-
 14334 share estate owners' association in the case of a time-share estate program, and furnish to the purchaser prior
 14335 to settlement on an executed agreement to purchase the time-share, a certificate of resale that shall include the
 14336 following:

14337 1. A statement disclosing the effect on the proposed transfer of any right of first refusal or other restraint
 14338 on transfer of the time-share or any portion of such time-share;

14339 2. A copy of the time-share instrument;

14340 3. A copy of the current bylaws and rules and regulations of the time-share estate owners' association, if
 14341 any, and the amendments to such bylaws, rules, or regulations;

14342 4. A copy of the current annual report prepared pursuant to § 55.1-2213;

14343 5. A statement setting forth the amount of any expense liability and unpaid time-share expense or special
 14344 assessment currently due and payable from the selling time-share owner, including the disclosures of any liens
 14345 against the time-share due to the nonpayment of such fees or charges;

14346 6. A statement of the nature and status of any known and pending actions or judgments against the
 14347 developer, managing entity, or time-share owners' association with reference to the time-share project; and

14348 7. A copy of a Buyer's Acknowledgment form required by § 55.1-2226.

14349 B. The developer, managing agent, or such officer of the time-share owners' association as the bylaws may
 14350 specify shall furnish the certificate of resale prescribed by subsection A upon the written request of any
 14351 purchaser within 30 days of the receipt of such request. Payment of the reasonable costs of preparing the
 14352 certificate may be required as a prerequisite to the issuance of the certificate, but such fee shall not exceed \$50.

14353 C. A time-share owner providing a certificate pursuant to subsection A is not liable to the purchaser for
 14354 any erroneous information included in the certificate, other than for judgment liens against the time-share
 14355 being sold.

14356 D. A purchaser is not liable for any unpaid time-share expense liability or fee greater than the amount set
 14357 forth in the certificate prepared in conformity with subsection A. A time-share owner is not liable to a purchaser
 14358 for the failure or delay of the provider to provide the certificate in a timely manner, but the purchase contract
 14359 is voidable by the purchaser until the certificate has been provided and for five days after the certificate has
 14360 been provided or until transfer, whichever occurs first.

14361 E. All rights of redress of a purchaser against a selling time-share owner, the developer, the managing
 14362 agent, or the association for the failure to obtain or receive the statement required by subsection A are
 14363 conclusively waived upon settlement on the time-share occurring.

14364 F. The responsibilities imposed by this section on the developer, managing agent, time-share estate owners'
 14365 association, or selling time-share owner shall not be waived.

14366 **§ 55.1-2228. Required resale disclosures.**

14367 A. In addition to the requirements of § 55.1-2242, before receiving anything of value for providing or
 14368 offering to provide a resale service, a reseller shall disclose in writing to the owner of a resale time-share:

14369 1. The name and permanent business address of the reseller;

14370 2. A commencement and transaction date for such resale service;

14371 3. The names and addresses of any affiliates and the primary website address used by the reseller and such
 14372 affiliates to be used to promote the resale time-share;

14373 4. Whether the reseller's rights are exclusive and, if so, the scope of such rights and length of the exclusivity
 14374 period;

14375 5. Whether any person, other than the owner, may occupy, rent, exchange, or use the resale time-share
 14376 during the resale service;

14377 6. The name of any person other than the owner who will receive any rent or other consideration from the
 14378 use of the resale time-share during the resale service;

14379 7. A description of each resale service to be provided and the fees, costs, or commissions for each;

14380 8. A description sufficient to identify the resale time-share;

14381 9. The jurisdiction issuing the license for any services by a licensed real estate broker or salesperson; and

14382 10. The following in at least 10-point boldface type:

14383 a. The ratio of (i) the number of resale time-shares listed for sale to the number of resale time-shares
 14384 actually sold by the reseller for each of the past two calendar years or (ii) the total amount of advance fees
 14385 collected compared with the total amount of fees and commissions received by the reseller upon sale of resale

14386 *time-shares for the past two calendar years, followed by this statement: "Do not rely on past performance as*
14387 *an indicator of the likelihood of sale of your time-share.";* and

14388 *b. If the retail service is limited to the placement of advertisements, this statement: "There is no guarantee*
14389 *that you will sell your time-share at all or within any period of time by placing this advertisement. Our only*
14390 *obligation to you is to post your advertisement on our website for the agreed length of time and forward all*
14391 *inquiries we receive to you."*

14392 *B. A resale transfer contract shall include the following disclosures by the reseller:*

14393 *1. The disclosures required by subdivisions A 1 through 7;*

14394 *2. A description legally sufficient for the transfer of the resale time-share;*

14395 *3. A description of the document by which the owner is to (i) grant rights in the resale time-share to the*
14396 *reseller or any other person, including a power of attorney or similar document, and (ii) transfer the resale*
14397 *time-share to a subsequent purchaser;*

14398 *4. Any fees or costs the time-share owner is required to pay or reimburse to the reseller or transfer company*
14399 *to complete the transfer;*

14400 *5. The date by which the transfer of the resale time-share from the owner to the reseller, a third person, or*
14401 *a subsequent purchaser will be completed, not to exceed 180 days from the effective date of the resale transfer*
14402 *contract;*

14403 *6. If the resale time-share will be transferred to a transferee other than a subsequent purchaser, the contact*
14404 *information of such transferee;*

14405 *7. A statement that the reseller will (i) provide the owner written evidence of transfer of the resale time-*
14406 *share to a subsequent purchaser within 30 days of such transfer and (ii) send notice of the transfer to the*
14407 *association and managing entity of the time-share program for the resale transfer and any exchange company*
14408 *in which the resale time-share was enrolled; and*

14409 *8. The following statements in 10-point boldface type:*

14410 *a. "No later than 180 days from the date of this agreement, we will transfer your time-share to another*
14411 *person. If transfer does not occur within that period, we will pay or reimburse to you the cost of ownership of*
14412 *your time-share for that period. If we breach our agreement, you will continue to be responsible for such cost*
14413 *of ownership.";* and

14414 *b. "Your time-share may be sold at any price by us without your approval. If sold for a price in excess of*
14415 *our fee, we have no obligation to send you the excess."*

14416 *C. A resale purchase contract shall require the reseller to obtain the certificate of resale described in*
14417 *subsection A of § 55.1-2227 and shall also include the following:*

14418 *1. A description legally sufficient for transfer of the resale time-share;*

14419 *2. The name and address of the developer or managing agent for a time-share use project or the association*
14420 *for a time-share estate project;*

14421 *3. Identification of the party responsible for notifying the developer, managing entity, association, or*
14422 *exchange company, as the case may be, of the transfer of the resale time-share;*

14423 *4. Identification of the first year in which the subsequent purchaser is entitled to use and occupy the resale*
14424 *time-share; and*

14425 *5. The following statement in 10-point boldface type: "A certificate of resale is required to be provided to*
14426 *you containing important documents concerning the time-share project for your review. Settlement waives the*
14427 *right to receipt of such information."*

14428 **§ 55.1-2229. Liens.**

14429 *A. In the case of time-share estate transfers, unless the purchaser expressly agrees to take subject to or*
14430 *assume a lien prior to transferring a time-share estate other than by deed in lieu of foreclosure, the developer*
14431 *shall either (i) record or furnish to the purchaser as part of settlement releases of all liens affecting that time-*
14432 *share estate, or (ii) provide a surety bond or title insurance against the lien, as provided for liens on real estate*
14433 *in the Commonwealth.*

14434 *B. Unless a time-share owner or his predecessor in title agrees otherwise with the lienor, if a lien other*
14435 *than an underlying mortgage or deed of trust becomes effective against more than one time-share in a time-*
14436 *share project, any time-share owner is entitled to a release of a time-share from the lien upon payment of the*
14437 *amount of the lien attributable to the time-share. The amount of the payment shall be proportionate to the ratio*
14438 *that the time-share owner's liability bears to the liabilities of all time-share owners whose interests are subject*
14439 *to the lien. Upon receipt of payment, the lien-holder shall promptly deliver to the time-share owner a release*

14440 of the lien covering that time-share. After payment, the managing entity may not assess or have a lien against
14441 that time-share for any portion of the expenses incurred in connection with that lien.

14442 **§ 55.1-2230. Effect of violations on rights of action; attorney fees; prior determination of Common**
14443 **Interest Community Board required for certain violations.**

14444 A. If a developer or any other person subject to this chapter violates any provision of this chapter or any
14445 provision of the time-share instrument, any person or class of persons adversely affected by the violation has a
14446 claim for appropriate relief. The court may also award reasonable attorney fees to the prevailing party.

14447 B. Prior to the commencement of any action alleging a failure to comply with the provisions of § 55.1-2220
14448 or 55.1-2234, however, an aggrieved owner shall first seek a determination from the Board as to whether
14449 compliance with § 55.1-2220 or 55.1-2234 has occurred. The Board shall make such determination within 120
14450 days of the request for a determination.

14451 **§ 55.1-2231. Statute of limitations; actions; limitation on rescission rights.**

14452 A. Except as otherwise provided in § 55.1-2237, a judicial proceeding where the sufficiency of the time-
14453 share instrument, the accuracy of the public offering statement, or validity of any contract of purchase is in
14454 issue and a rescission of the contract or damages is sought shall be commenced within two years after the date
14455 of the contract of purchase, notwithstanding that the purchaser's terms of payments may extend beyond this
14456 period of limitation; however, with respect to the enforcement of provisions in the contract of purchase that
14457 require the continued furnishing of services and the reciprocal payments to be made by the purchaser, the
14458 period of bringing a judicial proceeding shall continue for a period of two years for each breach.

14459 Rescission of the contract shall not be granted by the court unless (i) the inaccuracy of the public offering
14460 statement or the insufficiency of the time-share instrument directly and adversely affected the purchaser's right
14461 to participate in the time-share program or to own his time-share or (ii) at the time of the contract, the developer
14462 has sold more time-shares than there are time-share units that have been completed or bonded to accommodate
14463 such sales. Further, if damages are awarded, the amount of the damages shall be limited to actual damages
14464 sustained.

14465 B. If a developer has substantially complied in good faith with the provisions of this chapter, a nonmaterial
14466 error or omission shall not be actionable. A nonmaterial error or omission shall not be sufficient to permit a
14467 purchaser to cancel a contract after the cancellation period provided by § 55.1-2221 has expired.

14468 **§ 55.1-2232. Class actions.**

14469 A. No time-share owner can bring an action on behalf of other time-share owners unless he has received
14470 the written authorization to represent all other time-share owners within the project.

14471 B. Notwithstanding the provisions of subsection A, the association may bring an action on behalf of the
14472 time-share owners with the authorization of the time-share owners within the project upon the two-thirds
14473 majority vote of the board of directors, if such action is found to be in the best interest of the association.

14474 C. For purposes of this section, the developer shall not be deemed a time-share owner and his written
14475 permission shall not be required.

14476 **§ 55.1-2233. Financial records.**

14477 The person or entity responsible for either making or collecting common expense assessments or
14478 maintenance assessments shall keep detailed financial records. All financial and other records shall be made
14479 reasonably available at such person's or entity's office for examination by any time-share owner and his
14480 authorized agents.

14481 **§ 55.1-2234. Developer's obligation to complete.**

14482 A. The developer shall complete all promised and incomplete units and common elements being offered
14483 and described in the time-share instrument and the public offering statement. The developer shall be excused
14484 for any period of delay in the completion of such promised units and common elements when delayed, hindered,
14485 or prevented from doing so by causes beyond the developer's control, which shall include (i) labor disputes not
14486 caused by the developer; (ii) riots; (iii) civil commotion or insurrection; (iv) war or warlike operations; (v)
14487 governmental restrictions, regulations, or control; (vi) inability to obtain any materials or services; (vii) fire
14488 or other casualties; (viii) acts of God; or (ix) forces not under the control or supervision of the developer.

14489 B. The developer shall file with the Board a payment and performance bond in the sum equal to 100 percent
14490 of the estimated cost of completing all promised and incomplete units and common elements comprising the
14491 time-share project described in the time-share instrument and the public offering statement. Such bond shall
14492 be conditioned upon the completion of such units and common elements in conformity with the plans and
14493 specifications for such improvements. The bond shall be with a surety company authorized to do business in

14494 *the Commonwealth. The Board may accept cash or an irrevocable letter of credit in lieu of the bond required*
 14495 *by this section. The Board shall be the sole determiner of the form, amount, content, obligee, and conditions of*
 14496 *the letter of credit. Should it become necessary for the Board to call upon the letter of credit in order to assure*
 14497 *completion of the improvements, the Board shall have the authority to petition a court of competent jurisdiction*
 14498 *to appoint a receiver to administer such completion.*

14499 *Article 4.*
 14500 *Financing.*

14501 **§ 55.1-2235. Financing of time-share programs.**

14502 *In the developer's financing of a time-share program, the developer shall retain financial records of the*
 14503 *schedule of payments required to be made and the payments made by it to any person or entity that is the holder*
 14504 *of an underlying blanket mortgage, deed of trust, contract of sale, or other lien or encumbrance.*

14505 **§ 55.1-2236. Purchaser's rights under developer's foreclosure.**

14506 *The developer whose project is subject to an underlying blanket lien or encumbrance shall protect a*
 14507 *nondefaulting purchaser from foreclosure or cancellation by the lien holder by securing from such lien holder*
 14508 *or recording of a nondisturbance clause, subordination agreement, or partial release of the lien as to that time-*
 14509 *share sold to such purchaser.*

14510 **§ 55.1-2237. Protection of lien holder.**

14511 *Any lien holder of a time-share interest in any time-share program shall have the following rights:*

14512 *1. The lien holder shall have its lien rights preserved as against any purchaser of a time-share who claims*
 14513 *that the time-share instrument is invalid, void, or voidable, 30 days after written notice by certified mail or*
 14514 *personal delivery has been given by the developer or lien holder to the purchaser. The notice shall state that*
 14515 *the developer has assigned the receivables to the lien holder and that the purchaser has 30 days within which*
 14516 *to object and specify the invalidity or defect contained within such time-share instrument. The notice required*
 14517 *by this section may be included in the blanket encumbrance, in the contract, or in any note, deed of trust, or*
 14518 *mortgage executed by the purchaser in connection with the purchaser's deferred purchase of a time-share.*

14519 *2. Any purchaser who fails to indicate that the time-share instrument is invalid, void, or voidable as*
 14520 *provided in subdivision 1 waives, or is estopped to raise, the same in any subsequent enforcement of the*
 14521 *collection of the receivable by the lien holder.*

14522 *Article 5.*
 14523 *Registration.*

14524 **§ 55.1-2238. Registration of time-share program required.**

14525 *A. A developer may not offer or dispose of any interest in a time-share program unless the time-share*
 14526 *project and its program have been properly registered with the Board. A developer may accept a nonbinding*
 14527 *reservation together with a deposit if the deposit is placed in an escrow account with an institution having trust*
 14528 *powers within the Commonwealth and is refundable at any time at the purchaser's option. In all cases, the*
 14529 *reservation shall require a subsequent affirmative act by the purchaser via a separate instrument to create a*
 14530 *binding obligation. A developer may not dispose of or transfer a time-share while an order revoking or*
 14531 *suspending the registration of the time-share program is in effect. In the case of a time-share project located*
 14532 *outside the Commonwealth and properly registered in the situs, the Board may accept a substitute application*
 14533 *for registration.*

14534 *B. The developer shall maintain records of names and addresses of current independent contractors*
 14535 *employed by it for time-share sales purposes.*

14536 **§ 55.1-2239. Application for registration.**

14537 *A. The application for registration shall be filed in a form prescribed by the Board's regulations and shall*
 14538 *include the following:*

14539 *1. An irrevocable appointment to the Board to receive service of process in any proceeding arising under*
 14540 *this chapter against the developer or the developer's agent if nonresidents of the Commonwealth;*

14541 *2. The states or jurisdictions in which an application for registration or similar document has been filed*
 14542 *and any adverse order or judgment entered in connection with the time-share project by the regulatory*
 14543 *authorities in each jurisdiction or by any court;*

14544 *3. The applicant's name, address, and the organizational form, including the date and jurisdiction under*
 14545 *which the applicant was organized, and the address of its principal office and each of its sales offices in the*
 14546 *Commonwealth;*

14547 4. The name, address, and principal occupation for the past five years of every officer of the applicant or
 14548 person occupying a similar status or performing similar functions and the extent and nature of his interest in
 14549 the applicant or the time-share project as of a specified date within 30 days of the filing of the application;

14550 5. A statement, in a form acceptable to the Board, of the condition of the title to the time-share project,
 14551 including encumbrances as of a specified date within 30 days of the date of application, by a title opinion of a
 14552 licensed attorney not a salaried employee, officer, or director of the applicant or owner, or by other evidence
 14553 of a title acceptable to the Board;

14554 6. A copy of the instruments that will be delivered to a purchaser to evidence his interest in the time-share
 14555 and copies of the contracts and other agreements that a purchaser will be required to agree or to sign;

14556 7. A copy of any management agreements, employment contracts, or other contracts or agreements
 14557 affecting the use, maintenance, or access of all or any part of the time-share project;

14558 8. A statement of the zoning and other governmental regulations affecting the use of the time-share,
 14559 including the site plans and building permits and their status and any existing tax and existing or proposed
 14560 special taxes or assessments that affect the time-share;

14561 9. A narrative description of the promotional plan for the disposition of the time-shares;

14562 10. The proposed public offering statement and its exhibits;

14563 11. Any bonds required to be posted pursuant to the provisions of this chapter;

14564 12. The time-share owners' annual report or budget required by § 55.1-2213 to the extent available;

14565 13. A description of each product the developer seeks to register with the Board; and

14566 14. Any other information that the Board believes necessary to assure full and fair disclosure.

14567 B. The developer shall immediately report to the Board any material changes in the information contained
 14568 in an application for registration.

14569 C. Nothing shall prevent a developer from registering with the Board a time-share project where
 14570 construction is yet to begin or, if construction has begun, where construction is not yet complete.

14571 **§ 55.1-2240. Filing fee.**

14572 The Board may by regulation establish reasonable fees for registration. All fees shall be remitted by the
 14573 Board to the State Treasurer and shall be placed to the credit of the Common Interest Community Management
 14574 Information Fund established pursuant to § 54.1-2354.2.

14575 **§ 55.1-2241. Receipt of application; effectiveness of registration.**

14576 A. Upon receipt of the application for registration in proper form, the Board, within five business days,
 14577 shall issue a notice of filing to the applicant. Within 20 days after receipt of the application, the Board shall
 14578 review the application to determine whether the application and supporting documents satisfy the requirements
 14579 of this chapter and the Board's regulations. Within 60 days from the date of the notice of filing, the Board shall
 14580 enter an order registering or rejecting the application. If no order of rejection is entered within 60 days from
 14581 the date of the notice of filing, the time-share project shall be deemed registered unless the applicant has
 14582 consented in writing to a delay.

14583 B. If the Board determines after review of the application and documents provided by the applicant that the
 14584 requirements of § 55.1-2239 have been met, it shall issue an order registering the time-share project and shall
 14585 designate the form of the public offering statement.

14586 C. If the Board determines that any of the requirements of § 55.1-2239 have not been met, the Board shall
 14587 notify the applicant that the application for registration shall be corrected in the particulars specified within
 14588 20 days. If the requirements are not met within the time allowed, the Board shall enter an order rejecting the
 14589 registration, which shall include the findings of fact upon which the order is based. The order rejecting the
 14590 registration shall become effective 20 days after issuance. During this 20-day period, the applicant may petition
 14591 for reconsideration and shall be entitled to a hearing or to correct the particulars specified in the Board's
 14592 notice. Such order of rejection shall not take effect, in any event, until such time as the hearing, if requested, is
 14593 given to the applicant.

14594 **§ 55.1-2242. Annual report; amendments.**

14595 A. The developer shall file a report in the form prescribed by the Board's regulations by June 30 of each
 14596 year the registration is effective. The developer of any time-share project initially registered with the Board
 14597 between January and June shall not be required to file an annual report for the year in which it was initially
 14598 registered. The report shall reflect any material changes in information contained in the original application
 14599 for registration or in the immediately preceding annual report, whichever is later, and shall be accompanied
 14600 by the appropriate fee established by the Board's regulations or pursuant to § 55.1-2240.

14601 *B. During the developer control period in a time-share estate program, the developer shall file a copy of*
14602 *the unit owners' association annual report required by § 55.1-2213 along with the annual report required by*
14603 *this section.*

14604 *C. The developer shall amend or supplement its registration with the Board to report any material change*
14605 *in the information required by §§ 55.1-2217 and 55.1-2239. Such amendments or supplemental information*
14606 *shall be filed with the Board within 20 business days after the occurrence of the material change.*

14607 **§ 55.1-2243. Termination of registration.**

14608 *A. In a time-share estate program, if the annual report indicates that the developer has transferred title to*
14609 *the time-share owners' association and that no further development rights exist, the Board shall issue an order*
14610 *terminating the registration of the time-share project.*

14611 *B. The Board shall issue an order terminating the registration of a time-share project upon application by*
14612 *the developer in which the developer states that no further development right of the project is anticipated and*
14613 *that the developer has ceased sales of time-shares at the project.*

14614 *C. Notwithstanding any other provisions of this chapter, the Board may administratively terminate the*
14615 *registration of a time-share project if:*

14616 *1. The developer has not filed an annual report in accordance with § 55.1-2242 for three or more*
14617 *consecutive years; or*

14618 *2. The developer's registration with the State Corporation Commission, if applicable, has not been active*
14619 *for five or more consecutive years.*

14620 **§ 55.1-2244. Registration required for time-share resellers; exemptions; prohibited practices.**

14621 *A. A reseller shall not provide or offer to provide any resale service unless he is registered with the Board.*

14622 *B. The application for registration shall be filed in a form prescribed by the Board's regulations and shall*
14623 *include such information as required by the Board. A reseller shall immediately report to the Board any*
14624 *material changes in the information contained in an application for registration. The Board may by regulation*
14625 *establish reasonable fees for registration under this section. All fees shall be remitted by the Board to the*
14626 *Treasurer of Virginia, and shall be placed to the credit of the Common Interest Community Management*
14627 *Information Fund established pursuant to § 54.1-2354.2.*

14628 *C. The registration requirements shall not apply to:*

14629 *1. A person who solely or with affiliates engages in a resale service with respect to an aggregate of no more*
14630 *than 12 resale time-shares per calendar year;*

14631 *2. A person who owns or acquires more than 12 resale time-shares and who subsequently transfers all such*
14632 *resale time-shares to a single purchaser in a single transaction;*

14633 *3. The owner, its agents, and employees of a regularly published newspaper, magazine, or other periodical*
14634 *publication of general circulation; broadcast station; website; or billboard, to the extent their activities are*
14635 *limited to solicitation and publication of advertisements and the transmission of responses to the persons who*
14636 *place the advertisements. Any person who would otherwise be exempt from this chapter pursuant to this section*
14637 *shall not be exempt if the person (i) solicits the placement of the advertisement by representing that the*
14638 *advertisement will generate cash, a certain price, or a similar type of representation for the time-share owner's*
14639 *resale time-share; (ii) makes a recommendation as to the sales price for which to advertise the resale time-*
14640 *share; (iii) makes any representations to the person placing the advertisement regarding the success rate for*
14641 *selling resale time-shares advertised with such person; or (iv) makes any misrepresentations as described in*
14642 *this chapter;*

14643 *4. Sale by a developer or a party acting on its behalf of a resale time-share under a current registration of*
14644 *the time-share program in which the resale time-share is included;*

14645 *5. Sale by an association, a managing entity, or a party acting on its behalf of a resale time-share owned*
14646 *by the association, provided that the sale is in compliance with subsection C of § 55.1-2228; or*

14647 *6. Attorneys, title agents, title companies, or escrow companies providing closing services in connection*
14648 *with the transfer of a resale time-share.*

14649 *D. No reseller shall:*

14650 *1. Fail to disclose information in writing concerning the marketing, sale, or transfer of resale time-shares*
14651 *required by this chapter prior to accepting any consideration or with the expectation of receiving consideration*
14652 *from any time-share owner, seller, or buyer.*

- 14653 2. Make false or misleading statements concerning offers to buy or rent; the value, pricing, timing, or
14654 availability of resale time-shares; or numbers of sellers, renters, or buyers when engaged in time-share resale
14655 activities.
- 14656 3. Misrepresent the likelihood of selling a resale time-share interest.
- 14657 4. Misrepresent the method by or source from which the reseller or lead dealer obtained the contact
14658 information of any time-share owner.
- 14659 5. Misrepresent price or value increases or decreases, assessments, special assessments, maintenance fees,
14660 or taxes.
- 14661 6. Guarantee sales or rentals in order to obtain money or property.
- 14662 7. Make false or misleading statements concerning the identity of the reseller or any of its affiliates or the
14663 time-share resale entity's or any of its affiliate's experience, performance, guarantees, services, fees, or
14664 commissions, availability of refunds, length of time in business, or endorsements by or affiliations with
14665 developers, management companies, or any other third parties.
- 14666 8. Misrepresent whether or not the reseller or its affiliates, employees, or agents hold, in any state or
14667 jurisdiction, a current real estate sales or broker's license or other government-required license.
- 14668 9. Misrepresent how funds will be utilized in any time-share resale activity conducted by the reseller.
- 14669 10. Misrepresent that the reseller or its affiliates, employees, or agents have specialized education,
14670 professional affiliations, expertise, licenses, certifications, or other specialized knowledge or qualifications.
- 14671 11. Make false or misleading statements concerning the conditions under which a time-share owner, seller,
14672 or buyer may exchange or occupy the resale time-share interest.
- 14673 12. Represent that any gift, prize, membership, or other benefit or service will be provided to any time-
14674 share owner, seller, or buyer without providing such gift, prize, membership, or other benefit or service in the
14675 manner represented.
- 14676 13. Misrepresent the nature of any resale time-share interest or the related time-share plan.
- 14677 14. Misrepresent the amount of the proceeds, or fail to pay the proceeds, of any rental or sale of a resale
14678 time-share interest as offered by a potential renter or buyer to the time-share owner who made such resale
14679 time-share interest available for rental or sale through the reseller.
- 14680 15. Fail to transfer any resale time-share interests as represented and required by this chapter or to provide
14681 written evidence to the time-share owner of the recording or transfer of such time-share owner's resale time-
14682 share interest as required by this chapter.
- 14683 16. Fail to pay any annual assessments, special assessments, personal property or real estate taxes, or
14684 other fees relating to an owner's resale time-share interest as represented or required by this chapter.
- 14685 17. Misrepresent or misuse the intended purpose of a power of attorney or similar document to the detriment
14686 of any grantor of such power of attorney.
- 14687 **§ 55.1-2245. Recordkeeping by resellers.**
- 14688 A. If contact information has been obtained by a reseller from any source, including a lead dealer, the
14689 reseller and lead dealer shall maintain the following records for a period of five years from the last date of
14690 contact between the reseller and the owner:
- 14691 1. The name; home address; work address, if different; telephone number; email address, if any; and a
14692 copy of a current government-issued photographic identification (e.g., driver's license, passport, or military
14693 identification card) of the lead dealer who provided the contact information;
- 14694 2. The date, time, and place of the transaction at which the contact information was obtained, along with
14695 the amount of consideration paid and a signed receipt from the lead dealer or copy of a canceled check; and
14696 3. A copy of the contact information obtained in the exact form and media in which received.
- 14697 B. A reseller shall maintain records for at least five years after each transaction involving resale service
14698 including resale transfer agreements and resale purchase agreements.
- 14699 C. In any civil or criminal action based on a violation of this section, there shall be a presumption that
14700 contact information was wrongfully obtained if a reseller or lead dealer fails to produce the records required
14701 by this section.
- 14702 D. Any person who establishes that a reseller or lead dealer wrongfully obtained or wrongfully used contact
14703 information with respect to time-share owners or members of an exchange program shall, in addition to any
14704 other remedies that may be available in law or equity, be entitled to recover from such reseller or lead dealer
14705 an amount equal to \$1,000 for each time-share owner or member about whom contact information was

14706 wrongfully obtained or used. The prevailing person in any such action shall also be entitled to recover
 14707 reasonable attorney fees and costs.

14708 **§ 55.1-2246. Alternative purchase; registration.**

14709 A. The application for registration of an alternative purchase shall be filed in a form prescribed by the
 14710 Board and shall include the following:

- 14711 1. A general description of the types of alternative purchases offered;
- 14712 2. A copy of the terms and conditions applicable to the alternative purchases; and
- 14713 3. The name, address, and contact information of the developer offering the alternative purchases.

14714 B. Any material change to the standard terms and conditions applicable to an alternative purchase shall
 14715 be filed with the Board within 30 days of such change being effective. Changes to the length of stay, location,
 14716 or price shall not require an amendment of the registration, provided that the terms and conditions applicable
 14717 to such alternative purchases are on file with the Board.

14718 C. The provisions of §§ 55.1-2217 and 55.1-2220 shall not apply to alternative purchases registered under
 14719 this section.

14720 **Article 6.**

14721 **Administration.**

14722 **§ 55.1-2247. General powers and duties of Board.**

14723 A. The Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in
 14724 furtherance of the objectives of this chapter. The Board may prescribe forms and procedures for submitting
 14725 information to the Board.

14726 B. The Board may accept grants in aid from any governmental source and may contract with agencies
 14727 charged with similar functions in this or other jurisdictions, in furtherance of the objectives of this chapter.

14728 C. The Board may cooperate with agencies performing similar functions in this and other jurisdictions to
 14729 develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative
 14730 practices and may develop information that may be useful in the discharge of the Board's duties.

14731 D. 1. The Board may issue an order requiring the developer or reseller to cease and desist from the unlawful
 14732 practice and to take such affirmative action as in the judgment of the Board will carry out the purposes of this
 14733 chapter if it determines after legal notice and opportunity for hearing that a developer or reseller or an agent
 14734 of a developer or reseller has:

- 14735 a. Made any representation in any document or information filed with the Board that is false or misleading;
- 14736 b. Engaged or is engaging in any unlawful act or practice;
- 14737 c. Disseminated or caused to be disseminated orally, or in writing, any false or misleading promotional
 14738 materials in connection with a time-share program;
- 14739 d. Concealed, diverted, or disposed of any funds or assets of any person in a manner impairing rights of
 14740 purchasers of time-shares in the time-share program;
- 14741 e. Failed to perform any stipulation or agreement made to induce the Board to issue an order relating to
 14742 that time-share program;
- 14743 f. Otherwise violated any provision of this chapter or any of the Board's rules and regulations or orders;

14744 or
 14745 g. Disposed of any time-share in a project without first complying with the requirements of this chapter.

14746 2. If the Board makes a finding of fact at a hearing that the public interest will be irreparably harmed by
 14747 delay in issuing an order, as prescribed in subdivision 1, it may issue a temporary cease and desist order. The
 14748 Board shall not issue more than one temporary cease and desist order with reference to such finding of fact as
 14749 prescribed in this subsection. With the issuance of a temporary cease and desist order, the Board, by registered
 14750 mail or other personal written service, shall give notice of the issuance to the developer or the reseller. Every
 14751 temporary cease and desist order shall include in its terms:

14752 a. A provision clearly stating the reasons for issuing such cease and desist order, the date of the hearing
 14753 on its issuance, and the nature and extent of the facts and findings on which the order was based;

14754 b. A provision that a hearing by the Board may be held, after due notice but not more than 15 days from
 14755 the date such temporary cease and desist order is effective, to determine whether or not a cease and desist
 14756 order as called for in subdivision 1 shall be issued;

14757 c. A provision that such temporary cease and desist order may remain in full force for a period of not more
 14758 than 15 days from the date of its issuance or the date on which the Board has determined that an order as
 14759 prescribed in subdivision 1 is to be issued, whichever shall occur first; and

14760 *d. A provision that a failure to comply with such temporary cease and desist order will be a violation of*
14761 *this chapter.*

14762 *E. The Board may also issue a cease and desist order if the developer has not registered the time-share*
14763 *program as required by this chapter or if a reseller has not registered as required by this chapter.*

14764 *F. The Board, after notice and hearing, may issue an order revoking the registration of the developer's*
14765 *time-share program or the registration of a reseller upon determination that such developer, reseller, or agent*
14766 *of such developer or reseller has failed to comply with a cease and desist order issued by the Board affecting*
14767 *the developer's time-share program or the reseller.*

14768 *G. If it appears that any person has engaged, is engaging, or is about to engage in any act or practice in*
14769 *violation of this chapter or any of the Board's rules, regulations, or orders applicable to this chapter, the Board,*
14770 *without prior administrative proceedings, may bring an action in the circuit court of the county or city in which*
14771 *any portion of the time-share project is located to enjoin that act or practice or for other appropriate relief.*
14772 *The Board is not required to post a bond or prove that no adequate remedy at law exists.*

14773 *H. Upon request of a time-share owner, the Board shall, in accordance with subsection B of § 55.1-2230,*
14774 *issue its determination whether compliance with § 55.1-2220 or 55.1-2234 has occurred.*

14775 **§ 55.1-2248. Cancellation of cease and desist order; reinstatement of registration of developer.**

14776 *A. The Board shall stipulate to the developer or reseller the reason for any cease and desist order, or*
14777 *revocation of registration as outlined in § 55.1-2247, by no later than the time such order or revocation is to*
14778 *become effective.*

14779 *B. Should the developer or reseller satisfy the Board that it has corrected the reasons for the cease and*
14780 *desist order or revocation of registration, then the Board shall promptly cancel such order or reinstate the*
14781 *registration, and thereafter the developer or reseller may continue its offering or disposition of time-shares.*

14782 **§ 55.1-2249. Board regulation of public offering statement.**

14783 *The Board may at any time require a developer to alter or supplement the form or substance of a public*
14784 *offering statement to assure adequate and accurate disclosure to prospective purchasers.*

14785 **§ 55.1-2250. Investigations.**

14786 *A. The Board may:*

14787 *1. Make necessary public or private investigations within or outside the Commonwealth to determine*
14788 *whether any person has violated or is about to violate any provision of this chapter or any rule, regulation, or*
14789 *order issued pursuant to this chapter, or to aid in the enforcement of this chapter in prescribing rules,*
14790 *regulations, and forms under this chapter; and*

14791 *2. Require or permit any person to file a statement in writing, under oath or otherwise as the Board*
14792 *determines, as to all facts and circumstances concerning the matter to be investigated.*

14793 *B. For the purpose of any investigation or proceeding under the chapter, the Board may administer oaths*
14794 *or affirmations, and upon motion or upon request of any party, may subpoena witnesses, compel their*
14795 *attendance, take evidence, and require the production of any matter that is relevant to the investigation,*
14796 *including the existence, description, nature, custody, condition, and location of any books, documents, or other*
14797 *tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter*
14798 *reasonably calculated to lead to the discovery of material evidence.*

14799 *C. Any proceeding or hearing of the Board under this chapter, in which witnesses are subpoenaed and their*
14800 *attendance required for evidence to be taken, or any matter is to be produced to ascertain material evidence,*
14801 *shall take place within the County of Henrico and such proceeding shall be held before the Board sitting in*
14802 *regular session, but not less frequently than monthly.*

14803 *D. Upon failure to obey a subpoena or to answer questions propounded by the Board, and upon reasonable*
14804 *notice to all persons affected thereby, the Board may apply to the Circuit Court of the County of Henrico for*
14805 *an order compelling compliance.*

14806 *E. Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance*
14807 *with the Administrative Process Act (§ 2.2-4000 et seq.).*

14808 **§ 55.1-2251. Proceedings before the Board.**

14809 *A. Any proceeding or hearing of the Board under this chapter in which witnesses are subpoenaed and their*
14810 *attendance required for the taking of evidence or the production of documents to ascertain material evidence*
14811 *shall take place in the County of Henrico.*

14812 *B. Except as otherwise provided in this chapter, all hearings under this chapter shall be in accordance with*
 14813 *the Administrative Process Act (§ 2.2-4000 et seq.) and shall be conducted by a hearing officer in accordance*
 14814 *with § 2.2-4024.*

14815 **§ 55.1-2252. Penalties.**

14816 *A. Any person who willfully violates any of the provisions of § 55.1-2217, 55.1-2218, 55.1-2219, 55.1-2220,*
 14817 *55.1-2221, 55.1-2229, 55.1-2233, or 55.1-2238, or any order issued pursuant to §§ 55.1-2247 through 55.1-*
 14818 *2250 is guilty of a Class 5 felony.*

14819 *Any person who willfully violates any of the provisions of § 55.1-2226, 55.1-2228, or 55.1-2244 or any*
 14820 *order issued pursuant to §§ 55.1-2247 through 55.1-2250 regarding a violation of § 55.1-2226, 55.1-2228, or*
 14821 *55.1-2244 is guilty of a Class 1 misdemeanor.*

14822 *Each violation shall be deemed a separate offense.*

14823 *B. Any developer, member, agent or affiliate of any developer of time-shares registered pursuant to § 55.1-*
 14824 *2241, or any reseller, who violates any provision of this chapter or regulations promulgated pursuant to this*
 14825 *chapter, and who is not criminally prosecuted, may be subject to a civil penalty. If it has been determined by*
 14826 *the Board upon or after a hearing that a respondent has violated this chapter or the Board's rules and*
 14827 *regulations, the Board shall proceed to determine the amount of the civil penalty for such violation, which shall*
 14828 *not exceed \$2,000 for each violation. Such penalty may be sued for and recovered in the name of the*
 14829 *Commonwealth.*

14830 **CHAPTER 23.**

14831 **SUBDIVIDED LAND SALES ACT.**

14832 **§ 55.1-2300. Definitions.**

14833 *As used in this chapter, unless the context requires a different meaning:*

14834 *"Agent" means any person who represents or acts for or on behalf of a developer in the disposition of any*
 14835 *lot in a subdivision, but does not include an attorney whose representation of another person consists solely of*
 14836 *rendering legal services.*

14837 *"Blanket encumbrance" means a trust, deed, mortgage, judgment, or any other lien or encumbrance,*
 14838 *securing or evidencing the payment of money and affecting the land comprising the subdivision to be offered*
 14839 *and sold or leased or affecting more than 10 lots or parcels of such lands, or an agreement affecting more than*
 14840 *10 lots or parcels of such lands by which the developer holds such subdivision under option, contract, sale, or*
 14841 *trust agreement. "Blanket encumbrance" does not include mechanics' liens, taxes, or assessments levied by a*
 14842 *public authority, or easements granted to public utilities or governmental agencies for the purpose of bringing*
 14843 *services to the lot or parcel within the subdivision.*

14844 *"Developer" means any person who offers, directly or indirectly, for disposition, any lot in a subdivision,*
 14845 *but does not include a trustee under a deed of trust securing an indebtedness or other obligation who sells lots*
 14846 *within such subdivision under foreclosure proceedings, provided that the purpose in so doing is not to evade*
 14847 *the provisions of this chapter.*

14848 *"Disposition" or "sale" means any lease, assignment, or exchange, or any interest in any lot that is a part*
 14849 *of or included in a subdivision.*

14850 *"Land sales installment contract" means any installment contract for the sale or disposition of land by*
 14851 *which the purchaser does not receive a deed conveying the property purchased until some or all installment*
 14852 *payments have been made as called for in the contract and record title to such property remains in another*
 14853 *pending full performance of the contract.*

14854 *"Lot" means any unit, parcel, division, piece of land, or interest in land except utility easements if such*
 14855 *interest carries with it the exclusive right to use a specific portion of property.*

14856 *"Offer" means any inducement, solicitation, media advertisement, or attempt performed by or on behalf of*
 14857 *a developer that has as its objective the disposition of a lot in a subdivision.*

14858 *"Person" means any individual, corporation, government or governmental agency, business trust, estate,*
 14859 *trust, partnership, unincorporated association, two or more of any of the foregoing having a joint or common*
 14860 *interest, or any other legal or commercial entity.*

14861 *"Purchaser" means a person who acquires or attempts to acquire any lot in a subdivision.*

14862 *"Subdivision" means:*

14863 *1. Any subdivision of land into 100 or more lots, whether contiguous or not, where any such lots are, from*
 14864 *July 1, 1978, sold or disposed of by land sales installment contracts and pursuant to a common promotional*
 14865 *plan, where lot purchasers within such subdivision have use of and access to the facilities and amenities within*

14866 *such subdivision for which the lot owners are assessed on a regular or special basis for the use and enjoyment*
14867 *of such lot; and*

14868 2. *Any existing subdivision of land of 30 or more lots in which the developer has concluded its sales effort*
14869 *for a period of six consecutive months and has transferred to the association described in subdivision A 1 of §*
14870 *55.1-2305 all the title, control, and maintenance responsibilities of the common areas and common facilities.*

14871 **§ 55.1-2301. Exemptions.**

14872 *Unless the method of disposition is adopted for the purposes of evasion of this chapter, the provisions of*
14873 *this chapter shall not apply to:*

14874 1. *The sale of a subdivision to a single purchaser for his own account in a single or isolated transaction;*

14875 2. *The disposition of lots in a subdivision if each lot in the subdivision is at least five acres in size;*

14876 3. *The disposition of a lot on which there is a residential, commercial, or industrial building, or as to a lot*
14877 *upon which there is a legal obligation on the part of the seller to construct such a building within a period of*
14878 *two years from the date of disposition;*

14879 4. *The disposition of land pursuant to court order, provided that the court reviews and approves the*
14880 *disposition on an individual basis;*

14881 5. *The disposition of cemetery lots;*

14882 6. *Offers or dispositions of evidence of indebtedness secured by a mortgage or deed of trust on real estate;*

14883 7. *Offers or dispositions of securities or units of interest issued by a real estate investment trust regulated*
14884 *under any state or federal statute;*

14885 8. *Offers or dispositions of any interest in real estate, oil, gas, or other minerals or any royalty interest in*
14886 *such real estate, oil, gas, or other minerals if the offers or dispositions of such interests are regulated as*
14887 *securities by the United States or by the Commonwealth;*

14888 9. *The disposition of a lot to any person whose purpose in acquiring the land is to engage in the business*
14889 *of constructing residential, commercial, or industrial buildings on such land;*

14890 10. *The lease of a lot where the right to possession or the rental term does not exceed one year in the*
14891 *aggregate and where the conditions of the lease do not obligate the lessee to renew;*

14892 11. *The sale or lease of condominium units registered pursuant to the Virginia Condominium Act (§55.1-*
14893 *1900 et seq.); or*

14894 12. *The disposition of real estate that is zoned or otherwise designated by the appropriate governmental*
14895 *authority for, or restricted by a valid recorded declaration of covenants to, commercial or industrial use.*

14896 **§ 55.1-2302. Transfer of ownership.**

14897 *It is unlawful for the developer to transfer fee simple ownership of a lot or parcel within a subdivision to a*
14898 *purchaser by any other means than by a general or special warranty deed or other deed complying with Chapter*
14899 *3 (§ 55.1-300 et seq.).*

14900 **§ 55.1-2303. Blanket encumbrances.**

14901 *A. It is unlawful for any developer or agent to sell or lease a lot in a subdivision that is subject to a blanket*
14902 *encumbrance unless the blanket encumbrance or effective supplemental agreement contains a release provision*
14903 *permitting legal title to individual lots or other interest contracted for to be obtained free and clear of the*
14904 *blanket encumbrance. Nothing in this section shall be construed to limit either the conditions upon which such*
14905 *release may be premise or the modification or amendment of such release provision as to (i) any purchaser*
14906 *other than a purchaser under an installment sales contract or (ii) any purchaser under an installment sales*
14907 *contract that is executed subsequent to the recordation of the amendment or modification.*

14908 *B. Unless blanket encumbrance release provisions provide that the lien of the blanket encumbrance is*
14909 *subordinate to the rights of persons purchasing from the developer or agent and that those purchasers have the*
14910 *unconditional right to obtain legal title or other interest contracted for free and clear of the blanket*
14911 *encumbrance upon compliance with the terms and conditions of the purchase or lease, it is unlawful for a*
14912 *developer or agent to sell or lease lots except in compliance with one of the following conditions:*

14913 1. *Any earnest money deposit or advance or other payment made by the purchaser on account of the*
14914 *purchase of a lot is placed in an escrow account that is a trust account maintained in a federally insured*
14915 *depository located in the Commonwealth and that fully protects the interest of the purchaser until:*

14916 a. *Fee title or other interest contracted for is conveyed to the purchaser free and clear of the blanket*
14917 *encumbrance;*

14918 b. *Either the developer or purchaser defaults under the contract and a final determination as to the*
14919 *disbursal of sums paid is made by a court of competent jurisdiction; or*

- 14920 c. The developer voluntarily orders the return of the money to the purchaser; or
14921 2. Title to the subdivision is held in trust under a trust agreement until a proper release is obtained and
14922 legal title or other interest contracted for is conveyed to the purchaser.

14923 **§ 55.1-2304. Restraints on alienation.**

14924 Provided that selling or leasing a lot is not specifically prohibited by recorded covenant, it is unlawful to
14925 restrain the owner of a lot in a subdivision from offering such lot for sale or lease or from selling or leasing
14926 such lot. Any deed restriction or recorded covenant that creates a right of first refusal in excess of 30 days or
14927 creates a sales restraint that denies lot owners the right to post for-sale signs of reasonable size is null and
14928 void.

14929 **§ 55.1-2305. Management, regulation, and control of subdivisions with common facilities or property**
14930 **owners' associations.**

14931 A. The covenants, deed restrictions, articles of incorporation, bylaws, or other instruments for the
14932 management, regulation, and control of subdivisions that include facilities or amenities for which the lot owners
14933 are assessed on a regular or special basis for the use, enjoyment, and maintenance of such facilities or amenities
14934 shall provide for at a minimum:

14935 1. Formation of an association to be composed of lot owners within the subdivision, such formation
14936 occurring prior to the sale of the first lot within the subdivision by the developer;

14937 2. A description of the areas or interests to be owned or controlled by the association, including those
14938 facilities or amenities for which the lot owners are subject to regular or special assessments;

14939 3. The transfer of title, control, and maintenance responsibilities of common areas and common facilities
14940 to the association, which transfer is to take place no later than at such time as the developer transfers legal or
14941 equitable ownership of at least 75 percent of the lots within the subdivision to purchasers of such lots or when
14942 all of the amenities and facilities are completed, whichever occurs first, but in no event any sooner than two
14943 years from the date the developer sells his first lot within the subdivision should the developer elect to retain
14944 title to the common areas and common facilities for such period. The transfer of such title, control, and
14945 maintenance responsibilities required of the developer shall not exonerate the developer from the responsibility
14946 of completion of the common areas and facilities once the transfer takes place.

14947 Nothing in this section shall preclude the developer from transferring the common areas and common
14948 facilities for consideration, provided that (i) such consideration does not exceed the lesser of the fair market
14949 value of such common areas and common facilities at the time of transfer or the actual cost expended by the
14950 developer for such common areas and common facilities and (ii) the developer affirmatively discloses the
14951 following information to the purchaser, in writing, at the time the initial contract of purchase is signed:

14952 a. That the common areas and common facilities will be transferred only upon payment of consideration
14953 by the association;

14954 b. The terms upon which such transfer will be made; and

14955 c. An estimate of the amount of consideration to be paid by the association.

14956 In the event the developer seeks payment for the areas or facilities transferred, the association shall have
14957 the option of deferring such payment, evidence by a deed of trust note covering a period of not less than five
14958 years at the legal rate of interest allowed in the Commonwealth and secured by a deed of trust covering the
14959 areas or facilities transferred;

14960 4. Procedures for determining and collecting regular assessments to defray expenses attributable to the
14961 ownership, use, enjoyment, and operation of common areas and facilities transferred to the association;

14962 5. Procedures for establishing and collecting special assessments for capital improvements or other
14963 purposes;

14964 6. Procedures to be employed upon the annexation of additional land to the existing subdivision that shall
14965 disclose whether or not per capita assessments on account of such annexation shall be subject to an increase,
14966 in the event additional amenities or common facilities are provided lot owners within the subdivision;

14967 7. Such procedures and restrictions, if any, that apply to the voluntary or involuntary resale of a lot within
14968 a subdivision by a purchaser or his agent, which shall be established prior to the sale of the first lot by the
14969 developer within the subdivision;

14970 8. Monetary penalties or use privilege and voting suspension of members for breaches of the restrictions,
14971 bylaws, or other instruments for management and control of the subdivision, or for nonpayment of regular or
14972 special assessments, with procedures for hearings for the disciplined members;

14973 9. Creation of a board of directors or other governing body for the association with the members of the
 14974 board or body to be elected by a vote of members of the association in good standing at an annual meeting or
 14975 special meeting to be held not later than six months after the transfer of the areas of facilities provided for in
 14976 subdivision 3;

14977 10. Enumeration of the power of the board of directors or governing body that is consistent with and not
 14978 otherwise provided by law;

14979 11. The preparation of an annual balance sheet and operating statement for each fiscal year with provision
 14980 for distribution of a copy of the reports to each member of the association in good standing within 90 days after
 14981 the end of the fiscal year;

14982 12. Quorum requirements for meetings of members of the association who are in good standing; and

14983 13. Such other provisions as may be required by the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.)
 14984 if the association is a Virginia nonstock corporation.

14985 B. Any developer of a subdivision, successor or otherwise, when such subdivision is subject to the provisions
 14986 of this chapter, shall be obligated to complete the facilities and amenities as promised and outlined in subsection
 14987 A by the initial developer of the subdivision subject to the transfer of title, control, and maintenance
 14988 responsibilities of common areas and common facilities to the lot owners' association. The foregoing shall not
 14989 be deemed to apply to any purchaser at foreclosure or grantee in a deed in lieu of foreclosure, provided that
 14990 the purchaser or grantee is a financial institution and the mortgagee, creditor, or beneficiary under the
 14991 instrument being foreclosed or giving rise to the deed in lieu of foreclosure. For the purposes of this subsection,
 14992 "financial institution" means a bank, savings institution, real estate investment trust, insurance company,
 14993 pension or profit sharing trust, or other institution regularly engaged in the business of making real estate
 14994 loans. For purposes of this subsection, the lot owners' association shall not be deemed a developer if at a
 14995 meeting of its members in good standing a vote is taken and at least 50 percent of the members vote to be exempt
 14996 from the requirements of this subsection.

14997 C. The association, once formed and in existence, and the title owner of the common areas and common
 14998 facilities within the subdivision and which has been in existence for a period of at least five years shall have
 14999 the authority to pass special assessments against and raise the annual assessments of the members of the
 15000 association and to collect such assessments from such members according to law, if the purpose in so doing is
 15001 for the maintenance of such common areas and common facilities. The authority granted and conferred upon
 15002 the association by this subsection exists only where the restrictions and covenants of record do not contain
 15003 specific language that precludes the adoption of special assessments or increases the annual dues or
 15004 assessments.

15005 D. The association shall have a lien on every lot within its subdivision for unpaid regular or special
 15006 assessments levied against such lot in accordance with the provisions of this chapter. The lien, once perfected,
 15007 shall be prior to all other liens and encumbrances except (i) real estate tax liens on such lot, (ii) liens and
 15008 encumbrances recorded prior to the perfected lien, and (iii) any sums unpaid on any first mortgages or first
 15009 deeds of trust recorded prior to the perfection of the lien for regular or special assessments and securing
 15010 institutional lenders. The provisions of this subsection shall not affect the priority of mechanics' and
 15011 materialmen's liens.

15012 Notwithstanding any other provision of this chapter, or any other provisions of law requiring documents to
 15013 be recorded in the miscellaneous lien books or the deed books of the clerk's office of any court, from July 1,
 15014 1978, all memoranda of liens arising under this subsection shall, in the discretion of the clerk, be recorded in
 15015 the miscellaneous lien books or the deed books in such clerk's office. Any memorandum shall be indexed in the
 15016 general index to deeds, and such general index shall identify the lien as a lien for subdivision regular or special
 15017 assessments.

15018 The association, in order to perfect the lien given by this subsection, shall file before the expiration of 90
 15019 days from the time such regular or special assessment became due and payable in the clerk's office of the county
 15020 or city in which the subdivision is situated a memorandum, verified by the oath of the president of the
 15021 association, which shall contain:

15022 1. A description of the subdivision;

15023 2. The name or names of the owners of the lot;

15024 3. The amount of unpaid regular or special assessments currently due or past due applicable to the lot,
 15025 together with the date when each fell due; and

15026 4. The date of issuance of the memorandum.

15027 *The clerk in whose office the memorandum is filed shall record and index such memorandum as provided*
15028 *in this subsection, in the names of the persons identified in such memorandum, as well as in the name of the*
15029 *association. The cost of recording the memorandum shall be taxed against the person found liable for any*
15030 *judgment or order enforcing such lien. It is lawful for the memorandum to be filed as one statement listing the*
15031 *information required in subdivisions 1 through 4 and each of the lot owners whose property within the*
15032 *subdivision is liened. The cost of filing shall be as provided in subdivision A 2 of § 17.1-275.*

15033 *No action to enforce any lien perfected under this subsection shall be brought after one year from the time*
15034 *when the memorandum of lien was recorded; however, the filing of a petition to enforce any such lien in any*
15035 *action in which such petition may be properly filed shall be regarded as the institution of an action under this*
15036 *subsection. Nothing in this subsection shall be construed to extend the time within which any such lien may be*
15037 *perfected. Nothing shall preclude the association from filing a single action listing all unpaid delinquent and*
15038 *enumerated lot owners as defendants and obtaining judgment against those so adjudicated by the court hearing*
15039 *the action.*

15040 *The judgment in an action brought pursuant to this subsection shall include, without limitation,*
15041 *reimbursement for costs and attorney fees, together with the interest at the maximum lawful rate for the sums*
15042 *secured by the lien from the time each sum became due and payable.*

15043 *When payment or satisfaction is made of a debt secured by the lien perfected by this subsection, the lien*
15044 *shall be released in accordance with the provisions of § 55.1-339. For the purposes of § 55.1-339, the president*
15045 *or secretary of the association is the duly authorized agent of the lien creditor.*

15046 *Nothing in this subsection shall be construed to prohibit the recovery of sums for which this subsection*
15047 *creates a lien.*

15048 *Any lot owner within the subdivision having executed a contract for the disposition of the lot is entitled,*
15049 *upon request, to a recordable statement setting forth the amount of unpaid regular or special assessments*
15050 *currently levied against that lot. Such request shall be in writing, directed to the president of the association,*
15051 *and delivered to the principal office of the association. Failure of the association to furnish or make available*
15052 *such a statement within five business days from the receipt of such written request shall extinguish the lien*
15053 *created by this subsection as to the lot involved. Payment of a fee not exceeding \$15 may be required as a*
15054 *prerequisite to the issuance of such a statement if the bylaws of the association so provide.*

15055 *E. If, upon July 1, 1978, and a subdivision becoming subject to the terms and requirements outlined in*
15056 *subdivisions A 1 through 8 have not been performed, then the requirements shall have to be fully complied with*
15057 *within a period of 90 days from July 1, 1978, and upon failure to fully perform all of such requirements within*
15058 *the 90-day period the failure so to do shall constitute a violation of this subsection.*

15059 *F. Each lot owner within a subdivision that falls within the scope of this chapter shall be responsible for*
15060 *his pro rata share of the cost of maintaining the common facilities and common areas owned by the association.*
15061 *For purposes of this subsection, "common facilities and common areas" means only the roads and lakes within*
15062 *the subdivision, and "maintaining" includes any orderly program for the continued upkeep and improvement*
15063 *of such roads and lakes. The association has the responsibility of determining the pro rata share assessed*
15064 *against each lot owner, and such amount assessed shall be in addition to the annual or special assessment*
15065 *otherwise obligated by each member of the association.*

15066 *G. If a subdivision of land meets the requirement in subdivision 2 of the definition of subdivision as provided*
15067 *in § 55.1-2300, then the property owners' association of the subject subdivision has the powers and duties*
15068 *enumerated in subsections C, D, and F as well as the rights and authority to establish those procedures outlined*
15069 *in subdivisions A 4, 5, and 6 and the penalties in subdivision A 8, and also has the obligations imposed by such*
15070 *subdivisions and those of subdivisions A 9 through 12.*

15071 **§ 55.1-2306. Penalties.**

15072 *Any person violating any of the provisions of §§ 55.1-2302 through 55.1-2305 is guilty of a Class 2*
15073 *misdemeanor. At the discretion of the court, any imprisonment may run concurrently with imprisonment*
15074 *imposed by any court for violation of any law similar to the provisions of this chapter.*

15075 **SUBTITLE V.**

15076 **MISCELLANEOUS.**

15077 **CHAPTER 24.**

15078 **ESCHEATS.**

15079 **§ 55.1-2400. Definition.**

15080 As used in this chapter, "known" in terms of determining whether an owner is "known" includes inspection
15081 of tax records and any other inquiry deemed to be reasonable. It need not include inspection of the premises or
15082 inspection of title records in the clerk's office in the county or city in which the land is located.

15083 **§ 55.1-2401. Appointment of escheators.**

15084 The Governor shall appoint one escheator for every judicial circuit as set forth in § 17.1-506, to serve at
15085 the pleasure of the Governor. Such escheator shall reside within the circuit to which he is appointed.

15086 **§ 55.1-2402. Bond of escheator.**

15087 Each escheator shall give bond for the judicial circuit for which he is appointed in the circuit court for the
15088 locality in which he resides, in the penalty of \$3,000, without surety, and may continue in office until removed
15089 or until a successor is duly appointed and qualified. If property in another locality within the appointed judicial
15090 circuit escheats to the Commonwealth at the inquest hearing, the escheator shall give bond within that locality
15091 as determined by the clerk of the circuit court in the locality and in a penalty of a percentage of the assessed
15092 value of the property according to the records of the commissioner of the revenue. The bond shall be obtained
15093 within 10 days following the inquest hearing.

15094 **§ 55.1-2403. Increase or reduction of penalty of escheator's bond; effect.**

15095 The court may, at any time, with reasonable notice to the escheator, increase or reduce the penalty of the
15096 bond, provided that in no case shall such penalty be reduced to less than \$1,000. Upon bond being given under
15097 an order increasing or reducing the penalty of a former bond, the sureties in such former bond and their estates
15098 shall be discharged from all liability for any breach of official duty committed by such escheator after that time.

15099 **§ 55.1-2404. Annual report to escheator; lands not liable.**

15100 Each treasurer shall, every May, furnish to the escheator of his county or city a list of all lands within his
15101 district owned by any person who has died in possession of an estate of inheritance (i) intestate and without
15102 any known heir or (ii) testate without disposing of all property by will and without leaving any surviving heir
15103 to inherit the property. No land shall be liable to escheat that has been held for 15 years under adverse
15104 possession as at common law by the person claiming such land, or those under whom he holds, but only if taxes
15105 were paid throughout that period by the claimant or those under whom he holds.

15106 **§ 55.1-2405. Escheator to hold inquest; notice of inquest.**

15107 On receiving a list compiled pursuant to § 55.1-2404, or upon information from any person, in writing and
15108 under oath, that any of the conditions described in § 55.1-2404 exists, the escheator shall proceed to hold his
15109 inquest to determine whether any land identified has escheated to the Commonwealth. He shall (i) post notice
15110 of the time of taking such inquest at the front door of the courthouse for 30 days prior to the inquest and (ii)
15111 advertise once in a newspaper of general circulation within the county or city at least seven but not more than
15112 30 days prior to the inquest. Notice shall also be mailed to the last owner of record, if any, as it appears in the
15113 tax records of the local treasurer. The escheator shall send a copy of the newspaper advertisement to the State
15114 Treasurer prior to the date of the inquest. The inquest shall be held in the same calendar year in which the list
15115 or information is received by the escheator. The attorney for the Commonwealth shall act as attorney for this
15116 proceeding.

15117 **§ 55.1-2406. Jury of inquest; presentation of evidence.**

15118 The sheriff of the county or city shall summon and return 10 qualified jurors for the inquest, of whom at
15119 least seven shall be impaneled as a jury. They shall meet at the courthouse and sit in public and may be
15120 adjourned by the escheator from day to day. Every person competent to testify as a witness shall be required to
15121 give evidence openly in the presence of the jurors.

15122 **§ 55.1-2407. Attendance of jurors; compensation.**

15123 If any person summoned or adjourned as a juror fails to attend according to the summons or adjournment,
15124 the escheator shall report such failure to the circuit court having jurisdiction over the county or city in which
15125 the land that is the subject of the inquest is located. Such court may fine such person an amount not to exceed
15126 \$50.

15127 Jurors shall be compensated as provided for jurors in civil cases.

15128 **§ 55.1-2408. How verdict signed; where returned and recorded.**

15129 When the inquest is concluded and the verdict concurred in by at least seven of the jurors impaneled such
15130 verdict shall be signed by those so concurring and by the escheator. The escheator shall, within 10 days, return
15131 the verdict to the clerk's office of the circuit court. After receiving the verdict, the clerk of such court shall
15132 record it in accordance with § 17.1-266 and shall provide copies within 10 days to the commissioner of the
15133

15133 revenue and the local treasurer or the person performing those duties. This escheat verdict shall be recorded
15134 in the grantor index of the record books in the clerk's office.

15135 **§ 55.1-2409. Proceedings to claim land escheated.**

15136 When the verdict on an inquest is for the Commonwealth, any person claiming any interest in the lands,
15137 whether legal or equitable, may, before the sale of such land, petition the circuit court for redress. The petition
15138 shall be accompanied by a bond with good security to pay the Commonwealth all past due real estate taxes,
15139 penalties, and interest on such lands. The escheator shall be the sole defendant on behalf of the Commonwealth,
15140 and may appear on his own behalf. The escheator shall file an answer stating the objections to the claim. The
15141 cause shall be heard, without any unnecessary delay, upon the petition and answer and the evidence. Upon a
15142 judgment in favor of the claimant, he shall pay all past due taxes, penalties, and interest. Upon entry of such
15143 judgment, the court may award attorney fees to the escheator. For real estate assessment purposes, the
15144 commissioner of the revenue or assessor shall continue to assess any escheated property.

15145 **§ 55.1-2410. Trial by jury; judgment of court.**

15146 Upon a petition filed pursuant to § 55.1-2409, the court may impanel a jury to ascertain any facts that may
15147 be disputed and may set aside the verdict. The escheator may initiate a new inquest in accordance with § 55.1-
15148 2405.

15149 **§ 55.1-2411. Facts or evidence to be certified.**

15150 If witnesses are sworn before the court or jury, the court shall, upon request of either party, certify what
15151 facts are proved by such witnesses. If the facts cannot be certified, the court shall then certify the evidence of
15152 the witnesses. In either case, such certificate shall be a part of the record.

15153 **§ 55.1-2412. Lands may be committed to claimant while claim pending.**

15154 Pending the petition, the court may commit the lands, or any part thereof, to the claimant, after he has
15155 given bond with good security to pay the Commonwealth the rents and profits of such land, if judgment is
15156 subsequently entered for the Commonwealth.

15157 **§ 55.1-2413. Disposition of lands while claim is pending, if not committed to claimant.**

15158 If the escheator leases property remaining in his hands, he shall notify and transmit a copy of such lease,
15159 if in written form, to the State Treasurer within 30 days and remit the rent proceeds to the State Treasurer as
15160 they are received. The escheator shall be answerable to the claimant or to the Commonwealth, as determined
15161 by the court, for the rents and profits of such land and the escheator shall ensure that such land be kept free
15162 from waste and destruction. Where the escheator deems that reasonable business practice would require that
15163 insurance be obtained on such income-producing property, he shall obtain insurance coverage on the escheated
15164 property after having first obtained the approval of the State Treasurer.

15165 **§ 55.1-2414. Escheator to notify State Treasurer of claim and decision.**

15166 The escheator shall certify to the State Treasurer, within 60 days after the end of a year from the date of
15167 such inquest, whether any petition has been filed claiming an interest in the property pursuant to § 55.1-2409,
15168 and if such claim is made, he shall certify the decision on such petition within 60 days after such decision.

15169 **§ 55.1-2415. Escheators to certify lands escheated.**

15170 Every escheator shall, within 60 days after an inquest that finds on behalf of the Commonwealth, transmit
15171 to the State Treasurer a certificate showing the number of tracts or lots escheated, the reputed quantity of each
15172 parcel, a description sufficient to identify each parcel, and the names of the persons found to have died in
15173 possession of such parcel, or from whom the land escheated.

15174 **§ 55.1-2416. Removal of parcels from the certificate.**

15175 If the escheator finds that the escheat of a parcel was improper, for whatever reason, he shall remove the
15176 parcel from the certificate transmitted to the State Treasurer pursuant to § 55.1-2415 at any time prior to sale
15177 pursuant to § 55.1-2419. The escheator shall state in writing his reasons for such removal to the satisfaction of
15178 the State Treasurer. Thereafter, unless a petition has been filed in accordance with § 55.1-2409, the escheator
15179 shall petition the circuit court to correct the verdict returned to the clerk of court pursuant to § 55.1-2408. A
15180 copy of this petition shall be sent to the State Treasurer. The escheator shall notify in writing the local treasurer
15181 or the local official performing these duties of any such error and improper escheat. The escheator shall be
15182 reimbursed the costs incurred by him for filing such a petition with the circuit court. The escheator shall file,
15183 and the clerk of court shall record, any such corrected verdict in the appropriate deed books.

15184 **§ 55.1-2417. Escheat of property with hazardous materials.**

15185 In addition to any other remedy provided by law, the Virginia Waste Management Board, pursuant to its
15186 authority granted in § 10.1-1402, or the Department of Environmental Quality, shall have recourse against any

15187 prior owner or the estate of any prior owner for the costs of cleanup of escheated property in or upon which
15188 any hazardous material as defined in § 44-146.34 is found.

15189 **§ 55.1-2418. Publication of escheator's certificate.**

15190 The State Treasurer shall cause the contents of the certificate transmitted pursuant to § 55.1-2415 to be
15191 published once each week for four consecutive weeks in a newspaper of general circulation in the county or
15192 city where the inquest was held.

15193 **§ 55.1-2419. Order of sale by Governor.**

15194 Not less than six months after the publication of the escheator's certificate pursuant to § 55.1-2418, the
15195 State Treasurer shall present to the Governor the escheator's certificate and proof of publication, and, if claim
15196 has not been made pursuant to § 55.1-2409, or, if made, has been decided in favor of the Commonwealth, the
15197 Governor shall order the escheated land to be sold upon such terms, at such time, and at such place within the
15198 county or city in which the property is located, or if the property is located within a city that is located wholly
15199 within a county, then the sale may take place in the city, or a contiguous county or city as he deems proper. The
15200 order of sale shall be delivered to the State Treasurer, to be transmitted to the escheator, who shall proceed to
15201 sell according to such order.

15202 **§ 55.1-2420. Form of sale agreement; notice of right to refund.**

15203 A sale agreement for the purchase of escheated property shall include a statement of the purchaser's right
15204 to claim a refund pursuant to § 55.1-2438 upon submission to the State Treasurer within 120 days of the sale
15205 of satisfactory evidence that the escheated property does not exist or was improperly escheated. The following
15206 form may be used:

15207 *Sale Agreement of Escheated Property*

15208 This agreement of sale made in triplicate this _____ day of _____, 20____, between _____
15209 Escheator (hereinafter known as Seller), and _____ (hereinafter known as Purchaser) and _____
15210 (hereinafter known as Agent).

15211 WITNESS

15212 That for and in consideration of the full purchase price of \$_____ by cash/check in hand paid, receipt
15213 of which is hereby acknowledged, the Seller agrees to sell and the Purchaser agrees to buy all that certain lot
15214 or parcel of land with all the appurtenances (if any) thereunto belonging and described as follows:

15215 _____
15216 _____
15217 _____

15218 The Seller agrees to obtain a state grant. It is hereby understood that GRANTS for lots, parcels and acreage
15219 sold pursuant to this agreement shall be WITHOUT WARRANTY and in accordance with § 55.1-2422 of the
15220 Code of Virginia. The recovery of proceeds of each sale from the Commonwealth, less the expenses of sale and
15221 the escheator's commission, may be obtained if the Purchaser, pursuant to § 55.1-2438 of the Code of Virginia,
15222 submits satisfactory evidence to the State Treasurer within 120 days of the sale that the escheated property
15223 does not exist or was improperly escheated.

15224 WITNESS the following signatures and seals made this _____ day of _____, 20____.

15225 _____ (SEAL)

15226 _____ (SEAL)

15227 Agent

15228 _____ (SEAL)

15229 Purchaser

15230 _____ (SEAL)

15231 Escheator for

15232 _____, Virginia,

15233 Seller

15234 **§ 55.1-2421. When grant to issue to purchaser; reimbursable expenses.**

15235 A. When the escheator sells for cash, he shall certify the purchase and the price to the State Treasurer,
15236 who, after determining that such price, deducting the expenses, has been paid into the state treasury and that
15237 the expenses of the inquest and sale have been paid to the escheator, shall have a grant issued and executed for
15238 the lands so sold. At the time of sale, the escheator shall require the purchaser to sign an authorization for
15239 recordation prior to distribution. A clerk's fee per parcel purchased in accordance with subdivision A 2 of §
15240 17.1-275 shall be collected by the escheator in addition to the purchase price. The fee shall be forwarded to the

15241 *State Treasurer, together with the names and addresses of the purchasers of the escheated property and the*
 15242 *sale proceeds as required in § 55.1-2426, who shall send the fee with the grants to the local clerk's office for*
 15243 *recording. The fee in effect at the time of sale shall be in lieu of all fees and costs. Grants of escheated property*
 15244 *shall be exempt from all recording taxes. After recording the grants, the local clerk shall forward the grants to*
 15245 *the escheator, who shall be responsible for notifying the purchasers of the recordation and the distribution of*
 15246 *the grants to the purchaser.*

15247 *B. Expenses reimbursable by the State Treasurer under subsection A shall include an auctioneer's fee,*
 15248 *which shall not exceed five percent of the sale proceeds. The State Treasurer, by regulation, shall detail other*
 15249 *appropriate reimbursable expenses.*

15250 **§ 55.1-2422. Form of grant of escheated property.**

15251 *A grant of escheated property shall be without warranty and to the following effect:*

15252 *"In consideration of the sum of \$_____ paid by _____, the Purchaser, into the treasury of the*
 15253 *Commonwealth, etc., there is granted without warranty by the Commonwealth to _____, the*
 15254 *Purchaser, a certain tract or parcel of land, containing _____ acres, lying in the county (or city) of _____,*
 15255 *etc., (describing the bounds of the land and date of the survey or other description sufficient to identify the*
 15256 *parcel) with its appurtenances, to _____, the Purchaser, and his heirs forever. In witness whereof,*
 15257 *_____ the Governor of the Commonwealth, has set his hand and caused the lesser seal of the*
 15258 *Commonwealth to be affixed hereunto, at _____, on the _____ day of _____, in the year*
 15259 *_____."*

15260 **§ 55.1-2423. Governor to sign and seal grant; Librarian of Virginia to record it; delivery to and by State**
 15261 **Treasurer.**

15262 *The State Treasurer shall deliver such grant of escheated property to the Governor, by whom it shall be*
 15263 *signed and caused to be affixed with the lesser seal of the Commonwealth. The grant shall then be delivered by*
 15264 *the Governor to the Librarian of Virginia, who shall record it, and the plat and certificate of survey, if provided,*
 15265 *or other description sufficient to identify the parcel on which the grant is founded, by a procedural*
 15266 *microphotographic process that meets archival standards. The Librarian of Virginia shall certify to the State*
 15267 *Treasurer that the grant has been recorded and then deliver the grant to the State Treasurer, who shall in turn*
 15268 *mail it to the party to whom it is made, or another person, as directed by such party.*

15269 **§ 55.1-2424. Recordation of certified copy of grant.**

15270 *The clerk shall accept for recordation a copy of the grant of escheated property from the Commonwealth*
 15271 *that is certified as a true copy by the Librarian of Virginia under § 55.1-2423.*

15272 **§ 55.1-2425. Resale in case of default.**

15273 *If the purchaser does not pay the purchase money into the state treasury within a reasonable time, any*
 15274 *deposit is forfeited, and the State Treasurer may rescind the contract and order a new sale.*

15275 **§ 55.1-2426. Reports by escheators to State Treasurer.**

15276 *The escheator shall file reports with the State Treasurer as required by the State Treasurer by agency*
 15277 *directive.*

15278 **§ 55.1-2427. Reports by State Treasurer to the Governor; penalty on escheators for failure of duty.**

15279 *The State Treasurer shall, every May 1, file a report with the Governor containing the name of any*
 15280 *escheator who fails to perform any duty required of him by this chapter. If any escheator fails to report to and*
 15281 *account with the State Treasurer, or fails to pay into the state treasury the proceeds of any sale made by him,*
 15282 *or any such rents and profits, in the manner and within the time prescribed by law, he shall be fined no more*
 15283 *than \$200 for every 60 days such failure continues. If any escheator fails to perform any other duty required of*
 15284 *him by this chapter and no specific penalty for such failure is provided, he shall be fined no more than \$50. Any*
 15285 *action for any fine under this chapter may be instituted, at the discretion of the State Treasurer or of the Attorney*
 15286 *General, in the Circuit Court of the City of Richmond, after 15 days' notice.*

15287 **§ 55.1-2428. State Treasurer may examine records of any escheator, commissioner of the revenue, or**
 15288 **treasurer.**

15289 *The State Treasurer may at reasonable times and upon reasonable notice examine the records of any*
 15290 *escheator, commissioner of the revenue, treasurer, or other person charged with his duties.*

15291 **§ 55.1-2429. When State Treasurer to issue grant to purchaser.**

15292 *The State Treasurer shall not request that the Governor issue a grant for the lands sold to the purchaser,*
 15293 *or his heirs or assigns, until the purchase money has been fully paid.*

15294 **§ 55.1-2430. Escheator's pay.**

15295 *Except as otherwise provided in this section, the escheator shall be entitled to a commission of 10 percent*
 15296 *on all proceeds of sales made by him of escheated lands that are paid to him or into the state treasury. Where*
 15297 *an escheator is replaced by the appointment and qualification of a successor and where such escheator held*
 15298 *an inquest provided for in § 55.1-2405 but the sale provided for in § 55.1-2419 has not been held, the 10 percent*
 15299 *commission on the proceeds of the sales of the escheated lands so advertised shall be divided equally between*
 15300 *such escheator and his successor. For each parcel that escheats, the escheator shall be paid \$10 out of any*
 15301 *money in the state treasury belonging to the Literary Fund.*

15302 **§ 55.1-2431. Escheat of estates in trust and equitable titles.**

15303 *An estate vested in a person solely by mortgage or deed of trust shall not escheat or be forfeited to the*
 15304 *Commonwealth by reason of the mortgagee or trustee dying without heirs, but any equitable title to lands shall*
 15305 *escheat or be forfeited, as the case may be, if the person having the equitable title also had the legal title.*

15306 **§ 55.1-2432. Provision in favor of tenant of escheated land.**

15307 *If any person holds any escheated land under a lease or has right to any rent or other profit out of such*
 15308 *land, he shall hold and enjoy his lease, rent, or other profit, whether such lease or right to rent or other profit*
 15309 *is found in the inquest or not.*

15310 **§ 55.1-2433. In favor of creditor of decedent.**

15311 *If any debt of a person who died in possession of such lands that escheated to the Commonwealth, remains*
 15312 *unpaid after all the personal estate of such person has been applied to the payment of his debts, the creditor*
 15313 *may file his complaint, accompanied with an affidavit that the debt is bona fide due, to recover such debt in the*
 15314 *circuit court to which the inquest of escheat was returned and make the escheator defendant. If the court orders*
 15315 *that the debt or any part thereof is due, the amount ordered to be due shall be paid by the escheator, if the*
 15316 *escheator has enough of the proceeds of sale remaining to cover the amount, or out of the state treasury, if*
 15317 *enough of the proceeds that have been paid into the state treasury still remain in the state treasury, or to the*
 15318 *credit of the Literary Fund.*

15319 **§ 55.1-2434. Escheators to defend on behalf of Commonwealth.**

15320 *The escheator shall answer and defend on the part of the Commonwealth any action against him or any*
 15321 *petition filed under § 55.1-2409 and shall be allowed the costs incurred by him in such defense.*

15322 **§ 55.1-2435. Recovery by escheator of decedent's escheated residue and of property abandoned or**
 15323 **derelict; fee.**

15324 *The residue of a decedent's estate consisting of real property belonging to the Commonwealth, or subject*
 15325 *to escheat to the Commonwealth, and any such property abandoned or derelict, or having no rightful owner,*
 15326 *may be recovered from any person in possession thereof by an escheator by a complaint in the name of the*
 15327 *Commonwealth. For his services in such recovery, the escheator shall be entitled to such fee as may be*
 15328 *approved by the State Treasurer, but in no event shall such fee exceed 10 percent of the value of such recovered*
 15329 *property.*

15330 **§ 55.1-2436. Publication of action; what to state and require.**

15331 *When any action is instituted pursuant to § 55.1-2435, the court shall cause a publication to be made once*
 15332 *each week for four consecutive weeks in a newspaper of general circulation in the county or city in which the*
 15333 *proceedings are held, setting forth the nature of the claim, the name and place of birth, when known, of the*
 15334 *deceased person, or of the former owner of the property, if known, as the case may be, and a description of the*
 15335 *property or estate claimed and requiring all persons claiming an interest in such property to appear and assert*
 15336 *their interests in such property.*

15337 **§ 55.1-2437. Order of the court.**

15338 *If no person appears and shows that he has title to the property, the court shall order that the residue or*
 15339 *other property belongs to the Commonwealth and enforce the collection thereof or of the proceeds of the sale*
 15340 *of such property, provided, however, that if the residue or other property was given, bequeathed, or devised by*
 15341 *will to a charitable institution in the Commonwealth and such gift, bequest, or devise failed by reason of*
 15342 *insufficient witnessing of such will and would otherwise escheat to the Commonwealth, and the court finds that*
 15343 *it is in the public interest, the court may order such residue or other property, or so much thereof as was subject*
 15344 *to such gift, bequest, or devise, to be paid to such charitable institution.*

15345 **§ 55.1-2438. How money paid into state treasury from escheats may be recovered.**

15346 *A. If within 120 days from the date of sale, a purchaser submits evidence satisfactory to the State Treasurer*
 15347 *that the property described in the grant does not exist or was improperly escheated, the State Treasurer may*
 15348 *refund the purchase price, less the expenses of sale and the escheator's fee. Before any such refund is made,*

15349 *the purchaser shall return the grant to the State Treasurer, who shall inform the Librarian of Virginia of its*
 15350 *return. Both of these officials shall note the grant's return in their records. When the Commonwealth has*
 15351 *recorded the grant, the purchaser shall record a quitclaim deed and send proof thereof to the State Treasurer*
 15352 *prior to the issuance of any refund.*

15353 *B. After any sale of escheated lands and upon certification verified by oath of the local treasurer or other*
 15354 *officer charged with the collection of local real estate taxes that the land so sold was, at the time of escheat to*
 15355 *the Commonwealth, subject to the lien of unpaid local real estate taxes or that the land so sold was, at any time*
 15356 *prior to sale, subject to other assessments, including liens for demolition, cutting or removing weeds, or abating*
 15357 *any nuisance on the escheated land, all of which assessments were validly assessed, levied, or imposed by the*
 15358 *locality on the lands within 20 years preceding the date of the escheat or inquest, the State Treasurer shall,*
 15359 *upon receipt of the proceeds of sale, deduct the escheator's commission and costs of the inquest and sale. The*
 15360 *State Treasurer shall then pay to the local treasurer out of the net proceeds of such sale, if any, the amount of*
 15361 *the local real estate taxes and assessments, including accrued penalties and interest, up to but not exceeding*
 15362 *the amount of the funds remaining in the hands of the State Treasurer from the proceeds of the sale. To the*
 15363 *extent that local taxes and other appropriate local charges exceed the proceeds obtained for such escheated*
 15364 *land at the escheat sale, such local taxes and other charges are exonerated. Any other liens on property that*
 15365 *was escheated and sold shall shift to the proceeds of the sale and shall no longer remain a lien on the property.*

15366 *C. Any person who had not asserted a claim before the sale of escheated property, being entitled to any*
 15367 *property so escheated and sold, may recover so much of the net proceeds as remain after deduction of the*
 15368 *escheator's commission, costs of the inquest and sale, and allowance of claims for unpaid real estate taxes and*
 15369 *assessments due on the land or from any creditors of the decedent. The same may be allowed by the State*
 15370 *Treasurer or, if a claim in any such case is rejected by him, a petition for recovery may be made in the manner*
 15371 *provided in § 8.01-192 for recovering claims against the Commonwealth, but subject to the limitation in § 8.01-*
 15372 *255.*

15373 **§ 55.1-2439. Regulations of the State Treasurer.**

15374 *The State Treasurer shall adopt any necessary regulations in accordance with the Administrative Process*
 15375 *Act (§ 2.2-4000 et seq.) to carry out the provisions of this chapter.*

15376 **§ 55.1-2440. Continuation of certain statutes.**

15377 *The first section of Chapter 114 of the Code of 1849, and the sections following that to the seventeenth*
 15378 *section, inclusive, of such chapter; the act passed April 12, 1852 (Chapter 18, Acts 1852); the act passed April*
 15379 *7, 1858 (Chapter 39, Acts 1858); and the Acts of 1857-8, as amended by the act passed March 30, 1860 (Acts*
 15380 *of 1859-60) are continued in force.*

15381 **§ 55.1-2441. Pendency of escheat proceedings no bar to condemnation proceedings.**

15382 *Notwithstanding any provision contained in this chapter, the Commissioner of Highways or any locality or*
 15383 *other political subdivision or agency of the Commonwealth possessing the power of eminent domain, for a*
 15384 *public purpose in accordance with the law and notwithstanding the pendency of any proceeding brought for*
 15385 *the escheat of any land wanted and needed by such Commissioner of Highways or such locality or other*
 15386 *political subdivision or agency of the Commonwealth for such purpose, may institute, maintain, and conduct to*
 15387 *final judgment condemnation proceedings to acquire in fee simple such land or such lesser estate, title, or*
 15388 *interest therein as is wanted and needed for such public purpose, provided, however, that the escheator in*
 15389 *whose name such escheat proceedings is pending and the Commonwealth of Virginia are made codefendants*
 15390 *to such condemnation proceedings, together with the owner, if known, of the land proposed to be condemned*
 15391 *in such proceeding. The pendency of such escheat proceedings shall not constitute a bar or defense to such*
 15392 *condemnation proceedings, nor to any proceeding therein seeking a right of entry as provided in § 25.1-223,*
 15393 *in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1, or in Article 1 (§ 33.2-1000 et seq.) of Chapter 10 of Title 33.2.*
 15394 *No escheator, after being served with notice of the filing of any such condemnation proceeding, shall sell or*
 15395 *dispose of any land sought to be acquired in such condemnation proceeding except upon order entered by the*
 15396 *court in which such condemnation proceeding is pending. The funds paid into court as compensation or*
 15397 *damages for the land so taken or damaged shall, after payment of taxes and other claims constituting valid*
 15398 *liens against the land so taken, be ordered distributed to the party entitled thereto or be ordered paid to the*
 15399 *escheator of such land, or to the State Treasurer, as the court may direct.*

15400 **CHAPTER 25.**

15401 **VIRGINIA DISPOSITION OF UNCLAIMED PROPERTY ACT.**

15402 **Article 1.**

15403 *Definitions; Property Abandoned or Assumed Abandoned.*

15404 **§ 55.1-2500. Definitions.**

15405 *As used in this chapter, unless the context requires a different meaning:*

15406 *"Act" means the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.).*

15407 *"Administrator" means the State Treasurer or his designee.*

15408 *"Apparent owner" means the person whose name appears on the records of the holder as the person entitled*
15409 *to property held, issued, or owing by the holder.*

15410 *"Banking organization" means any bank, trust company, savings bank (industrial bank, land bank, safe*
15411 *deposit company), or private banker or any other organization defined by law as a bank or banking*
15412 *organization.*

15413 *"Business association" means any corporation, joint-stock company, investment company, business trust,*
15414 *partnership, limited liability company, cooperative, or association for business purposes of two or more*
15415 *individuals, whether or not for profit, including a banking organization, financial organization, insurance*
15416 *company, or utility.*

15417 *"Credit balance" means an item of intangible property resulting from or attributable to the sale of goods*
15418 *or services, including an overpayment, credit memo, refund, discount, rebate, unidentified remittance, or*
15419 *deposit.*

15420 *"Domicile" means (i) the state of incorporation, in the case of a corporation incorporated under the laws*
15421 *of a state; (ii) the state of organization, in the case of an unincorporated business association formed under the*
15422 *laws of a state; (iii) the state of the principal place of business, in the case of a nonnatural person not*
15423 *incorporated or formed under the laws of a state; and (iv) the state of principal residency, in the case of a*
15424 *natural person.*

15425 *"Due diligence" includes the mailing of a letter by first-class mail to the last known address of the owner*
15426 *as indicated on the records of the holder.*

15427 *"Financial organization" means any savings and loan association (cooperative bank), building and loan*
15428 *association, or credit union.*

15429 *"Gift certificate" means a certificate, electronic card, or other medium that evidences the giving of*
15430 *consideration in exchange for the right to redeem the certificate, electronic card, or other medium for goods,*
15431 *food, services, credit, or money of an equal value.*

15432 *"Holder" means a person, wherever organized or domiciled, that is (i) in possession of property belonging*
15433 *to another; (ii) a trustee, in the case of a trust; or (iii) indebted to another on an obligation.*

15434 *"Insurance company" means an association, corporation, or fraternal or mutual benefit organization,*
15435 *whether or not for profit, that is engaged in providing insurance coverage, including accident, burial, casualty,*
15436 *contract performance, credit life, dental, fidelity, fire, health, hospitalization, illness, life (including*
15437 *endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance.*

15438 *"Intangible property" includes (i) moneys, checks, drafts, deposits, interest, and dividend income; (ii)*
15439 *credits, customer overpayments, gift certificates, security deposits, refunds, unpaid wages, and unidentified*
15440 *remittances; (iii) stocks and other intangible ownership interests in business associations; (iv) moneys*
15441 *deposited to redeem stocks, bonds, coupons, and other securities or to make distributions; (v) amounts due and*
15442 *payable under the terms of insurance policies; and (vi) amounts distributable from a trust or custodial fund*
15443 *established under a plan to provide any health, welfare, pension, vacation, severance, retirement, death, stock*
15444 *purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefit.*

15445 *"Last known address" means a description of the location of the apparent owner sufficient to identify the*
15446 *state of residence of the apparent owner for the purpose of the delivery of mail.*

15447 *"Owner" means (i) a depositor, in the case of a deposit; (ii) a beneficiary, in the case of a trust, other than*
15448 *a deposit in trust; (iii) a creditor, claimant, or payee, in the case of other intangible property; or (iv) a person*
15449 *having a legal or equitable interest in property subject to this chapter or his legal representative.*

15450 *"Payable" means the earliest date upon which the owner of property could become entitled to the payments,*
15451 *possession, delivery, or distribution of such property from a holder.*

15452 *"Person" means an individual; a business association; a government or governmental subdivision or*
15453 *agency, public corporation, or public authority; an estate; a trust; two or more persons having a joint or*
15454 *common interest; or any other legal or commercial entity.*

15455 "Promotional incentive" means a coupon, rebate, or other promotional device offered to induce a consumer
15456 to purchase goods, food, or services and for which (i) no direct consideration is given by the consumer or (ii)
15457 the consideration given is less than the value of the goods, food, or services to be received.

15458 "State," when applied to a part of the United States, includes any state, district, commonwealth, territory,
15459 and insular possession and any other area subject to the legislative authority of the United States.

15460 "Unclaimed property" means property for which the owner, as shown by the records of the holder of his
15461 property, has ceased, failed, or neglected, within the times provided in this chapter, to make presentment and
15462 demand for payment and satisfaction or to do any other act in relation to or concerning such property. As used
15463 in this definition, "act" excludes any act of a holder of unclaimed property not done at the express request or
15464 authorization of the owner.

15465 "Utility" means a person that owns or operates, for public use, any plant, equipment, property, franchise,
15466 or license for the transmission of communications or the production, storage, transmission, sale, delivery, or
15467 furnishing of electricity, water, steam, or gas.

15468 **§ 55.1-2501. Property presumed abandoned; general rule.**

15469 All tangible and intangible property, including any income or increment thereon, less any lawful charges,
15470 that is held, issued, or owing in the ordinary course of the holder's business and has remained unclaimed by
15471 the owner for more than five years after it became payable is presumed abandoned, except as otherwise
15472 provided by this chapter. Property is payable for the purpose of this chapter notwithstanding the owner's failure
15473 to make demand or to present any instrument or document required to receive payment.

15474 **§ 55.1-2502. Taking custody of intangible unclaimed property; general rules.**

15475 Unless otherwise provided in this chapter or by other law of the Commonwealth, intangible property is
15476 subject to the custody of the Commonwealth as unclaimed property if the conditions leading to a presumption
15477 of abandonment as described in §§ 55.1-2501, 55.1-2503 and 55.1-2505 through 55.1-2521 are satisfied and:

15478 1. The last known address, as shown on the records of the holder, of the apparent owner is in the
15479 Commonwealth;

15480 2. The records of the holder do not reflect the identity of the person entitled to the property, and it is
15481 established that the last known address of the person entitled to the property is in the Commonwealth;

15482 3. The records of the holder do not reflect the last known address of the apparent owner, and it is established
15483 that (i) the last known address of the person entitled to the property is in the Commonwealth or (ii) the holder
15484 is a domiciliary or a government or governmental subdivision or agency of the Commonwealth and has not
15485 previously paid the property to the state of the last known address of the apparent owner or other person entitled
15486 to the property;

15487 4. The last known address, as shown on the records of the holder, of the apparent owner or other person
15488 entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the
15489 property, or its escheat or unclaimed property law is not applicable to the property, and the holder is a
15490 domiciliary or a government or governmental subdivision or agency of the Commonwealth;

15491 5. The last known address, as shown on the records of the holder, of the apparent owner is in a foreign
15492 nation, and the holder is a domiciliary or a government or governmental subdivision or agency of the
15493 Commonwealth; or

15494 6. a. The transaction out of which the property arose occurred in the Commonwealth, and (i) the last known
15495 address of the apparent owner or other person entitled to the property is unknown or (ii) the last known address
15496 of the apparent owner or other person entitled to the property is in a state that does not provide by law for the
15497 escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the
15498 property; and

15499 b. The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of
15500 the property, or its escheat or unclaimed property law is not applicable to the property.

15501 **§ 55.1-2503. Bank deposits and funds in financial organizations.**

15502 A. Any demand, savings, or matured time deposit with a banking or financial organization, including
15503 deposits that are automatically renewable, and any funds paid toward the purchase of shares, a mutual
15504 investment certificate, or any other interest in a banking or financial organization is presumed abandoned
15505 unless the owner has, within five years:

15506 1. In the case of a deposit or ownership of shares, increased or decreased the amount of the deposit or the
15507 number of shares owned, or presented the passbook or other similar evidence of the deposit or ownership of

- 15508 *shares for the crediting of interest or dividends, or negotiated a check in payment of interest or dividends on a*
15509 *time deposit or ownership of shares;*
- 15510 *2. Communicated in writing with the banking or financial organization concerning the property;*
15511 *3. Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file*
15512 *prepared by an employee of the banking or financial organization;*
15513 *4. Owned other property to which subdivision 1, 2, or 3 is applicable if the banking or financial*
15514 *organization communicated in writing with the owner with regard to the property that would otherwise be*
15515 *presumed abandoned under this section at the address to which communications regarding the other property*
15516 *regularly are sent;*
- 15517 *5. Had another relationship with the banking or financial organization concerning which the owner has (i)*
15518 *communicated in writing with the banking or financial organization, or (ii) otherwise indicated an interest as*
15519 *evidenced by a memorandum or other record on file prepared by an employee of the banking or financial*
15520 *organization if the banking or financial organization communicates in writing with the owner with regard to*
15521 *the property that would otherwise be abandoned under this section at the address to which communications*
15522 *regarding the other relationship regularly are sent; or*
- 15523 *6. A deposit made with or purchase of shares in a banking or financial organization by a court or by a*
15524 *guardian pursuant to an order of a court or by any other person for the benefit of a person who was an infant*
15525 *at the time of the making of such deposit or purchase of shares, which deposit or ownership of shares is subject*
15526 *to withdrawal or transfer only upon the further order of such court or such guardian or other person, shall not*
15527 *be subject to the provisions of this chapter until one year after such infant attains the age of 18 years or until*
15528 *one year after the death of such infant, whichever occurs sooner. These accounts are not subject to dormant*
15529 *service charges.*
- 15530 *B. Notwithstanding any other provision of this section, share accounts of a member of a state or federally*
15531 *chartered credit union that is subject to or covered by life savings insurance provided by the credit union at no*
15532 *additional charge to the member shall be presumed abandoned five years after the date of the second mailing*
15533 *of a statement of account or other notification or communication that was returned as undeliverable or five*
15534 *years after the date the credit union discontinued the mailings to the member, whichever occurs earlier. Funds*
15535 *held or owing under the life savings insurance policy are presumed abandoned pursuant to § 55.1-2507.*
- 15536 *C. For purposes of this section, "property" includes any interest or dividends thereon. No banking or*
15537 *financial organization may deduct any service charge or cease to accrue interest on any account from the date*
15538 *the account is declared dormant or inactive by such organization except in conformity with cessation of interest*
15539 *or service charges generally assessed upon active accounts and except as provided in this section. With respect*
15540 *to any property described in this section, a holder may not impose any charges due to dormancy or inactivity*
15541 *that differ from charges imposed on active accounts or cease to pay interest due to dormancy or inactivity that*
15542 *differs from the cessation of payment of interest on active accounts unless:*
- 15543 *1. There is an enforceable contract between the holder and the owner of the property pursuant to which the*
15544 *holder may impose those charges or cease payment of interest;*
- 15545 *2. For property in excess of \$100, the holder, no more than three months prior to the initial imposition of*
15546 *those charges or cessation of interest, has given written notice to the owner of the amount of those charges at*
15547 *the last known address of the owner stating that those charges will be imposed or that interest will cease;*
15548 *however, such notice need not be given with respect to charges imposed or interest ceased before July 1, 1984;*
- 15549 *3. When the holder receives a request from the owner of the property to reverse or cancel dormancy charges*
15550 *or retroactively credit interest with respect to such property, the holder may at its option either:*
- 15551 *a. Reverse or cancel dormancy charges or retroactively credit interest with respect to any such property,*
15552 *in which event the holder shall reverse or cancel dormancy charges or retroactively credit interest for all such*
15553 *property that becomes subject to the reporting requirements in § 55.1-2524 for the Department of the Treasury;*
15554 *or*
- 15555 *b. Not reverse or cancel dormancy charges or retroactively credit interest with respect to any such property,*
15556 *in which event the holder shall not be required to reverse or cancel dormancy charges or retroactively credit*
15557 *interest for any such property that becomes subject to the reporting requirements in § 55.1-2524 for the*
15558 *Department of the Treasury; and*
- 15559 *4. The holder may at its option reverse or cancel dormancy charges or retroactively credit interest with*
15560 *respect to any or all such property to correct a documented internal error without becoming required to reverse*

15561 *or cancel dormancy charges or retroactively credit interest for all such property that becomes subject to the*
 15562 *reporting requirements in § 55.1-2524 for the Department of the Treasury.*

15563 *Notwithstanding any provision of this subsection to the contrary, a holder that is a state-chartered credit*
 15564 *union may refund charges or reverse or cancel those charges or retroactively credit interest with respect to*
 15565 *such property to the same extent that a federally chartered credit union is authorized to do so pursuant to*
 15566 *applicable provisions of federal law.*

15567 *D. Any automatically renewable property to which this section applies is matured upon the expiration of*
 15568 *its initial time period. However, in the case of any renewal to which the owner consents at or about the time of*
 15569 *renewal by communicating in writing with the banking or financial organization or otherwise indicates consent*
 15570 *as specified in subsection A, the property is matured upon the expiration of the last time period for which*
 15571 *consent was given. If, at the time provided for delivery in subsection D of § 55.1-2524, a penalty or forfeiture*
 15572 *in the payment of interest would result from the delivery of the property, the time for delivery is extended until*
 15573 *the time when no penalty or forfeiture would result. Notwithstanding any other provision of this section to the*
 15574 *contrary, any automatically renewable time deposit that has matured shall be presumed abandoned five years*
 15575 *after the date of the second mailing of a statement of account or other notification or communication that was*
 15576 *returned as undeliverable or five years after the date the holder discontinued the mailings to the apparent*
 15577 *owner, whichever occurs earlier. However, any automatically renewable time deposit for which no such*
 15578 *statement or other notification or mailing is required to be sent by the banking or financial organization shall*
 15579 *be presumed abandoned as otherwise provided in this section.*

15580 **§ 55.1-2504. Traveler's checks and money orders.**

15581 *A. Except as otherwise provided in this section, any sum payable on a traveler's check that has been*
 15582 *outstanding for more than 15 years after its issuance is presumed abandoned unless the owner, within 15 years,*
 15583 *has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a*
 15584 *memorandum or other record on file prepared by an employee of the issuer.*

15585 *Except as otherwise provided in this section, any sum payable on a money order or similar written*
 15586 *instrument, other than a third-party bank check, that has been outstanding for more than seven years after its*
 15587 *issuance is presumed abandoned unless the owner, within seven years, has communicated in writing with the*
 15588 *issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file*
 15589 *prepared by an employee of the issuer.*

15590 *B. No holder may deduct from the amount of any traveler's check or money order any charges imposed by*
 15591 *reason of the failure to present those instruments for payment unless (i) there is a valid and enforceable written*
 15592 *contract between the issuer and the owner of the property pursuant to which the issuer may impose those*
 15593 *charges and (ii) the issuer regularly imposes those charges and does not regularly reverse or otherwise cancel*
 15594 *those charges with respect to such property.*

15595 *C. Any sum payable on a traveler's check, money order, or similar written instrument, other than a third-*
 15596 *party bank check, described in this section shall not be subjected to the custody of the Commonwealth as*
 15597 *unclaimed property unless:*

15598 *1. The records of the issuer show that the traveler's check, money order, or similar written instrument was*
 15599 *purchased in the Commonwealth;*

15600 *2. The issuer has its principal place of business in the Commonwealth, and the records of the issuer do not*
 15601 *show the state in which the traveler's check, money order, or similar written instrument was purchased; or*

15602 *3. The issuer has its principal place of business in the Commonwealth, the records of the issuer show the*
 15603 *state in which the traveler's check, money order, or similar written instrument was purchased, and the laws of*
 15604 *the state of purchase do not provide for the escheat or custodial taking of the property, or its escheat or*
 15605 *unclaimed property law is not applicable to the property.*

15606 *D. Notwithstanding any other provision of this chapter, the provisions of subsection C relating to the*
 15607 *requirements for subjecting certain written instruments to the custody of the Commonwealth apply to sums*
 15608 *payable on traveler's checks, money orders, and similar written instruments presumed abandoned on or after*
 15609 *February 1, 1965, except to the extent that those sums have been paid over to a state prior to January 1, 1974.*

15610 **§ 55.1-2505. Checks, drafts, and similar instruments issued or certified by banking and financial**
 15611 **organizations.**

15612 *Any sum payable on a check, draft, or similar instrument, except money orders, traveler's checks, and other*
 15613 *similar instruments subject to § 55.1-2504, on which a banking or financial organization is directly liable,*
 15614 *including cashier's checks and certified checks, that has been outstanding for more than five years after it was*

15615 payable, or after its issuance if payable on demand, is presumed abandoned unless the owner, within five years,
 15616 has communicated in writing with the banking or financial organization concerning it or otherwise indicated
 15617 an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or
 15618 financial organization.

15619 A holder may not deduct from the amount of any instrument subject to this section any charges imposed by
 15620 reason of the failure to present the instrument for payment unless there is a valid and enforceable written
 15621 contract between the holder and the owner of the instrument pursuant to which the holder may impose those
 15622 charges and the holder regularly imposes those charges and does not regularly reverse or otherwise cancel
 15623 those charges with respect to such instruments.

15624 **§ 55.1-2506. Contents of safe deposit box or other safekeeping repository.**

15625 All tangible and intangible property held in a safe deposit box or any other safekeeping repository in the
 15626 Commonwealth in the ordinary course of the holder's business and all proceeds resulting from the lawful sale
 15627 of this property shall be presumed abandoned if unclaimed by the owner for more than five years after the lease
 15628 or rental period on the box or other repository has expired.

15629 **§ 55.1-2507. Funds owing under life insurance policies.**

15630 A. Funds held or owing under any life or endowment insurance policy or annuity contract that has matured
 15631 or terminated are presumed abandoned if unclaimed for more than five years after the funds became due and
 15632 payable as established from the records of the insurance company holding or owing the funds, except that
 15633 property described in subdivision C 2 is presumed abandoned if unclaimed for more than two years.

15634 B. If a person other than the insured or annuitant is entitled to the funds and no address of the person is
 15635 known to the company or it is not definite and certain from the records of the company who is entitled to the
 15636 funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known
 15637 address of the insured or annuitant according to the records of the company.

15638 C. For purposes of this section, a life or endowment insurance policy or annuity contract not matured by
 15639 actual proof of the death of the insured or annuitant according to the records of the company is deemed matured
 15640 and the proceeds due and payable if:

15641 1. The company knows that the insured or annuitant has died; or

15642 2. (i) The insured has attained, or would have attained if he were living, the limiting age under the mortality
 15643 table on which the reserve is based; (ii) the policy was in force at the time the insured attained, or would have
 15644 attained, the limiting age specified in clause (i); and (iii) neither the insured nor any other person appearing
 15645 to have an interest in the policy within the preceding two years, according to the records of the company, has
 15646 assigned, readjusted, or paid premiums on the policy, subjected the policy to a loan, corresponded in writing
 15647 with the company concerning the policy, or otherwise indicated an interest as evidenced by a memorandum or
 15648 other record on file prepared by an employee of the company.

15649 D. For purposes of this section, the application of an automatic premium loan provision or other
 15650 nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or
 15651 terminated under subsection A if the insured has died or the insured or the beneficiaries of the policy otherwise
 15652 have become entitled to the proceeds thereof before the depletion of the cash surrender value of the policy by
 15653 the application of those provisions.

15654 E. Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant
 15655 and the beneficiary has not communicated with the insurer within four months after the death, the company
 15656 shall take reasonable steps to locate the beneficiary and pay the proceeds to the beneficiary.

15657 F. Commencing July 1, 1986, every change of beneficiary form issued by an insurance company under any
 15658 life or endowment insurance policy or annuity contract to an insured or owner who is a resident of the
 15659 Commonwealth shall request the following information:

15660 1. The name of each beneficiary or, if the class of beneficiaries is named, the name of each current
 15661 beneficiary in the class;

15662 2. The address of each beneficiary; and

15663 3. The relationship of each beneficiary to the insured.

15664 **§ 55.1-2508. Intangible personal property held by insurance corporation subject to § 55.1-2501.**

15665 An insurance corporation holding any other intangible personal property not covered by subsection A of §
 15666 55.1-2507 or § 55.1-2509 shall be otherwise subject to § 55.1-2501.

15667 **§ 55.1-2509. Unclaimed demutualization proceeds.**

15668 *Unclaimed property payable or distributable in the course of the demutualization of an insurance company*
15669 *is presumed abandoned five years after the earlier of (i) the date of last contact with the policyholder or (ii) the*
15670 *date the property became payable or distributable. The report filed on November 1, 2003 will include*
15671 *demutualization distribution property for which there has been no policyholder contact for the five years prior*
15672 *to June 30, 2003.*

15673 **§ 55.1-2510. Deposits held by utilities.**

15674 *Any deposit, including any interest thereon, made by a subscriber with a utility to secure payment or any*
15675 *sum paid in advance for utility services to be furnished, less any lawful deductions, that remains unclaimed by*
15676 *the owner for more than one year after termination of the services for which the deposit or advance payment*
15677 *was made is presumed abandoned.*

15678 **§ 55.1-2511. Intangible interest in business association.**

15679 *A. Any intangible interest in a business association, as evidenced by the stock records or membership*
15680 *records of the association, is presumed abandoned five years after the date of the most recent dividend or other*
15681 *distribution unclaimed by the apparent owner with respect to the stock or other interest or, if a dividend or*
15682 *other distribution has not been paid on the stock or other interest, or the stock or other interest is held pursuant*
15683 *to a plan that provides for the automatic reinvestment of dividends or other distributions, five years after the*
15684 *date of the second mailing of a statement of account or other notification or communication that was returned*
15685 *as undeliverable or five years after the date the holder discontinued the mailings to the apparent owner,*
15686 *whichever occurs earlier. With respect to such interest, the business association shall be deemed the holder.*

15687 *B. Any dividend or other distribution held for or owing to a person at the time the stock or other security*
15688 *to which such dividend or other distribution attaches is considered abandoned at the same time.*

15689 **§ 55.1-2512. Refunds held by business associations.**

15690 *Except to the extent otherwise ordered by a court or administrative agency of competent jurisdiction, any*
15691 *sum that a business association has been ordered to refund by a court or administrative agency that has*
15692 *remained unclaimed by the owner for more than one year after it became payable in accordance with the final*
15693 *determination or order providing for the refund, regardless of whether the final determination or order requires*
15694 *any person entitled to a refund to make a claim for it, is presumed abandoned.*

15695 **§ 55.1-2513. Property of business associations held in course of dissolution.**

15696 *All intangible property distributable in the course of a voluntary or involuntary dissolution of a business*
15697 *association that remains unclaimed by the owner for more than one year after the date for specified final*
15698 *distribution is presumed abandoned.*

15699 **§ 55.1-2514. Intangible personal property held in fiduciary capacity.**

15700 *A. All intangible personal property, and any income or increment thereon, held in a fiduciary capacity for*
15701 *the benefit of another person is presumed abandoned unless the owner has, within five years after it became*
15702 *payable, increased or decreased the principal, accepted payment of principal or income, corresponded in*
15703 *writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other*
15704 *record on file with and prepared by the fiduciary or an employee of the fiduciary.*

15705 *B. Funds in an individual retirement account, a retirement plan for self-employed individuals, or a similar*
15706 *account or plan established pursuant to the Internal Revenue laws of the United States are not payable under*
15707 *this section unless, under the terms of the account or plan, distribution of all or part of the funds would then be*
15708 *mandatory.*

15709 *C. For the purpose of this section, a person who holds property as an agent for a business association is*
15710 *deemed to hold the property in a fiduciary capacity for that business association alone, unless such person's*
15711 *agreement with the business association provides otherwise. A person who is so deemed to hold property in a*
15712 *fiduciary capacity for a business association alone is the holder of the property only insofar as the interest of*
15713 *the business association in the property is concerned, and the business association is the holder of the property*
15714 *insofar as the interest of any other person in the property is concerned.*

15715 **§ 55.1-2515. Gift certificates and credit balances.**

15716 *A. Except as described in subsection B, a gift certificate or credit balance issued in the ordinary course of*
15717 *the issuer's business that has remained unclaimed by the owner for more than five years after such gift*
15718 *certificate or credit balance became payable is presumed abandoned.*

15719 *B. The following property is exempt from the provisions of this chapter and shall not be assessed by the*
15720 *administrator as unclaimed property: (i) credit balances payable to a business association; (ii) outstanding*
15721 *checks resulting from or attributable to the sale of goods or services to a business association; (iii) promotional*

15722 incentives; and (iv) credits, gift certificates, coupons, layaways, and similar items, provided that such credits,
 15723 gift certificates, coupons, layaways, and similar items are redeemable in merchandise, in services, or through
 15724 future purchases.

15725 **§ 55.1-2516. Wages.**

15726 Unpaid wages, including wages represented by unrepresented payroll checks owing in the ordinary course
 15727 of the holder's business, that have remained unclaimed by the owner for more than one year after such unpaid
 15728 wages became payable are presumed abandoned.

15729 **§ 55.1-2517. Intangible property held for owner by public agency.**

15730 All intangible property held for the owner by any government or governmental subdivision or agency,
 15731 public corporation, or public authority that has remained unclaimed by the owner for more than one year after
 15732 it became payable is presumed abandoned.

15733 **§ 55.1-2518. Property held by courts.**

15734 All intangible property held for the owner by any state or federal court that has remained unclaimed by the
 15735 owner for more than one year after it became payable is presumed abandoned.

15736 **§ 55.1-2519. Responsibilities of general receiver and clerk.**

15737 The general receiver, if one has been appointed, and the clerk of each circuit court shall be responsible for
 15738 identifying moneys held by them in their respective accounts that have remained unclaimed by the owner for
 15739 more than one year after such moneys became payable and for petitioning the court to remit such money to the
 15740 administrator. There shall be no obligation to report or remit funds deposited as compensation and damages
 15741 in condemnation proceedings pursuant to § 25.1-237 prior to a final court order or pursuant to § 33.2-1019.

15742 **§ 55.1-2520. Employee benefit trust distribution.**

15743 A. All employee benefit trust distributions and any income or other increment thereon are abandoned to
 15744 the Commonwealth under the provisions of this chapter if the owner has not, within 10 years after it became
 15745 payable, accepted such distribution, corresponded in writing concerning such distribution, or otherwise
 15746 indicated an interest as evidenced by a memorandum or other record on file with the fiduciary of the trust or
 15747 custodial fund or administrator of the plan under which such trust or fund is established.

15748 B. An employee benefit trust distribution and any income or other increment thereon shall not be presumed
 15749 abandoned to the Commonwealth under the provisions of this chapter if, at the time such distribution becomes
 15750 payable to a participant in an employee benefit plan, (i) such plan contains a provision for forfeiture or
 15751 expressly authorizes the trustee to declare a forfeiture of a distribution to a beneficiary thereof who cannot be
 15752 found after a period of time specified in such plan and (ii) the trust or fund established under the plan has not
 15753 terminated prior to the date on which such distribution would become forfeitable in accordance with such
 15754 provision.

15755 **§ 55.1-2521. Holder of tangible or intangible personal property may voluntarily report such property.**

15756 Any holder of tangible or intangible personal property the owner of which is unlocatable may voluntarily
 15757 report the property to the administrator, prior to the statutory due dates, whereupon the property shall be
 15758 presumed abandoned under this chapter.

15759 Article 2.

15760 *Reciprocity for Property Presumed Abandoned or Escheated under Laws of Another State.*

15761 **§ 55.1-2522. Certain property not presumed abandoned in the Commonwealth.**

15762 If specific property that is subject to the provisions of §§ 55.1-2501, 55.1-2503, 55.1-2507, 55.1-2511, 55.1-
 15763 2513, 55.1-2514, 55.1-2520, and 55.1-2521 is payable to an owner whose last known address is in another
 15764 state by a holder that is subject to the jurisdiction of that state, the specific property is not presumed abandoned
 15765 in the Commonwealth and subject to this chapter if:

- 15766 1. It may be claimed as abandoned or escheated under the laws of such other state; and
- 15767 2. The laws of such other state make reciprocal provision that similar specific property is not presumed
 15768 abandoned or escheatable by such other state when payable to an owner whose last known address is within
 15769 the Commonwealth by a holder that is subject to the jurisdiction of the Commonwealth.

15770 **§ 55.1-2523. Interstate agreements and cooperation.**

15771 A. The administrator may enter into agreements with other states to exchange information needed to enable
 15772 the Commonwealth or another state to audit or otherwise determine unclaimed property to which the
 15773 Commonwealth or another state may be entitled subject to a claim of custody. The administrator may by rule
 15774 require the reporting of information needed to enable compliance with agreements made pursuant to this
 15775 section and prescribe the form.

15776 *B. To avoid conflicts between the administrator's procedures and the procedures of administrators in other*
 15777 *jurisdictions that enact the Uniform Unclaimed Property Act, the administrator shall, so far as is consistent*
 15778 *with the purposes, policies, and provisions of this chapter, before adopting, amending, or repealing rules,*
 15779 *advise and consult with administrators in other jurisdictions that enact substantially the Act and take into*
 15780 *consideration the rules of administrators in other jurisdictions that enact the Act.*

15781 *C. The administrator may join with other states to seek enforcement of the Act against any person who is*
 15782 *or may be holding property reportable under the Act. At the request of another state, the Attorney General of*
 15783 *the Commonwealth may bring an action in the name of the administrator of the other state in any court of*
 15784 *competent jurisdiction to enforce the unclaimed property laws of the other state against a holder in the*
 15785 *Commonwealth of property subject to escheat or a claim of abandonment by the other state, if the other state*
 15786 *has agreed to pay expenses incurred by the Attorney General in bringing the action.*

15787 *Similarly, the administrator may request that the Attorney General of another state, or any other person,*
 15788 *bring an action in the other state in the name of the administrator. The Commonwealth shall pay all expenses,*
 15789 *including attorney fees, in any such action, and such expenses shall not be deducted from the amount that is*
 15790 *subject to the claim by the owner under this chapter.*

15791 Article 3.

15792 Procedural and Administrative Matters.

15793 **§ 55.1-2524. Report and remittance to be made by holder of funds or property presumed abandoned;**
 15794 **holder to exercise due diligence to locate owner.**

15795 *A. Every person holding funds or other property, tangible or intangible, presumed abandoned under this*
 15796 *chapter shall report and remit to the administrator with respect to the property as provided in this article.*
 15797 *Reports containing 25 or more items shall be remitted in an electronic format as prescribed by the*
 15798 *administrator. The administrator may waive this requirement when he determines that it creates an undue*
 15799 *hardship.*

15800 *B. The report shall be verified and shall include:*

15801 *1. The name and social security or federal identification number, if known, and last known address,*
 15802 *including zip code, if any, of each person appearing from the records of the holder to be the owner of any*
 15803 *property of the value of \$100 or more presumed abandoned under this chapter;*

15804 *2. In the case of unclaimed funds of insurance corporations, the full name of the insured or annuitant and*
 15805 *any beneficiary, if known, and the last known address according to the insurance corporation's records;*

15806 *3. In the case of the contents of a safe deposit box or other safekeeping repository or in the case of other*
 15807 *tangible property, a description of the property and the place where it is held and may be inspected by the*
 15808 *administrator and any amounts owing to the holder;*

15809 *4. The nature and identifying number, if any, or description of the property and the amount appearing from*
 15810 *the records to be due, except that items of value under \$100 each may be reported in aggregate;*

15811 *5. The date when the property became payable, demandable, or returnable and the date of the last*
 15812 *transaction with the owner with respect to the property; and*

15813 *6. Other information that the administrator prescribes by rule as reasonably necessary for the*
 15814 *administration of this chapter.*

15815 *C. If the person holding property presumed abandoned is a successor to other persons who previously held*
 15816 *the property for the owner, or if the holder has changed his name while holding the property, he shall file with*
 15817 *his report all prior known names and addresses of each holder of the property.*

15818 *D. The report and remittance, including the remittance of unclaimed demutualization proceeds made*
 15819 *pursuant to § 55.1-2509, shall be filed before November 1 of each year for the period ending June 30 of such*
 15820 *year, but the report and remittance of insurance corporations shall be filed before May 1 of each year for the*
 15821 *period ending December 31 of the previous year. When property is evidenced by certificate of ownership as set*
 15822 *forth in § 55.1-2511, the holder shall deliver to the administrator a duplicate of any such certificate registered*
 15823 *in the name "Treasurer of Virginia" or the Treasurer's designated nominee at the time of report and remittance.*
 15824 *The administrator may postpone the reporting and remittance date upon written request by any person required*
 15825 *to file a report.*

15826 *E. If the holder of property presumed abandoned under this chapter knows the whereabouts of the owner,*
 15827 *the holder shall, before filing the annual report, communicate with the owner and take necessary steps to*
 15828 *prevent abandonment from being presumed. All holders shall exercise due diligence, as defined in § 55.1-2500,*
 15829 *at least 60 days prior to the submission of the report to ascertain the whereabouts of the owner if (i) the holder*

15830 has in its records an address for the apparent owner that the holder's records do not disclose to be inaccurate
15831 and (ii) the property has a value of \$100 or more.

15832 F. Verification shall be executed (i) if made by a partnership, by a partner; (ii) if made by an unincorporated
15833 association or private corporation, by an officer; and (iii) if made by a public corporation, by its chief fiscal
15834 officer.

15835 **§ 55.1-2525. Notices to be published by administrator.**

15836 A. The administrator shall cause to be published notice of the report filed under subsection D of § 55.1-
15837 2524 once each year in a newspaper of general circulation in the area in which the last known address of any
15838 person to be named in the notice is located. If no address is listed or if the address is outside of the
15839 Commonwealth, the notice shall be published in the area in which the holder of the abandoned property has
15840 his principal place of business.

15841 B. The published notice shall be entitled "Commonwealth of Virginia Unclaimed Property List" and shall
15842 contain:

15843 1. The names in alphabetical order and account numbers of persons listed in the report and entitled to
15844 notice within the area as specified in subsection A; and

15845 2. A statement that information concerning the amount or description of the property and the name and
15846 address of the holder may be obtained by any persons possessing an interest in the property by addressing an
15847 inquiry to the administrator.

15848 C. The administrator is not required to publish in such notice any item of less than \$100 unless he deems
15849 such publication to be in the public interest.

15850 **§ 55.1-2526. Holder relieved of liability for property paid or delivered to administrator; payment to owner
15851 by holder; proceedings against prior holder; notice to administrator and Attorney General; reimbursement
15852 of holder.**

15853 A. Upon the payment or delivery of abandoned property to the administrator, the Commonwealth shall
15854 assume custody and shall be responsible for the safekeeping of such property. Any person who pays or delivers
15855 abandoned property to the administrator under this chapter is relieved of all liability to the extent of the value
15856 of the property so paid or delivered for any claim that then exists or that thereafter may arise or be made in
15857 respect to the property. Any holder that has paid moneys to the administrator pursuant to this chapter may
15858 make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment
15859 and proof that the payee was entitled thereto, the administrator shall forthwith reimburse the holder for the
15860 payment.

15861 B. In the event that legal proceedings are instituted against a prior holder in a court of the Commonwealth,
15862 or in any other state or federal court, by any other state claiming to be entitled to unclaimed funds or abandoned
15863 property previously paid or delivered to the administrator, such holder shall give written notice to the
15864 administrator and the Attorney General of the Commonwealth of such proceedings (i) within 10 days after
15865 service of process or (ii) at least 10 days before the return date on which an answer or similar pleading is
15866 required to be filed. The Attorney General may intervene or take such other action as he deems appropriate or
15867 necessary to protect the interests of the Commonwealth.

15868 C. If the notice provided in subsection B is given by the holder and thereafter a judgment is entered against
15869 the holder for any amount paid to the administrator pursuant to the terms of this chapter, the administrator
15870 shall, upon being furnished with proof thereof, return to the holder the amount of such judgment, not to exceed,
15871 however, the amount of the abandoned property paid to the administrator.

15872 D. Property removed from a safe deposit box or other safekeeping repository that is received by the
15873 administrator shall be subject to the holder's right under this subsection to be reimbursed for the actual cost of
15874 the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or
15875 storage charges. The administrator shall make the reimbursement to the holder out of the proceeds remaining
15876 after the deduction of the administrator's selling cost.

15877 **§ 55.1-2527. Crediting of dividends, interest, or increments to owner's account.**

15878 Whenever property other than money is paid or delivered to the administrator under this chapter, the owner
15879 is entitled to receive from the administrator any dividends, interest, or other increments realized or accruing
15880 on the property at or before liquidation or conversion of such property into money.

15881 **§ 55.1-2528. Periods of limitation.**

15882 A. The expiration of any period of time specified by statute or court order during which an action or
15883 proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property

15884 shall not prevent the money or property from being presumed abandoned property or affect any duty to file a
15885 report required by this chapter or to pay or deliver abandoned property to the administrator.

15886 B. Except as provided in subsection C, an action or proceeding shall not be maintained by the administrator
15887 to enforce this chapter more than five years after the earlier of (i) the date on which the holder identified the
15888 property on a report filed with the administrator, (ii) the date on which the holder first filed a report with the
15889 administrator wherein the holder should have but failed to report the property, or (iii) the date on which the
15890 holder filed a report with the administrator giving reasonable notice to the administrator of a dispute regarding
15891 the property.

15892 C. An action or proceeding shall not be maintained by the administrator to enforce this chapter with respect
15893 to any property more than 10 years following the date on which such property first became reportable if the
15894 holder (i) filed a materially false or fraudulent report with the intent to evade delivery of property otherwise
15895 subject to this chapter or (ii) failed to file a report with the administrator.

15896 **§ 55.1-2529. Sale of abandoned property by administrator.**

15897 A. Except as provided in subsection C, all abandoned property other than money or other certificate of
15898 ownership delivered to the administrator under this chapter shall be sold by him to the highest bidder at public
15899 sale (i) in such city, within or outside the Commonwealth, as affords in his judgment the most favorable market
15900 for the property involved or (ii) through the use of electronic media in a format approved by the administrator.
15901 The administrator may decline the highest bid and reoffer the property for sale if he considers the price bid
15902 insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value
15903 of the property.

15904 B. Any sale held under this section within the Commonwealth shall be preceded by a single publication of
15905 notice of such sale at least three weeks in advance of the sale. Such notice shall be published in a newspaper
15906 of general circulation in the county or city where the property is to be sold. If any sale is to occur outside the
15907 Commonwealth, then the administrator may use such forms of notice or advertising as he deems necessary to
15908 constitute reasonable notice, including post, print, visual, telecommunications, electronic media, or any
15909 combination thereof. For the purposes of this section, any sale through the use of electronic media, including
15910 the Internet, shall be deemed to be a sale outside of the Commonwealth.

15911 C. Securities listed on an established stock exchange shall be sold at prices prevailing at the time of sale
15912 on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any
15913 other method the administrator deems advisable.

15914 Unless the administrator deems it to be in the best interest of the Commonwealth to do otherwise, all
15915 securities delivered to the administrator shall be held for at least one year before the securities may be sold. If
15916 the administrator sells any securities before the expiration of the one-year period, any person making a claim
15917 pursuant to this chapter before the end of the one-year period is entitled to either the proceeds of the sale of the
15918 securities or the market value of the securities at the time the claim is made, whichever amount is greater. Any
15919 person making a claim pursuant to this chapter after the expiration of the one-year period is entitled to receive
15920 either the securities delivered to the administrator by the holder, if they still remain in the hands of the
15921 administrator, or the proceeds of the sale, but no person has any claim under this chapter against the
15922 Commonwealth, the holder, or any transfer agent, registrar, or other person acting for or on behalf of the
15923 holder for any appreciation in the value of the property occurring after delivery by the holder to the
15924 Commonwealth.

15925 D. The purchaser of property at any sale conducted by the administrator pursuant to this chapter shall
15926 receive title to property purchased pursuant to subsections A or B and is entitled to ownership of property
15927 purchased pursuant to subsection C, free from all claims of the owner or previous holder thereof and of all
15928 persons claiming through or under such owner or previous holder. The administrator shall execute all
15929 documents necessary to complete the transfer of ownership.

15930 E. If the administrator determines after investigation that any property delivered to him pursuant to this
15931 chapter has insubstantial commercial value, he may destroy or otherwise dispose of the property at any time.
15932 No action or proceeding may be maintained against the Commonwealth or any officer or against the holder for
15933 or on account of any action taken by the administrator with respect to the property pursuant to this subsection.

15934 **§ 55.1-2530. Securities received in name of owner.**

15935 Whenever the administrator receives securities under this chapter in the name of the owner, he shall take
15936 appropriate action to transfer the record of ownership of such securities into the title of the State Treasurer of
15937 the Commonwealth of Virginia as soon as practical.

15938 **§ 55.1-2531. Disposition of funds received under chapter; records to be kept by administrator.**

15939 A. All funds received under this chapter, including the proceeds from the sale of abandoned property under
15940 § 55.1-2529, shall be deposited by the administrator in the Literary Fund of the Commonwealth as soon as
15941 practical, except that the administrator shall retain in a separate trust fund a sum sufficient from which he shall
15942 make prompt payment of claims duly allowed by him as provided by subsection B. Before making the deposit,
15943 he shall record the name and last known address of each person appearing from the holders' reports to be
15944 entitled to the abandoned property, the name and last known address of each insured person or annuitant, and,
15945 with respect to each policy or contract listed in the report of an insurance corporation, its number, the name of
15946 the corporation, and the amount due.

15947 B. Before making any deposit to the credit of the Literary Fund, the administrator may deduct (i) any costs
15948 in connection with the sale of abandoned property, (ii) any costs of mailing and publication in connection with
15949 any abandoned property, (iii) operating expenses, and (iv) amounts required to make payments to other states,
15950 during the next fiscal year, through reciprocity agreements.

15951 **§ 55.1-2532. Filing claim to property or proceeds of sale of such property.**

15952 A. Any person claiming an interest in any property delivered to the Commonwealth under this chapter may
15953 file a claim to such property or to the proceeds from the sale of such property on a form prescribed by the
15954 administrator.

15955 B. Notwithstanding any other provision of law, any person claiming an interest in any property delivered
15956 to the Commonwealth under this chapter for a reported owner who is deceased shall submit evidence of the
15957 claimant's entitlement to payment together with a form prescribed by the administrator. In order of preference,
15958 such evidence may include (i) a certificate of qualification as the executor or an order of appointment as the
15959 administrator or personal representative of the decedent's estate under the laws of the state of the decedent's
15960 domicile; (ii) if applicable, an affidavit authorizing the claimant to be the designated successor under the
15961 Virginia Small Estate Act (§ 64.2-600 et seq.), or its equivalent under the laws of the state of the decedent's
15962 domicile that names the claimant as the designated successor; or (iii) the order of distribution or the final
15963 accounting for a closed estate that reflects payment due in whole or in part to the claimant. When, in the absence
15964 of any such evidence, (a) the death of the reported owner occurred at least one year prior to filing the claim
15965 and (b) the amount claimed is \$25,000 or less, exclusive of any interest owed pursuant to subsection C of §
15966 55.1-2533, the administrator may allow the claimant to submit an affidavit stating the claimant's entitlement to
15967 payment in the absence of sufficient documentation, and the administrator may approve the claim in his
15968 discretion, returning or paying all or the appropriate share of the deceased owner's property to the claimant.
15969 The administrator may pay or deliver all of the deceased owner's property to a claimant who submits the
15970 prescribed affidavit evidencing his agreement to receive and distribute the property to the other rightful heirs
15971 or beneficiaries and acknowledging his assumption of liability to those beneficiaries or heirs for failure to do
15972 so.

15973 C. Notwithstanding any other provision of law, when paying or delivering unclaimed property under
15974 subsection B to a claimant who is not authorized to represent the decedent's estate as the personal
15975 representative or the designated successor or the equivalent, the administrator is discharged and released to
15976 the same extent as if the administrator dealt with the authorized representative or designated successor for the
15977 decedent's estate. The administrator shall deny any subsequent claim to the same property. Any person
15978 subsequently claiming an equal or superior right to the deceased owner's property whose claim is denied by
15979 the administrator for this reason may seek redress from the claimant to whom payment was made.

15980 D. The administrator shall develop and make available a plain English explanation of a person's right to
15981 make a claim, in accordance with the provisions of this section, for property delivered to the Commonwealth
15982 in cases where the reported owner of the property is deceased. The administrator shall also post such document
15983 on the Department of the Treasury's website.

15984 **§ 55.1-2533. Consideration of and hearing on claim by administrator; payment; interest.**

15985 A. The administrator shall consider any claim for property held by the administrator pursuant to the
15986 provisions of this chapter that is filed under this chapter and may hold a hearing and receive evidence
15987 concerning such claim. If a hearing is held, he shall prepare a finding and a decision in writing on each claim
15988 filed, stating the substance of any evidence heard by him and the reasons for his decision. The decision shall
15989 be a public record.

15990 B. If the claim is allowed, the administrator shall make payment as soon as practical. The administrator is
15991 authorized to deduct from the claim the costs for notices, sales, and other related incurred expenses.

15992 C. The administrator shall add interest at the rate of five percent or such lesser rate as the property earned
 15993 while in the possession of the holder, compounded annually, to the amount of any claim paid to the owner, if
 15994 the property claimed was interest-bearing to the owner while in the possession of the holder. If the holder fails
 15995 to report an applicable rate of interest, the interest rate will be set at five percent or such lesser rate as
 15996 determined by the one-year Treasury Constant Maturity Rate as published by the Board of Governors of the
 15997 Federal Reserve System as of November 1 of the report year. Such interest shall begin to accumulate on the
 15998 date the property is delivered to the administrator and shall cease on the date on which payment is made to the
 15999 owner. No interest shall be payable for any period prior to July 1, 1981.

16000 **§ 55.1-2534. Judicial review of decision of administrator.**

16001 Any person aggrieved by an act or decision of the administrator with respect to a claim for property held
 16002 by the administrator pursuant to the provisions of this chapter may commence an action in the circuit court of
 16003 the county or city in which the property claimed is situated to establish his claim. The proceeding shall be
 16004 brought within three years after the decision of the administrator or, if the administrator fails to act, within
 16005 three years from the filing of the claim.

16006 **§ 55.1-2535. Election of administrator not to receive property or to postpone taking possession of funds.**

16007 The administrator, after receiving reports of property deemed abandoned pursuant to this chapter, may
 16008 decline to receive any property reported that he deems to have a value less than the cost of giving notice and
 16009 holding sale, or he may, if he deems it desirable because of the small sum involved, postpone taking possession
 16010 until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within 120 days
 16011 after filing the report required under § 55.1-2524, the administrator shall be deemed to have elected to receive
 16012 the custody of the property.

16013 **§ 55.1-2536. Requests for verified reports and examinations of records.**

16014 A. Except as otherwise provided in this chapter, the administrator may require any person that has not filed
 16015 a report to file a verified report stating whether or not the person is holding any unclaimed property reportable
 16016 or deliverable under this chapter.

16017 B. Except as otherwise provided in this chapter, the administrator may at reasonable times and upon
 16018 reasonable notice examine the records of any person to determine whether the person has complied with the
 16019 provisions of this chapter. The administrator may conduct the examination even if the person believes it is not
 16020 in possession of any property reportable or deliverable under this chapter. The administrator may examine all
 16021 necessary records to determine the amount, if any, of property that would have been reportable or deliverable
 16022 under this chapter for the 10 years prior to the fiscal year end preceding the opening of the examination;
 16023 however, for any holder that has not previously filed any report under this chapter, the administrator may
 16024 examine property presumed abandoned for report year 1985 and subsequent years.

16025 C. If a holder fails to maintain the records required by § 55.1-2537 and the records of the holder available
 16026 for the periods subject to this chapter are insufficient to permit the preparation of a report, the holder shall be
 16027 required to report and pay such amounts as may reasonably be estimated from any available records.

16028 D. The administrator may contract with a person who is not an employee of the Commonwealth to perform
 16029 an audit or examination under this article; however, with respect to any holder that is domiciled in the
 16030 Commonwealth or that maintains its principal place of business in the Commonwealth, no such contract shall
 16031 (i) be on a contingency fee basis or (ii) permit statistical estimation without the consent of the holder.

16032 **§ 55.1-2537. Retention of records.**

16033 A. Every holder required to file a report under § 55.1-2524, shall retain all books, records, and documents
 16034 necessary to establish the accuracy and compliance of such report for five years after the report is filed pursuant
 16035 to subsection B of § 55.1-2524. If no report is filed, the holder shall retain such books, records, and documents
 16036 for 10 years after the property becomes reportable, except to the extent that shorter time is provided in
 16037 accordance with the Virginia Public Records Act (§ 42.1-76 et seq.), in accordance with subsection B, or by
 16038 rule of the administrator. As to any property for which it has obtained the last known address of the owner, the
 16039 holder shall maintain a record of the name and last known address of the owner for the same retention period.

16040 B. Any business association that sells in the Commonwealth its traveler's checks, money orders, or other
 16041 similar written instruments, other than third-party bank checks on which the business association is directly
 16042 liable, or that provides such instruments to others for sale in the Commonwealth, shall maintain a record of
 16043 those instruments while they remain outstanding, indicating the state and date of issue for three years after the
 16044 date the property is reportable.

16045 **§ 55.1-2538. Confidentiality of information and records.**

16046 Any information or records required to be furnished to the Division of Unclaimed Property shall be
 16047 confidential except as is otherwise necessary in the proper administration of this chapter.

16048 **§ 55.1-2539. Enforcement of chapter.**

16049 The administrator may bring an action in a court of competent jurisdiction to enforce this chapter. The
 16050 administrator shall commence enforcement for compliance with the provisions of this chapter within the period
 16051 specified in § 55.1-2528. The holder may waive in writing the protection of this section.

16052 **§ 55.1-2540. Interest and penalties.**

16053 A. Any person who fails to pay or deliver property within the time prescribed by this chapter shall be
 16054 required to pay to the administrator interest at the same annual rate as is applicable to delinquent taxes under
 16055 § 58.1-1812 on the property or value thereof from the date the property should have been paid or delivered.
 16056 Such interest rate shall vary with the rate specified in § 58.1-1812.

16057 B. Any person who does not exercise due diligence as defined in § 55.1-2500 shall pay a civil penalty not
 16058 to exceed \$50 for each account upon which due diligence was not performed.

16059 C. Except as otherwise provided in subsection D, a holder that (i) fails to report, pay, or deliver property
 16060 within the time prescribed by this chapter; (ii) files a false report; or (iii) fails to perform other duties imposed
 16061 by this chapter without good cause shall pay to the administrator, in addition to interest as provided in
 16062 subsection A, a civil penalty of \$100 for each day the report, payment, or delivery is withheld or the duty is not
 16063 performed, up to a maximum of the lesser of \$10,000 or 25 percent of the value of the property that should have
 16064 been but was not reported.

16065 D. A holder that (i) willfully fails to report, pay, or deliver property within the time prescribed by this
 16066 chapter; (ii) willfully fails to perform other duties imposed by this chapter without good cause; or (iii) makes a
 16067 fraudulent report to the administrator shall pay to the administrator, in addition to interest as provided in
 16068 subsection A, a civil penalty of \$1,000 for each day the report, payment, or delivery is withheld or the duty is
 16069 not performed, up to a maximum of the lesser of \$50,000 or 100 percent of the value of the property that should
 16070 have been but was not reported.

16071 E. The administrator for good cause may waive, in whole or in part, interest under subsection A and
 16072 penalties under subsections B, C, and D. All civil penalties shall be payable to the State Treasurer and credited
 16073 to the Literary Fund.

16074 **§ 55.1-2541. Determinations; appeal procedures; regulations of administrator.**

16075 A. For the purposes of this section, "jeopardized by delay" means a finding that the applicant intends to
 16076 undertake a wrongful act with the intent to prejudice, or to render ineffectual, future proceedings to enforce
 16077 this chapter.

16078 B. The administrator may adopt necessary regulations to carry out the provisions of this chapter.

16079 C. If the administrator ascertains that any person has failed to pay or deliver abandoned property in
 16080 accordance with the provisions of this chapter, he shall issue a written notice to such person demanding
 16081 remittance of the property and payment of any penalties and interest prescribed by law. Every such notice shall
 16082 be accompanied by a detailed explanation of the holder's right to secure an administrative or judicial review.
 16083 The abandoned property, together with penalties and interest, if any, shall be remitted to the administrator
 16084 within 90 days from the date notice is received by the holder unless the holder requests (i) an administrative
 16085 review in accordance with regulations promulgated pursuant to subsection D or (ii) a judicial review in
 16086 accordance with § 55.1-2534.

16087 D. The administrator shall promulgate regulations pursuant to which any person (i) asserting ownership
 16088 of property remitted to the Commonwealth under this chapter, (ii) required to pay or deliver abandoned
 16089 property pursuant to this chapter, or (iii) otherwise aggrieved by a decision of the administrator may file an
 16090 application for administrative appeal and correction of the administrator's determination.

16091 E. On receipt of the application as provided in regulations promulgated pursuant to subsection D, or if
 16092 regulations promulgated thereunder are not in effect, on receipt of an application requesting an administrative
 16093 review by the State Treasurer, the administrator shall suspend collection activity until a final determination is
 16094 issued by the State Treasurer, unless the administrator determines that collection would be jeopardized by
 16095 delay. Interest shall continue to accrue in accordance with the provisions of § 55.1-2540, but no further penalty
 16096 shall be imposed while collection activity is suspended.

16097 F. If the State Treasurer is satisfied, by evidence submitted or otherwise, that there has been an erroneous
 16098 or improper demand for the remittance of property, the State Treasurer shall order that the applicant be
 16099 exonerated from the remittance of such portion as is erroneously or improperly demanded, if not already

16100 collected, and that it be returned or refunded to the applicant, if already collected. The State Treasurer shall
 16101 refrain from collecting a contested charge until he has made a final determination under this section unless he
 16102 determines that collection may be jeopardized by delay.

16103 G. Except as otherwise provided in regulations promulgated pursuant to subsection D, the State Treasurer
 16104 shall issue a written determination to the applicant within 90 days of receipt of an application for correction,
 16105 unless the applicant is notified that a longer period will be required. All determinations of the State Treasurer
 16106 shall include a written finding of fact and supporting law, and all such determinations shall be publicly
 16107 reported.

16108 H. Following a determination by the State Treasurer, the applicant may apply (i) in the case of a claim for
 16109 property by a purported owner, to the appropriate circuit court pursuant to § 55.1-2534 and (ii) in the case of
 16110 a dispute between a holder and the State Treasurer, to the Circuit Court of the City of Richmond, within the
 16111 time period established in § 55.1-2534.

16112 **§ 55.1-2542. Agreements to locate reported property; penalty.**

16113 A. It is unlawful for any person to seek or receive from another person or contract with another person for
 16114 a fee or compensation for locating property that he knows has been reported or paid or delivered to the
 16115 administrator pursuant to this chapter prior to 36 months after the date of delivery of the property by the holder
 16116 to the administrator as required by this chapter.

16117 B. No agreement entered into after 36 months from the required date of delivery of the property by the
 16118 holder to the administrator is valid if a person thereby undertakes to locate property included in a report for a
 16119 fee or other compensation exceeding 10 percent of the value of the recoverable property. Nothing in this section
 16120 shall be construed to prevent an owner from asserting at any time that an agreement to locate property is based
 16121 upon an excessive or unjust consideration.

16122 C. State warrants that may be issued in payment and redemption of previously abandoned property or the
 16123 liquidation proceeds of previously abandoned property may be issued in the discretion of the administrator
 16124 directly to the person entitled to the money as the owner, heir, or legatee, or as fiduciary of the estate of the
 16125 deceased owner, heir, or legatee, and not to a named attorney-in-fact, agent, or assignee or any other person
 16126 regardless of a written instruction to the contrary. The administrator need not recognize nor is the
 16127 administrator bound by any terms of a purported power of attorney or assignment that may be presented as
 16128 having been executed by a person as the purported owner, heir, legatee, or fiduciary of the estate of a deceased
 16129 owner of such abandoned property.

16130 D. A person who violates subsection A or B is guilty of a misdemeanor, punishable by a fine not to exceed
 16131 \$1,000.

16132 **§ 55.1-2543. Property presumed abandoned or escheated under laws of another state.**

16133 This chapter shall not apply to any property that has been presumed abandoned or escheated under the
 16134 laws of another state prior to January 1, 1961.

16135 **§ 55.1-2544. Property held or payable pursuant to Title 51.1.**

16136 This chapter shall not apply to any funds or other property, tangible or intangible, held or payable pursuant
 16137 to Title 51.1.

16138 **§ 55.1-2545. Construction of chapter.**

16139 This chapter shall be construed so as to effectuate its general purpose to make uniform the law of those
 16140 states that enact it.

16141 CHAPTER 26.

16142 PROPERTY LOANED TO MUSEUMS.

16143 **§ 55.1-2600. Definitions.**

16144 As used in this chapter, unless the context requires a different meaning:

16145 "Loaned property" means all museum property deposited on or after July 1, 2002, with a museum not
 16146 accompanied by a transfer of title to the property.

16147 "Museum" means an institution located in the Commonwealth and operated by a nonprofit corporation or
 16148 public agency whose primary purpose is educational, scientific, or aesthetic and that owns, borrows, or cares
 16149 for and studies, archives, or exhibits museum property.

16150 "Museum property" means all tangible objects, animate and inanimate, under a museum's care that have
 16151 intrinsic value to science, history, art, or culture, except for botanical or zoological specimens loaned to a
 16152 museum for scientific research.

16153 **§ 55.1-2601. Status of loaned property; statute of limitations on recovery.**

16154 A. Except as may be otherwise provided in a written agreement between a lender and a museum, no action
16155 shall be brought against a museum to recover loaned property when more than five years have passed from (i)
16156 the receipt by the museum of written communication concerning the loaned property or (ii) any display of
16157 interest in the property by the lender as evidenced by a memorandum or other record on file prepared by an
16158 employee of the museum.

16159 B. Loaned property shall be deemed to have been donated to the museum if no action to recover the property
16160 is initiated within one year after the museum gives notice of termination of the loan as provided in §§ 55.1-
16161 2604 and 55.1-2605.

16162 C. Loaned property shall not be delivered to the Commonwealth, and shall be exempt from the provisions
16163 of Chapter 25 (§ 55.1-2500 et seq.), but shall pass to the museum if no person takes action under Chapter 2 (§
16164 64.2-200 et seq.) of Title 64.2.

16165 **§ 55.1-2602. Notice to lenders of the provisions of this chapter.**

16166 When a museum accepts a loan of property, the museum shall inform the lender in writing of the provisions
16167 of this chapter.

16168 **§ 55.1-2603. Status of title to property acquired from museum.**

16169 Any person who purchases property from a museum acquires good title to the property if the museum
16170 represents that it has acquired title to the property pursuant to § 55.1-2601.

16171 **§ 55.1-2604. Notice of termination of loan; content of notice.**

16172 A. If the property was loaned to the museum for an indefinite time, the museum may provide notice of
16173 termination of a loan of property at any time on the museum's website or by providing written notice of such
16174 termination to the lender, if known. If the property was loaned to the museum for a specified term, the museum
16175 may provide notice of termination of the loan in the same manner at any time after the expiration of the specified
16176 term.

16177 B. Notices given under this section shall contain:

16178 1. The name and address, if known, of the lender;

16179 2. The date of the loan;

16180 3. The name, address, and telephone number of the appropriate office or official to be contacted at the
16181 museum for information regarding the loan; and

16182 4. Any other information deemed necessary by the museum.

16183 **§ 55.1-2605. Procedure for giving notice of termination of a loan of property; responsibility of owner of**
16184 **loaned property.**

16185 A. To give notice of termination of a loan of property, the museum shall mail a notice to the lender at the
16186 most recent address of the lender as shown on the museum's records pertaining to the loaned property. If the
16187 museum has no address in its records, or the museum does not receive written proof of receipt of the mailed
16188 notice within 30 days of the date the notice was mailed, the museum shall cause to be published notice at least
16189 once a week for three consecutive weeks in a newspaper of general circulation in the county or city in which
16190 the museum is located and in a newspaper of general circulation in the county or city of the lender's last known
16191 address if different from the county or city in which the museum is located.

16192 B. For purposes of this section, if the loan of property was made to a branch of the museum, the museum
16193 shall be deemed to be located in the county or city where the branch is located. In all other cases, the museum
16194 shall be deemed to be located in the county or city in which its principal place of business is located.

16195 C. The owner of property loaned to a museum shall notify the museum promptly in writing of any change
16196 of address or change in ownership of the property.

16197 **§ 55.1-2606. Acquiring title to undocumented property.**

16198 A. A museum shall have the authority to acquire legal title to undocumented property if the museum can
16199 verify through written records that it has held such property for five years or longer, during which period no
16200 valid claim to the property has been asserted and no person has contacted the museum regarding the property,
16201 by complying with the following procedure:

16202 1. The museum shall cause to be published a notice once a week for two consecutive weeks in a newspaper
16203 of general circulation in the county or city in which the museum is located and in a newspaper of general
16204 circulation in the county or city of the lender's last known address if different from the county or city in which
16205 the museum is located. The notice shall include:

16206 a. A brief and general description of the undocumented property;

16207 b. The date or approximate date of the loan or acquisition of the property by the museum, if known;

16208 c. Notice of the museum's intent to claim title to the property if no valid claims are made within 65 days
 16209 following the date of the first publication of the notice under this subdivision 1;

16210 d. The name, address, and telephone number of the representative of the museum to contact for more
 16211 information or to make a claim; and

16212 e. If known, the name and last known address of the lender.

16213 2. If no valid claims have been made by the end of the 65-day period following the date of the first
 16214 publication of the notice under subdivision 1 c, the museum shall cause to be published a second notice once a
 16215 week for two consecutive weeks in a newspaper of general circulation in the county or city in which the museum
 16216 is located and in a newspaper of general circulation in the county or city of the lender's last known address if
 16217 different from the county or city in which the museum is located. The second notice shall include:

16218 a. A brief and general description of the undocumented property;

16219 b. The date or approximate date of the loan or acquisition of the property by the museum, if known;

16220 c. Notice that the museum claims title to the property as of the date of the end of the 65-day period following
 16221 the date of the first publication of the notice under subdivision 1; and

16222 d. If known, the name and last known address of the lender.

16223 B. Upon compliance with the requirements set forth in subsection A, clear and unrestricted title is
 16224 transferred, as of the date specified in subdivision A 1 c, to the museum and not to the Commonwealth.

16225 **§ 55.1-2607. Status of property loaned to or deposited with museum prior to July 1, 2002.**

16226 Except as otherwise provided in a written agreement between a lender and a museum, property loaned to
 16227 or deposited with a museum prior to July 1, 2002, may be discarded or transferred to another museum located
 16228 in Virginia, provided that (i) the notice provisions of §§ 55.1-2604 and 55.1-2605 have been complied with and
 16229 (ii) such property is held by the museum receiving the transfer for at least three years before it sells or disposes
 16230 of such property.

16231 CHAPTER 27.

16232 DRIFT PROPERTY.

16233 **§ 55.1-2700. Who is entitled to drift property.**

16234 When any property other than abandoned watercraft has drifted on any of the waters of the Commonwealth
 16235 and is deposited and left on the lands of any person other than the owner of such property, and there is no
 16236 indicia of ownership, the owner of such land shall, as against all persons other than the owner of such property,
 16237 be deemed and treated, and have the same rights and remedies relating thereto, as such owner of such property.

16238 **§ 55.1-2701. Conditions on which owner may remove drift property.**

16239 The owner of property described in § 55.1-2700, after he has paid to the owner of the land a just
 16240 compensation for any proper care, labor, or expense bestowed, done, or incurred by him for such property,
 16241 may enter upon the land and, doing as little injury as possible, remove the property, but shall pay the owner of
 16242 the land for any damage caused to him by such entry and removal.

16243 **§ 55.1-2702. When owner of land may sell drift property; owner of property entitled to proceeds after
 16244 payment of expenses, etc.**

16245 If the owner of drift property described in § 55.1-2700 does not, within three months from the time the
 16246 property was so deposited, remove or demand the property from the owner of the land, the owner of the land
 16247 may sell the property or otherwise convert it to his own use, provided that the owner of the land, after deducting
 16248 a just compensation for any proper care, labor, or expense bestowed, done, or incurred by him for the property
 16249 from the amount received by him as the price thereof, or the actual value thereof at the time of such sale or
 16250 other conversion, shall pay to the owner of the property, if he elects to receive it, the residue of the price or of
 16251 the actual value, as the case may be. The owner of the property, after he has demanded such residue and proved
 16252 by the affidavit of some other person, or by a competent witness, his right thereto, or offered to prove such
 16253 right, and if the owner of the land has refused or declined to inspect or hear the evidence thereof, (i) may
 16254 recover such residue, when the property has been sold, as money received for his use; (ii) may recover such
 16255 residue, when the property has not been sold, as the price of goods sold by the owner of the property to the
 16256 owner of the land; or (iii) may have his action of trover to the extent of such residue.

16257 **§ 55.1-2703. Right of property to be proved.**

16258 In any action relating to the ownership of any property described in § 55.1-2700, the person, other than
 16259 the owner of such land, claiming to be the owner of the property must prove his ownership in order to sustain
 16260 his claim.

16261 CHAPTER 28.

*TRESPASSES; FENCES.**Article 1.**Electric Fences.***§ 55.1-2800. Definition.**

As used in this article, "electric fence" means a fence designed to conduct electric current along one or more wires of such fence so that a person or animal touching any such wire or wires will receive an electric shock.

§ 55.1-2801. Unlawful to sell, distribute, construct, install, maintain, or use certain electric fences upon agricultural land.

A. It is unlawful for any person to sell, distribute, construct, install, maintain, or use upon any land used for agricultural purposes or, for any person exercising supervision or control over any such land, to permit any other person to construct, install, maintain, or use any electric fence energized with an electric charge unless the charge is regulated by a controlling device. Except as otherwise provided in this article, such controlling device shall display the approved label of and shall conform to the safety standards promulgated by the Underwriters Laboratories, Inc., in its publication number UL69, dated June 30, 2009, and entitled "Standard for Safety for Electric-Fence Controllers," as the same may from time to time be supplemented, or shall display the approved label of and meet the safety standards promulgated by the International Electrotechnical Commission in its publication IEC 60335-2-76, second edition (BS EN 69335-2-76), as the same may from time to time be supplemented.

B. No metallically continuous fence or set of electrically connected fences shall be supplied by more than one controlling device.

C. Any controlling device shall be suitably grounded when placed in service.

§ 55.1-2802. Unlawful to sell other controlling devices unless they meet certain standards.

A. A controlling device that does not conform to the requirements of § 55.1-2801 shall not be sold, distributed, constructed, installed, maintained, or used unless it meets the following standards:

1. A peak-discharge-output type controlling device that delivers intermittent current of a value not in excess of four milliamperes for a maximum "on" period of two-tenths second and a minimum "off" period of three-quarters second. The mean value of the peak output from such device shall progressively decrease from four milliamperes at maximum "on" periods of both two-tenths and one-tenth second to three and two-tenths milliamperes at six-hundredths second, one and nine-tenths milliamperes at three-hundredths second, and consequently to shorter "on" periods as output current increases.

2. A sinusoidal-output type controlling device that delivers an intermittent current of a value not in excess of five milliamperes for a maximum "on" period of two-tenths second and a minimum "off" period of nine-tenths second. The effective value of the output from such device may increase as the "on" period decreases, increasing from 40 milliamperes for one-tenth second to 57 milliamperes for five-hundredths second, and 65 milliamperes for twenty-seven thousandths second.

3. Any other type of controlling device that delivers a maximum intermittent current output of a value not in excess of four milliamperes for a maximum "on" period of two-tenths second and a minimum "off" period of nine-tenths second.

B. Notwithstanding the provisions of subsection A, no electric fence controlling device shall be sold, distributed, constructed, installed, maintained, or used that will permit for longer than one second an uninterrupted electric current on the fence with an effective value in excess of five milliamperes when the load, including the measuring device, is not less than 450 ohms nor more than 550 ohms.

§ 55.1-2803. Penalty.

Any person who violates any provision of this article is guilty of a Class 1 misdemeanor.

*Article 2.**What Constitutes Lawful Fence.***§ 55.1-2804. Description of lawful fence.**

Every fence shall be deemed a lawful fence as to any domesticated livestock that could not creep through such fence, if it is:

1. At least five feet high, including, if the fence is on a mound, the mound to the bottom of the ditch;

2. Made of barbed wire, at least 42 inches high, consisting of at least four strands of barbed wire, firmly fixed to posts, trees, or other supports substantially set in the ground, spaced no farther than 12 feet apart

16315 unless a substantial stay or brace is installed halfway between such posts, trees, or other supports to which
 16316 such wires are also fixed;

16317 3. Made of boards, planks, or rails, at least 42 inches high, consisting of at least three boards firmly
 16318 attached to posts, trees, or other supports substantially set in the ground;

16319 4. At least three feet high, if such fence is within the limits of any town whose charter neither prescribes,
 16320 nor gives to the town council power to prescribe, what shall constitute a lawful fence within such corporate
 16321 limits; or

16322 5. Any other fence, except as otherwise described in this section, if it is:

16323 a. At least 42 inches high;

16324 b. Constructed from materials sold for fencing or consisting of systems or devices based on technology
 16325 generally accepted as appropriate for the confinement or restriction of domesticated livestock; and

16326 c. Installed pursuant to generally acceptable standards so that applicable domesticated livestock cannot
 16327 creep through the same.

16328 A cattle guard reasonably sufficient to turn all kinds of livestock shall also be deemed a lawful fence as to
 16329 any domesticated livestock.

16330 Nothing contained in this section shall affect the right of any such town to regulate or forbid the running
 16331 at large of cattle and other domestic animals within its corporate limits.

16332 The Board of Agriculture and Consumer Services may adopt regulations regarding lawful fencing
 16333 consistent with this section to provide greater specificity as to the requirements of lawful fencing. The absence
 16334 of any such regulation shall not affect the validity or applicability of this section as it relates to what constitutes
 16335 lawful fencing.

16336 **§ 55.1-2805. Proceeding to declare stream of water or canal a lawful fence.**

16337 A. The circuit court of any county, upon a petition of any owner or tenant of lands on any stream of water
 16338 or canal, may declare and establish such stream or canal, or any part of either within the limits and jurisdiction
 16339 of the county, a lawful fence as to any domesticated livestock. Notice of the application shall be given by posting
 16340 a copy of the petition at the front door of the courthouse and at two or more public places at or near the stream
 16341 or canal to which the petition applies, for 30 days, and by publishing such notice once a week for four successive
 16342 weeks in a newspaper of general circulation in such county. At or before the trial of the cause, any person
 16343 interested may enter himself a defendant.

16344 B. The court may, upon petition and notice of any person interested, revoke or alter any order made under
 16345 subsection A, but such order shall not be made within one year from the date of the original and shall not take
 16346 effect until six months after it is made.

16347 **§ 55.1-2806. Boundary lines of certain low grounds on James River a lawful fence.**

16348 The owners and occupants of low grounds on either side of the James River in Albemarle, Buckingham,
 16349 and Goochland Counties, enclosed by lawful fences on the back and hill lands, need not keep up any fence on
 16350 the boundary lines running across the low grounds to the river, and such boundary lines shall be deemed a
 16351 lawful fence, except where public roads cross the river or run parallel with its banks.

16352 **§ 55.1-2807. Statutes declaring watercourses lawful fences continued.**

16353 All acts declaring any river, stream, or watercourse, or any part thereof, or any boundary in any county, a
 16354 lawful fence, or authorizing any court so to declare the same, or enacting a special fence law for any county or
 16355 any part thereof, and all acts relating to the making or repairing of division fences in any county or in any part
 16356 thereof that may be in force on the day before the Code of 1887 took effect, shall continue in force.

16357 Article 3.

Cattle Guards and Gates Across Rights-of-Way.

16359 **§ 55.1-2808. Property owner may place cattle guards or gates across right-of-way.**

16360 Any owner of property on which there is a road or way, not a public road, a highway, a street, or an alley,
 16361 over which an easement exists for ingress and egress of others may place cattle guards or gates across such
 16362 way when required for the protection of livestock.

16363 **§ 55.1-2809. Persons having easement may replace gate with cattle guard; maintenance and use thereof;
 16364 deemed lawful gate.**

16365 Any person having an easement of right-of-way across the lands of another may, at his own expense, replace
 16366 any gate thereon with a substantial cattle guard sufficient to turn livestock. Such cattle guards shall be
 16367 maintained by the owner of the easement, who shall be responsible for keeping such cattle guards at all times
 16368 in sufficient condition to turn livestock. If a cattle guard is rendered inoperative by inclement weather, the

16369 easement owner shall utilize and maintain any reasonable alternative method sufficient to turn livestock from
 16370 the inoperative cattle guard until such cattle guard is rendered operative again. If the gate to be replaced is
 16371 needed or used for the orderly ingress and egress of equipment or animals thereover, then such persons acting
 16372 under the authority of this section shall construct such cattle guards so as to allow such ingress and egress or,
 16373 if such easement is of sufficient width, may place such cattle guard adjacent to such gate.

16374 Such a cattle guard shall be deemed a lawful gate and not an interference with such easement.

16375 Article 4.

16376 Trespass in Crossing Lawful Fence.

16377 **§ 55.1-2810. Damages for trespass by animals; punitive and double damages.**

16378 A. If any domesticated livestock enters into any grounds enclosed by a lawful fence, as defined in §§ 55.1-
 16379 2804 through 55.1-2807, the owner or manager of any such animal shall be liable for the actual damages
 16380 sustained.

16381 B. Punitive damages may be awarded but shall not exceed \$20 in any case.

16382 C. For every second and subsequent trespass, the owner or manager of such animal shall be liable for
 16383 double damages, both actual and punitive.

16384 **§ 55.1-2811. Lien on animals.**

16385 If the court enters judgment for the owner or tenant of the grounds enclosed by a lawful fence pursuant to
 16386 § 55.1-2810, the landowner shall have a lien upon such animal. Upon entry of the judgment, the court shall
 16387 issue a writ of fieri facias pursuant to § 8.01-478, and the animal found to have trespassed shall be levied upon
 16388 by the officer to whom such execution was issued, who shall sell such animal, as provided in Chapter 18 (§
 16389 8.01-466 et seq.) of Title 8.01.

16390 **§ 55.1-2812. Impounding animals.**

16391 Whenever any animal is found trespassing upon any grounds enclosed by a lawful fence, the owner or
 16392 tenant of such enclosed grounds shall have the right to take up and impound such animal until the damages
 16393 provided for pursuant to this article have been paid, or until such animal is taken under execution by the officer
 16394 as provided by § 55.1-2811. The costs of taking up and impounding such animal shall be estimated as a part of
 16395 the actual damage.

16396 **§ 55.1-2813. Duty to issue warrant when animal impounded.**

16397 An owner or tenant of lands trespassed upon by any domesticated livestock, within three days after the
 16398 taking up and impounding such animal unless the damages are otherwise settled, shall apply to a person
 16399 authorized to issue warrants of the county or city in which such land is situated for a warrant for the amount
 16400 of damages claimed by him. The court, or the clerk thereof, shall issue such warrant, to be made returnable at
 16401 as early a date, but not less than three days after such issuance, as shall be deemed best by him; and upon the
 16402 hearing of the case the judge shall give such judgment as is deemed just and right.

16403 Article 5.

16404 No-Fence Law.

16405 **§ 55.1-2814. How governing body of county may make local fence law.**

16406 The board of supervisors or other governing body in any county, after publishing notice as required by
 16407 subsection F of § 15.2-1427, may, by ordinance, declare the boundary line of each lot or tract of land or any
 16408 stream in such county, any magisterial district of such county, or any selected portion of such county, to be a
 16409 lawful fence as to any or all domesticated livestock, or may declare any other kind of fence for such county,
 16410 magisterial district, or selected portion of the county than as prescribed by § 55.1-2804 to be a lawful fence, as
 16411 to any or all of such animals.

16412 **§ 55.1-2815. Effect of such law on certain fences.**

16413 A declaration made by ordinance adopted pursuant to § 55.1-2814 shall not apply to relieve the adjoining
 16414 landowners from making and maintaining their division fences, as defined by § 55.1-2804; however, Article 6
 16415 (§ 55.1-2821 et seq.) shall apply to such division fences.

16416 **§ 55.1-2816. Application to railroad companies.**

16417 No action taken under the provisions of § 55.1-2814 shall relieve any railroad company of any duty or
 16418 obligation imposed on every such company by § 56-429, or imposed by any other statute now in force, in
 16419 reference to fencing their lines of railway and rights-of-way.

16420 **§ 55.1-2817. No authority to adopt more stringent fence laws.**

16421 *Nothing in § 55.1-2814 shall authorize or require the boards of supervisors or other governing bodies of*
 16422 *counties to declare a more stringent fence as a lawful fence for any county, magisterial district, or selected*
 16423 *portion of any county than as prescribed by § 55.1-2804.*

16424 **§ 55.1-2818. Effect on existing fence laws or no-fence laws.**

16425 *Nothing in § 55.1-2814 shall repeal the existing fence laws in any county, magisterial district, or selected*
 16426 *portion of any county, until changed by the board of supervisors or other governing body, by ordinance and in*
 16427 *accordance with the provisions thereof, nor shall the provisions of § 55.1-2814 apply to any county, magisterial*
 16428 *district, or selected portion of any county in which the no-fence law is now in force, if such no-fence law exists*
 16429 *otherwise than in an ordinance adopted by the board of supervisors or other governing body of such county*
 16430 *entered pursuant to § 55.1-2814.*

16431 **§ 55.1-2819. Lands under quarantine.**

16432 *The boundary line of each lot or tract of land in any county in the Commonwealth that is under quarantine*
 16433 *shall be a lawful fence as to any and all domesticated livestock.*

16434 **§ 55.1-2820. When unlawful for animals to run at large.**

16435 *It is unlawful for the owner or manager of any domesticated livestock to permit any such animal, as to*
 16436 *which the boundaries of lots or tracts of land have been or may be constituted a lawful fence, to run at large*
 16437 *beyond the limits of his own lands within the county, magisterial district, or portion of such county in which*
 16438 *such boundaries have been constituted and are a lawful fence.*

16439 *Article 6.*

16440 *Division Fences.*

16441 **§ 55.1-2821. Obligation to provide division fences.**

16442 *Adjoining landowners shall build and maintain, at their joint and equal expense, division fences between*
 16443 *their lands, unless one of them chooses to let his land lie open or unless they agree otherwise.*

16444 **§ 55.1-2822. When no division fence has been built.**

16445 *If no division fence has been built, either one of the adjoining landowners may give notice in writing of his*
 16446 *desire and intention to build such fence to the landowner of the adjoining land, or to his agent, and require him*
 16447 *to build his half of such fence. The landowner so notified may, within 10 days after receiving such notice, give*
 16448 *notice in writing to the person so desiring to build such fence, or to his agent, of his intention to let his land lie*
 16449 *open. If the landowner giving the original notice subsequently builds such division fence and the landowner*
 16450 *who has so chosen to let his land lie open, or his successors in title, subsequently encloses his land, he, or his*
 16451 *successors, shall be liable to the landowner who built such fence, or to his successors in title, for one-half of*
 16452 *the value of such fence at the time such land was so enclosed, and such fence shall thereafter be deemed a*
 16453 *division fence between such lands.*

16454 *If, however, the person so notified fails to give notice of his intention to let his land lie open, and fails to*
 16455 *agree, within 30 days after being so notified, to build his half of such fence, he shall be liable to the person who*
 16456 *builds the fence for one-half of the expense, and such fence shall thereafter be deemed a division fence between*
 16457 *such lands.*

16458 *Notwithstanding the provisions of this section, no successor in title shall be liable for any amount prior to*
 16459 *the recordation and proper recordation of the notice in the clerk's office of the county in which the land is*
 16460 *located.*

16461 **§ 55.1-2823. When division fence already built.**

16462 *When any fence (i) that has been built and used by adjoining landowners as a division fence, or any fence*
 16463 *that has been built by one landowner and the other landowner is afterwards required to pay half of the value*
 16464 *or expense of such fence under the provisions contained in this article, and (ii) that has thereby become a*
 16465 *division fence between such lands, becomes out of repair to the extent that it is no longer a lawful fence, either*
 16466 *one of such adjoining landowners may give written notice to the other, or to his agent, of his desire and intention*
 16467 *to repair such fence and require him to repair his half of such fence. If the landowner receiving written notice*
 16468 *fails to repair his half within 30 days after being so notified, the one giving such notice may then repair the*
 16469 *entire fence so as to make it a lawful fence, and the other shall be liable to him for one-half of the expense of*
 16470 *such repairs.*

16471 **§ 55.1-2824. Recovery of amount due in connection with division fence.**

16472 *Any sum that may be due and payable by one adjoining landowner to another in pursuance of any of the*
 16473 *provisions of §§ 55.1-2822 and 55.1-2823 may be recovered by action or warrant in debt, according to the*
 16474 *jurisdictional amount.*

16475 **§ 55.1-2825. Requirements for agreement to bind successors in title; subsequent owners.**

16476 *No agreement made between adjoining landowners, with respect to the construction or maintenance of the*
 16477 *division fence between their lands, shall be binding on their successors in title unless it (i) is in writing and*
 16478 *specifically so state, (ii) is recorded in the deed book in the clerk's office of the county in which the land is*
 16479 *located, and (iii) is properly indexed as deeds are required by law to be indexed.*

16480 *If any notice, as required by § 55.1-2822 or 55.1-2823 is recorded in the deed book in the clerk's office of*
 16481 *the county in which the land is located and is properly indexed as deeds are required by law to be indexed, then*
 16482 *any subsequent owners of such land shall be liable for any sum that may be due pursuant to § 55.1-2824.*

16483 **§ 55.1-2826. How notice given.**

16484 *Any notice required to be given pursuant to this article shall be given to the landowner, if he resides in the*
 16485 *county in which the land lies; otherwise, it may be given to such person as, under the laws of the Commonwealth,*
 16486 *would be his agent or to any person occupying such land as tenant of the landowner, who shall, for the purposes*
 16487 *of this article, be deemed the agent of such landowner.*

16488 *Article 7.*

16489 *Special Provisions for Unincorporated Communities.*

16490 **§ 55.1-2827. Courts to fix boundaries of villages to prevent animals from running at large.**

16491 *The circuit court of any county in which is situated any village or unincorporated community having within*
 16492 *defined boundaries a population of 300 or more shall have jurisdiction to fix the boundaries of such village or*
 16493 *unincorporated community for the purpose of preventing domesticated livestock from running at large within*
 16494 *such boundaries.*

16495 **§ 55.1-2828. Petition for action to fix boundaries of village or unincorporated community.**

16496 *Twenty or more landowners residing within the boundaries referred to in § 55.1-2827 may file a petition*
 16497 *signed by them requesting that the boundaries of such village or unincorporated community be fixed for the*
 16498 *purposes of § 55.1-2827. Notice of the intention to file such petition, stating the date on which the petition will*
 16499 *be filed, and such notice shall be (i) posted at the front door of the courthouse of such county, and at three or*
 16500 *more conspicuous places within such boundaries and (ii) published once a week for two successive weeks in a*
 16501 *newspaper having a general circulation in the county where the village or unincorporated community is*
 16502 *located, at least 10 days before the day on which such petition is to be presented. Such petition shall state with*
 16503 *reasonable certainty the boundaries within which it is desired to prohibit such animals from running at large,*
 16504 *that at least 300 persons reside within such boundaries, and that a majority of the landowners residing therein*
 16505 *are in favor of prohibiting such animals from running at large.*

16506 **§ 55.1-2829. Entry of order if petition not contested.**

16507 *A petition filed pursuant to § 55.1-2829, if verified by the oath of one or more of the petitioners, shall be*
 16508 *prima facie evidence of the facts stated therein, and the court without further evidence shall proceed to enter*
 16509 *the order fixing the boundaries of the village or unincorporated community unless such petition is contested.*

16510 **§ 55.1-2830. Procedure in case of contest.**

16511 *Any person having a lawful interest in any land within the boundaries referred to in any petition to fix the*
 16512 *boundaries of a village or unincorporated community who wishes to contest such petition may intervene in such*
 16513 *action as a defendant. In case of such contest, the judge shall hear the evidence and, if in doubt as to the facts,*
 16514 *may appoint one or more persons to canvass such community and report to the court the number of persons*
 16515 *residing within such boundaries, the names of all the landowners residing therein, and whether such*
 16516 *landowners are for or against the petition.*

16517 **§ 55.1-2831. Order of court.**

16518 *The court shall enter an order fixing the boundaries of any village or unincorporated community having*
 16519 *within defined boundaries a population of 300 or more for the purpose of preventing domesticated livestock*
 16520 *from running at large within such boundaries if (i) in the case of a contested petition, it appears from the*
 16521 *evidence or from a report, if any is required pursuant to § 55.1-2830, that at least 300 persons reside within*
 16522 *the boundaries referred to in a petition filed pursuant to § 55.1-2828 and that a majority of the landowners*
 16523 *residing therein are in favor of prohibiting domesticated livestock from running at large or (ii) in the case of*
 16524 *an uncontested petition, on the basis of the evidence presented in the petition itself.*

16525 **§ 55.1-2832. Animals shall not run at large after entry of order.**

16526 *After the expiration of 10 days from the date of entering an order pursuant to § 55.1-2831, it is unlawful*
 16527 *for any domesticated livestock to run at large within such boundaries, and any person owning or having charge*
 16528 *of any such animal who permits such livestock to run at large within such boundaries is guilty of a Class 4*

16529 *misdemeanor. Each day such animal is permitted to run at large constitutes a separate offense, and any such*
16530 *animal found running at large upon any street, alley, road, or other public ground within such boundaries may*
16531 *be taken up and impounded by any person who may retain such animal in his custody until the expense of*
16532 *keeping such animal is paid.*

16533 **§ 55.1-2833. Costs.**

16534 *If the petition is uncontested, the costs shall be borne by the petitioner; if it is contested, costs shall be*
16535 *awarded to the prevailing party.*

16536 **§ 55.1-2834. Owner of domesticated livestock liable for trespasses.**

16537 *If any domesticated livestock, as to which the boundaries of the lots or tracts of land in any county,*
16538 *magisterial district, or selected portion of such county constitute a lawful fence, are found going at large within*
16539 *such county, district, or portion of such county, or upon the lands of any person other than the owner, the owner*
16540 *or manager of such animals shall be liable for all damage or injury done by such animals to the owner of the*
16541 *crops or lands upon which they trespass, whether the animals wander from the premises of their owner in the*
16542 *county in which the trespass was committed or from another county, provided that when the boundaries of lots*
16543 *or tracts of land in only one of two adjoining counties constitutes a lawful fence, and any of such animals*
16544 *escapes across the line or boundary of the two counties, the owner of such animal shall not be liable to the fine*
16545 *imposed by subsection B of § 55.1-2810, nor for any trespass committed by such animal upon the lands lying*
16546 *next to such line or boundary, nor to a forfeiture of the animal, unless the land upon which the trespass is*
16547 *alleged to have been committed is enclosed, as provided in § 55.1-2804.*

16548 *Article 8.*

16549 *Cutting Timber.*

16550 **§ 55.1-2835. Damages recoverable for timber cutting.**

16551 *If any person, firm, or corporation encroaches and cuts timber, except when acting prudently and under*
16552 *bona fide claim of right, the owner of such timber shall, in addition to all other remedies afforded by law, have*
16553 *the benefit of a right to, and a summary remedy for recovery of, damages in an amount as specified in this*
16554 *article and recovered as provided for in this article.*

16555 *If the trespass is proven, the defendant shall have the burden of proving that he acted prudently and under*
16556 *a bona fide claim of right.*

16557 **§ 55.1-2836. Procedure for determination of damage.**

16558 *A. The owner of the land on which a trespass as described in § 55.1-2835 was committed shall have the*
16559 *right, within 30 days after the discovery of such trespass and the identity of the trespasser, to notify the*
16560 *trespasser and to appoint an experienced timber estimator to determine the amount of damages. For the*
16561 *purposes of determining damages, the value of the timber cut shall be calculated by first determining the value*
16562 *of the timber on the stump. Within 30 days after receiving notice of the alleged trespass and of the appointment*
16563 *of such estimator, the alleged trespasser, if he does not deny the fact of trespass, shall appoint an experienced*
16564 *timber estimator to participate with the one already so appointed in the estimation of damages. If the two*
16565 *estimators cannot agree, they shall select a third person, experienced and disinterested, who shall make a*
16566 *decision that shall be final and conclusive and not subject to appeal. The estimation of damages and the*
16567 *rendition of statement must be effected within 30 days from the receipt of notice of appointment, by the*
16568 *trespasser, of an estimator.*

16569 *If the alleged trespasser fails to appoint an estimator within the prescribed time, or to notify within such*
16570 *time that the allegation of the fact of trespass is disputed, the estimator appointed by the injured party may*
16571 *make an estimate, and collection or recovery may be had accordingly.*

16572 *B. Any person who (i) severs or removes any timber from the land of another without legal right or*
16573 *permission or (ii) authorizes or directs the severing or removal of timber or trees from the land of another*
16574 *without legal right or permission shall be liable to pay to the rightful owner of the timber three times the value*
16575 *of the timber on the stump and shall pay to the rightful owner of the property the reforestation costs incurred*
16576 *not to exceed \$450 per acre, the costs of ascertaining the value of the timber, any directly associated legal*
16577 *costs, and reasonable attorney fees incurred by the owner of the timber as a result of the trespass.*

16578 **§ 55.1-2837. When person damaged may proceed in court.**

16579 *If the amount specified in subsection B of § 55.1-2836 is not paid within 30 days after rendition of statement,*
16580 *the person upon whose land the trespass occurred may proceed for judgment in the amount of payment as*
16581 *specified in § 55.1-2836.*

16582 *If upon receiving notice of the alleged trespass and of the appointment of an estimator, the person so*
 16583 *receiving notice does not admit the fact of trespass, he may decline to appoint an estimator and notify the other*
 16584 *party to such effect, together with his reason for refusing to appoint an estimator, and in such case the aggrieved*
 16585 *party may proceed in the appropriate court.*

16586 **§ 55.1-2838. Larceny of timber; penalty.**

16587 *A. Any person who knowingly and willfully takes, steals, and removes from the lands of another any timber*
 16588 *growing, standing, or lying on the lands is guilty of larceny. Any person so convicted shall be ordered to pay*
 16589 *restitution calculated pursuant to § 55.1-2836.*

16590 *B. In a criminal prosecution pursuant to subsection A, it shall be prima facie evidence of the intent to steal*
 16591 *the timber if the timber was harvested or removed from property marked with readily visible paint marks not*
 16592 *more than 100 feet apart on trees or posts along the property line, where the paint marks were vertical lines at*
 16593 *least two inches in width and at least eight inches in length and the center of the mark was not less than three*
 16594 *feet nor more than six feet from the ground or normal water surface.*

16595 **§ 55.1-2839. Effect of article.**

16596 *Nothing in this article shall have the effect of precluding any compromise or agreed settlement that the*
 16597 *parties in dispute may effect as to the civil remedies provided by this article, nor of barring any other remedy*
 16598 *provided for by law.*

16599 **CHAPTER 29.**

16600 **VIRGINIA SELF-SERVICE STORAGE ACT.**

16601 **§ 55.1-2900. Definitions.**

16602 *As used in this chapter, unless the context requires a different meaning:*

16603 *"Default" means the failure to perform on time any obligation or duty set forth in the rental agreement or*
 16604 *this chapter.*

16605 *"Last known address" means that address or electronic mail address provided by the occupant in the rental*
 16606 *agreement or the address or electronic mail address provided by the occupant in a subsequent written notice*
 16607 *of a change of address.*

16608 *"Leased space" means the individual storage space at the self-service facility that is leased or rented to an*
 16609 *occupant pursuant to a rental agreement.*

16610 *"Occupant" means a person, his sublessee, successor, or assign, entitled to the use of a leased space at a*
 16611 *self-service storage facility under a rental agreement.*

16612 *"Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, his agent, or any*
 16613 *other person authorized to manage the facility or to receive rent from any occupant under a rental agreement.*

16614 *The owner of a self-service storage facility is not a warehouseman as defined in § 8.7-102, unless the owner*
 16615 *issues a warehouse receipt, bill of lading, or other document of title for the personal property stored, in which*
 16616 *event, the owner and the occupant are subject to the provisions of Title 8.7 dealing with warehousemen.*

16617 *"Personal property" means movable property not affixed to land and includes goods, wares, merchandise,*
 16618 *and household items and furnishings.*

16619 *"Rental agreement" means any agreement or lease that establishes or modifies the terms, conditions, or*
 16620 *rules concerning the use and occupancy of a self-service storage facility.*

16621 *"Self-service storage facility" means any real property designed and used for renting or leasing individual*
 16622 *storage spaces, other than storage spaces that are leased or rented as an incident to the lease or rental of*
 16623 *residential property or dwelling units, to which the occupants thereof have access for storing or removing their*
 16624 *personal property. No occupant shall use a self-service storage facility for residential purposes.*

16625 *"Verified mail" means any method of mailing that is offered by the United States Postal Service or private*
 16626 *delivery service that provides evidence of mailing.*

16627 **§ 55.1-2901. Lien on personal property stored within a leased space.**

16628 *A. The owner shall have a lien on all personal property stored within each leased space for rent, labor, or*
 16629 *other charges, and for expenses reasonably incurred in its sale pursuant to this chapter. Such lien shall attach*
 16630 *as of the date the personal property is stored within each leased space and, to the extent that the property*
 16631 *remains stored within such leased space, as provided in this subsection, shall be superior to any other existing*
 16632 *liens or security interests to the extent of \$250 or, if the leased space is a climate-controlled facility, \$500. In*
 16633 *addition, such lien shall extend to the proceeds, if any, remaining after the satisfaction of any perfected liens,*
 16634 *and the owner may retain possession of such proceeds until the balance, if any, of such charges is paid.*

16635 *B. In the case of any watercraft that is subject to a lien, previously recorded on the certificate of title, the*
16636 *owner, so long as the watercraft remains stored within such leased space, shall have a lien on such watercraft*
16637 *as provided in this subsection to the extent of \$250 or, if the leased space is a climate-controlled facility, \$500.*
16638 *In addition, such lien shall extend to the proceeds, if any, remaining after the satisfaction of any recorded liens,*
16639 *and the owner may retain possession of such proceeds until the balance, if any, of such charges is paid.*

16640 *C. The rental agreement shall contain a statement, in bold type, advising the occupant of the existence of*
16641 *such lien and that the personal property stored within the leased space may be sold to satisfy the lien if the*
16642 *occupant is in default.*

16643 *D. In the case of any motor vehicle that is subject to a lien, previously recorded on the certificate of title,*
16644 *the owner, so long as the motor vehicle remains stored within such leased space, shall have a lien on such*
16645 *vehicle in accordance with § 46.2-644.01.*

16646 **§ 55.1-2902. Enforcement of lien.**

16647 *A. 1. If any occupant is in default under a rental agreement, the owner shall notify the occupant of such*
16648 *default by regular mail at his last known address, or, if expressly provided for in the rental agreement, such*
16649 *notice may be given by electronic means. If such default is not cured within 10 days after its occurrence, then*
16650 *the owner may proceed to enforce such lien by selling the contents of the occupant's unit at public auction, for*
16651 *cash, and apply the proceeds to satisfaction of the lien, with the surplus, if any, to be disbursed as provided in*
16652 *this section. Before conducting such a public auction, the owner shall notify the occupant as prescribed in*
16653 *subsection C and shall advertise the time, place, and terms of such auction in such manner as to give the public*
16654 *notice.*

16655 *2. In the case of personal property having a fair market value in excess of \$1,000, and against which a*
16656 *creditor has filed a financing statement in the name of the occupant at the State Corporation Commission or in*
16657 *the county or city where the self-service storage facility is located or in the county or city in the Commonwealth*
16658 *shown as the last known address of the occupant, or if such personal property is a watercraft required by the*
16659 *laws of the Commonwealth to be registered and the Department of Game and Inland Fisheries shows a lien on*
16660 *the certificate of title, the owner shall notify the lienholder of record, by certified mail, at the address on the*
16661 *financing statement or certificate of title, at least 10 days prior to the time and place of the proposed public*
16662 *auction.*

16663 *If the owner of the personal property cannot be ascertained, the name of "John Doe" shall be substituted*
16664 *in the proceedings provided for in this section and no written notice shall be required. Whenever a watercraft*
16665 *is sold pursuant to this subsection, the Department of Game and Inland Fisheries shall issue a certificate of*
16666 *title and registration to the purchaser of such watercraft upon his application containing the serial or motor*
16667 *number of the watercraft purchased, together with an affidavit by the lienholder, or by the person conducting*
16668 *the public auction, evidencing compliance with the provisions of this subsection.*

16669 *B. Whenever the occupant is in default, the owner shall have the right to deny the occupant access to the*
16670 *leased space.*

16671 *C. After the occupant has been in default for a period of 10 days, and before the owner can sell the*
16672 *occupant's personal property in accordance with this chapter, the owner shall send a further notice of default,*
16673 *by verified mail, postage prepaid, to the occupant at his last known address, or, if expressly provided for in the*
16674 *rental agreement, such notice may be given by electronic means, provided that the sender retains sufficient*
16675 *proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice*
16676 *was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery. Such*
16677 *notice of default shall include:*

16678 *1. An itemized statement of the owner's claim, indicating the charges due on the date of the notice and the*
16679 *date when the charges became due;*

16680 *2. A demand for payment of the charges due within a specified time not less than 20 days after the date of*
16681 *the notice;*

16682 *3. A statement that the contents of the occupant's leased space are subject to the owner's lien;*

16683 *4. A conspicuous statement that unless the claim is paid within the time stated, the contents of the occupant's*
16684 *space will be sold at public auction at a specified time and place; and*

16685 *5. The name, street address, and telephone number of the owner or his designated agent whom the occupant*
16686 *may contact to respond to the notice.*

16687 *D. At any time prior to the public auction pursuant to this section, the occupant may pay the amount*
16688 *necessary to satisfy the lien and thereby redeem the personal property.*

16689 *E. In the event of a public auction pursuant to this section, the owner may satisfy his lien from the proceeds*
 16690 *of the public auction and shall hold the balance, if any, for delivery on demand to the occupant or other*
 16691 *lienholder referred to in this chapter. However, the owner shall not be obligated to hold any balance for a*
 16692 *lienholder of record notified pursuant to subdivision A 2, or any other lien creditor, that fails to claim an interest*
 16693 *in the balance within 30 days of the public auction. So long as the owner complies with the provisions of this*
 16694 *chapter, the owner's liability to the occupant under this chapter shall be limited to the net proceeds received*
 16695 *from the public auction of any personal property and, as to other lienholders, shall be limited to the net proceeds*
 16696 *received from the public auction of any personal property covered by such superior lien.*

16697 *F. Any public auction of the personal property shall be held at the self-service storage facility or at the*
 16698 *nearest suitable place to where the personal property is held or stored. An advertisement shall be published in*
 16699 *a newspaper of general circulation in the locality in which the public auction is to be held at least once prior*
 16700 *to the public auction. The advertisement shall state (i) the fact that it is a public auction; (ii) the date, time, and*
 16701 *location of the public auction; and (iii) the form of payment that will be accepted.*

16702 *G. A purchaser in good faith of any personal property sold or otherwise disposed of pursuant to this chapter*
 16703 *takes such property free and clear of any rights of persons against whom the lien was valid.*

16704 *H. Any notice made pursuant to this section shall be presumed delivered when it is (i) deposited with the*
 16705 *United States Postal Service and properly addressed to the occupant's last known address with postage prepaid*
 16706 *or (ii) sent by electron means, provided that the sender retains sufficient proof of the electronic delivery, which*
 16707 *may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of*
 16708 *service prepared by the sender confirming the electronic delivery. In the event of a dispute, the sender shall*
 16709 *have the burden to demonstrate delivery of the notice of default.*

16710 *I. In the case of any motor vehicle, so long as the motor vehicle remains stored within such leased space,*
 16711 *the owner shall have a lien on such vehicle in accordance with § 46.2-644.01.*

16712 **§ 55.1-2903. Other legal remedies may be used.**

16713 *The provisions of this chapter shall not preempt or limit the owner's use of any additional remedy otherwise*
 16714 *allowed by law.*

16715 **§ 55.1-2904. Care, custody, and control of property.**

16716 *Unless the rental agreement specifically provides otherwise, the exclusive care, custody, and control of all*
 16717 *personal property stored in the leased space shall remain vested in the occupant.*

16718 **§ 55.1-2905. Savings clause.**

16719 *All rental agreements, entered into prior to July 1, 1981, that have not been extended or renewed after that*
 16720 *date, shall remain valid and may be enforced or terminated in accordance with their terms or as permitted by*
 16721 *any other statute or law of the Commonwealth.*

16722 **§ 55.1-2906. Effective date and application of chapter.**

16723 *The provisions of this chapter shall apply to all rental agreements entered into or extended or renewed*
 16724 *after July 1, 1981.*

16725 **§ 57-6.1. Validity of literary, educational, and charitable gifts, grants, devises, or bequests.**

16726 *Every gift, grant, devise, or bequest made on or after April 2, 1839, for literary or educational purposes,*
 16727 *and every gift, grant, devise, or bequest made on or after April 6, 1976, for charitable purposes, whether made*
 16728 *in any case to any type of entity or to a natural person, shall be as valid as if made to or for the benefit of a*
 16729 *certain natural person, except such devises or bequests, if any, that have failed or become void by virtue of the*
 16730 *seventh section of the Act of the General Assembly passed on April 2, 1839, entitled "an act concerning devises*
 16731 *made to schools, academies, and colleges." Nothing in this section shall be construed so as to give validity to*
 16732 *any devise or bequest to or for the use of any unincorporated theological seminary. Every gift, grant, devise,*
 16733 *or bequest made for literary, educational, or charitable purposes before April 6, 1976, is hereby validated.*

16734 **§ 64.2-108.2. Provision in certain trust void.**

16735 *A. For purposes of this section, "medical assistance" and "medical assistance benefits" mean benefits*
 16736 *payable under the state plan for medical assistance services.*

16737 *B. Except as provided in subsection C, a provision in any inter vivos trust created for the benefit of the*
 16738 *grantor that provides directly or indirectly for the suspension, termination, or diversion of the principal,*
 16739 *income, or other beneficial interest of the grantor in the event that he should apply for medical assistance or*
 16740 *require medical, hospital, or nursing care or long-term custodial, nursing, or medical care shall be against*
 16741 *public policy and ineffective as against the Commonwealth. The assets of the trust, both principal and interest,*

16742 shall be distributed as though no such application had been made. The provisions of this subsection shall apply
16743 without regard to the irrevocability of the trust or the purpose for which the trust was created.

16744 C. Subsection B shall not apply to any trust with a corpus of \$25,000 or less. If the corpus of any such trust
16745 exceeds \$25,000, \$25,000 of the trust shall be exempt from the provisions of subsection B. However, if the
16746 grantor has created more than one trust as described in subsection B, the \$25,000 exemption shall be prorated
16747 among the trusts. Further, if the grantor made uncompensated transfers, as defined in § 20-88.02, within 30
16748 months of applying for Medicaid benefits and no payments were ordered pursuant to subsection D of § 20-
16749 88.02, the \$25,000 exemption under this subsection shall not apply.

16750 D. The exemption provided by subsection C shall not apply to any trust created on or after August 11, 1993.

16751 E. To the extent any trust created between August 11, 1993, and July 1, 1994 would but for subsection D
16752 be entitled to the exemption provided by subsection C, the grantor may revoke such trust notwithstanding any
16753 irrevocability in the terms of such trust. Nothing contained in this subsection shall be construed to authorize
16754 the grantor to effect the vested rights of any beneficiary of such trust without the express written consent of such
16755 beneficiary.

16756 F. The provisions of subsection B shall not apply to an irrevocable inter vivos trust to the extent it is created
16757 for the purpose of paying the grantor's funeral and burial expenses and is funded in an amount and manner
16758 allowable as a resource in determining eligibility for medical assistance benefits. In the event any amount
16759 remains in the trust upon payment of the funeral or burial arrangements provided to or on behalf of such
16760 individual, the Commonwealth shall receive all amounts remaining in such trust up to an amount equal to the
16761 total medical assistance paid on behalf of the individual.

16762 **2. That whenever any of the conditions, requirements, provisions, or contents of any section or chapter**
16763 **of Title 55 or any other title of the Code of Virginia as such titles existed prior to October 1, 2019, are**
16764 **transferred in the same or modified form to a new section or chapter of Title 55.1 or any other title of the**
16765 **Code of Virginia and whenever any such former section or chapter is given a new number in Title 55.1**
16766 **or any other title, all references to any such former section or chapter of Title 55.1 or other title appearing**
16767 **in this Code shall be construed to apply to the new or renumbered section or chapter containing such**
16768 **conditions, requirements, provisions, contents, or portions thereof.**

16769 **3. That the regulations of any department or agency affected by the revision of Title 55 or such other**
16770 **titles in effect on the effective date of this act shall continue in effect to the extent that they are not in**
16771 **conflict with this act and shall be deemed to be regulations adopted under this act.**

16772 **4. That the provisions of § 30-152 of the Code of Virginia shall apply to the revision of Title 55.1 so as to**
16773 **give effect to other laws enacted by the 2019 Session of the General Assembly, notwithstanding the delay**
16774 **in the effective date of this act.**

16775 **5. That the repeal of Title 55 and § 18.2-324.1, effective as of October 1, 2019, shall not affect any act or**
16776 **offense done or committed, or any penalty incurred, or any right established, accrued, or accruing on or**
16777 **before such date, or any proceeding, prosecution, suit, or action pending on that day. Except as otherwise**
16778 **provided in this act, neither the repeal of Title 55 nor the enactment of Title 55.1 shall apply to offenses**
16779 **committed prior to October 1, 2019, and prosecution for such offenses shall be governed by the prior**
16780 **law, which is continued in effect for that purpose. For the purposes of this enactment, an offense was**
16781 **committed prior to October 1, 2019, if any of the essential elements of the offense occurred prior thereto.**

16782 **6. That any notice given, recognizance taken, or process or writ issued before October 1, 2019, shall be**
16783 **valid although given, taken, or to be returned to a day after such date, in like manner as if Title 55.1 had**
16784 **been effective before the same was given, taken, or issued.**

16785 **7. That if any clause, sentence, paragraph, subdivision, or section of Title 55.1 shall be adjudged in any**
16786 **court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the**
16787 **remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision,**
16788 **or section thereof directly involved in the controversy in which the judgment shall have been rendered,**
16789 **and to this end the provisions of Title 55.1 are declared severable.**

16790 **8. That the repeal of Title 55, effective as of October 1, 2019, shall not affect the validity, enforceability,**
16791 **or legality of any loan agreement or other contract, or any right established or accrued under such loan**
16792 **agreement or other contract, that existed prior to such repeal.**

16793 **9. That the repeal of Title 55, effective October 1, 2019, shall not affect the validity, enforceability, or**
16794 **legality of any properly recorded deed that was recorded prior to such repeal.**

- 16795 10. That the repeal of Title 55, effective as of October 1, 2019, shall not affect the validity, enforceability,
16796 or legality of any bond or other debt obligation authorized, issued, or outstanding prior to such repeal.
16797 11. That § 18.2-324.1 and Title 55 (§§ 55-1 through 55-559) of the Code of Virginia are repealed.
16798 12. That the provisions of this act shall not affect the existing terms of persons currently serving as
16799 members of any agency, board, authority, commission, or other entity and that appointees currently
16800 holding positions shall maintain their terms of appointment and continue to serve until such time as the
16801 existing terms might expire or become renewed. However, any new appointments made on or after
16802 October 1, 2019, shall be made in accordance with the provisions of this act.
16803 13. That the provisions of this act shall become effective on October 1, 2019.

MAJORITY AGENDA
DRAFTS CONTAINED IN THIS AGENDA ARE PROPOSED TOPICS FOR DISCUSSION AND ARE NOT TO BE CONSTRUED AS REGULATION OR OFFICIAL BOARD POSITION.

2019 SESSION**SB 1080 Property & Conveyances; revision of Title 55 to create Title 55.1, pertains to rental property, etc.**

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SUMMARY AS INTRODUCED:

Revision of Title 55. Creates proposed Title 55.1 (Property and Conveyances) as a revision of existing Title 55 (Property and Conveyances). Proposed Title 55.1 consists of 29 chapters divided into five subtitles: Subtitle I (Property Conveyances), Subtitle II (Real Estate Settlements and Recordation), Subtitle III (Rental Conveyances), Subtitle IV (Common Interest Communities), and Subtitle V (Miscellaneous). The bill organizes the laws in a more logical manner, removes obsolete and duplicative provisions, and improves the structure and clarity of statutes pertaining to real and personal property conveyances, recordation of deeds, rental property, common interest communities, escheats, and unclaimed property. The bill has a delayed effective date of October 1, 2019, and is a recommendation of the Virginia Code Commission.

See S.B. 1080 pdf text : [Chapter 712](#)

FULL TEXT

[12/14/18 Senate: Prefiled and ordered printed; offered 01/09/19 19100845D](#) pdf

[03/07/19 Senate: Bill text as passed Senate and House \(SB1080ER\)](#) pdf

[03/21/19 Governor: Acts of Assembly Chapter text \(CHAP0712\)](#) pdf

HISTORY

[12/14/18 Senate: Prefiled and ordered printed; offered 01/09/19 19100845D](#)

[12/14/18 Senate: Referred to Committee for Courts of Justice](#)

[01/14/19 Senate: Reported from Courts of Justice \(13-Y 0-N\)](#)

[01/14/19 Senate: Rereferred to General Laws and Technology](#)

[01/21/19 Senate: Reported from General Laws and Technology \(14-Y 0-N\)](#)

[01/23/19 Senate: Constitutional reading dispensed \(39-Y 0-N\)](#)

[01/24/19 Senate: Read second time and engrossed](#)

[01/25/19 Senate: Read third time and passed Senate \(39-Y 0-N\)](#)

[01/25/19 Senate: Reconsideration of passage agreed to by Senate \(40-Y 0-N\)](#)

[01/25/19 Senate: Passed Senate \(40-Y 0-N\)](#)

[01/29/19 House: Placed on Calendar](#)

[01/29/19 House: Read first time](#)

[01/29/19 House: Referred to Committee for Courts of Justice](#)

[02/08/19 House: Assigned Courts sub: Subcommittee #2](#)

[02/11/19 House: Subcommittee recommends reporting \(8-Y 0-N\)](#)

[02/15/19 House: Reported from Courts of Justice \(17-Y 0-N\)](#)

[02/19/19 House: Read second time](#)

[02/20/19 House: Read third time](#)

[02/20/19 House: Passed House BLOCK VOTE \(100-Y 0-N\)](#)

[02/20/19 House: VOTE: BLOCK VOTE PASSAGE \(100-Y 0-N\)](#)

[03/07/19 Senate: Enrolled](#)

03/07/19 Senate: Bill text as passed Senate and House (SB1080ER)

03/07/19 House: Signed by Speaker

03/09/19 Senate: Signed by President

03/11/19 Senate: Enrolled Bill Communicated to Governor on March 11, 2019

03/11/19 Governor: Governor's Action Deadline Midnight, March 26, 2019

03/21/19 Governor: Approved by Governor-Chapter 712 (effective 10/1/19)

03/21/19 Governor: Acts of Assembly Chapter text (CHAP0712)

<u>Title 55 Chapter (Title)</u>	<u>Current Section No.</u>	<u>Caption</u>	<u>Title 55.1 Chapter (Title)</u>	<u>New Section No.</u>	<u>Caption</u>
Chapter 4.2 (Condominium Act)	§ 55-79.39	How chapter cited	N/A - Repealed		
Chapter 4.2 (Condominium Act)	§ 55-79.40	Application and construction of chapter	Chapter 19 (Virginia Condominium Act)	§ 55.1-1901	Application and construction of chapter
Chapter 4.2 (Condominium Act)	§ 55-79.41	Definitions	Chapter 19 (Virginia Condominium Act)	§ 55.1-1900	Definitions
Chapter 4.2 (Condominium Act)	§ 55-79.41:1	Variation by agreement	Chapter 19 (Virginia Condominium Act)	§ 55.1-1902	Variation by agreement
Chapter 4.2 (Condominium Act)	§ 55-79.42	Separate assessments, titles and taxation	Chapter 19 (Virginia Condominium Act)	§ 55.1-1903	Separate assessments, titles, and taxation
Chapter 4.2 (Condominium Act)	§ 55-79.42:1	Association charges	Chapter 19 (Virginia Condominium Act)	§ 55.1-1904	Association charges
Chapter 4.2 (Condominium Act)	§ 55-79.43	County and municipal ordinances; nonconforming conversion condominiums; applicability of Uniform Statewide Building Code; other regulations	Chapter 19 (Virginia Condominium Act)	§ 55.1-1905	Local ordinances; nonconforming conversion condominiums; applicability of Uniform Statewide Building Code; other regulations
Chapter 4.2 (Condominium Act)	§ 55-79.44	Eminent domain	Chapter 19 (Virginia Condominium Act)	§ 55.1-1906	Eminent domain
Chapter 4.2 (Condominium Act)	§ 55-79.45	How condominium may be created	Chapter 19 (Virginia Condominium Act)	§ 55.1-1907	How condominium may be created
Chapter 4.2 (Condominium Act)	§ 55-79.46	Release of liens	Chapter 19 (Virginia Condominium Act)	§ 55.1-1908	Release of liens
Chapter 4.2 (Condominium Act)	§ 55-79.47	Description of condominium units	Chapter 19 (Virginia Condominium Act)	§ 55.1-1909	Description of condominium units
Chapter 4.2 (Condominium Act)	§ 55-79.48	Execution of	Chapter 19 (Virginia	§ 55.1-1910	Execution of condominium

		condominium instruments	Condominium Act)		instruments
Chapter 4.2 (Condominium Act)	§ 55-79.49	Recordation of condominium instruments	Chapter 19 (Virginia Condominium Act)	§ 55.1-1911	Recordation of condominium instruments
Chapter 4.2 (Condominium Act)	§ 55-79.50	Construction of condominium instruments	Chapter 19 (Virginia Condominium Act)	§ 55.1-1912	Construction of condominium instruments
Chapter 4.2 (Condominium Act)	§ 55-79.51	Complementarity of condominium instruments; controlling construction	Chapter 19 (Virginia Condominium Act)	§ 55.1-1913	Complementarity of condominium instruments; controlling construction
Chapter 4.2 (Condominium Act)	§ 55-79.52	Validity of condominium instruments; discrimination prohibited	Chapter 19 (Virginia Condominium Act)	§ 55.1-1914	Validity of condominium instruments; discrimination prohibited
Chapter 4.2 (Condominium Act)	§ 55-79.53	Compliance with condominium instruments	Chapter 19 (Virginia Condominium Act)	§ 55.1-1915	Compliance with condominium instruments
Chapter 4.2 (Condominium Act)	§ 55-79.54	Contents of declaration	Chapter 19 (Virginia Condominium Act)	§ 55.1-1916	Contents of declaration
Chapter 4.2 (Condominium Act)	§ 55-79.55	Allocation of interests in the common elements	Chapter 19 (Virginia Condominium Act)	§ 55.1-1917	Allocation of interests in the common elements
Chapter 4.2 (Condominium Act)	§ 55-79.56	Reallocation of interests in common elements	Chapter 19 (Virginia Condominium Act)	§ 55.1-1918	Reallocation of interests in common elements
Chapter 4.2 (Condominium Act)	§ 55-79.57	Assignments of limited common elements; conversion to common element	Chapter 19 (Virginia Condominium Act)	§ 55.1-1919	Assignments of limited common elements; conversion to common element
Chapter 4.2 (Condominium Act)	§ 55-79.58	Contents of plats and plans	Chapter 19 (Virginia Condominium Act)	§ 55.1-1920	Contents of plats and plans
Chapter 4.2 (Condominium Act)	§ 55-79.58:1	Bond to insure completion of improvements	Chapter 19 (Virginia Condominium Act)	§ 55.1-1921	Bond to insure completion of improvements
Chapter 4.2 (Condominium Act)	§ 55-79.59	Preliminary recordation	Chapter 19 (Virginia	§ 55.1-1922	Preliminary recordation of

		of plats and plans	Condominium Act)		plats and plans
Chapter 4.2 (Condominium Act)	§ 55-79.60	Easement for encroachments	Chapter 19 (Virginia Condominium Act)	§ 55.1-1923	Easement for encroachments
Chapter 4.2 (Condominium Act)	§ 55-79.61	Conversion of convertible lands	Chapter 19 (Virginia Condominium Act)	§ 55.1-1924	Conversion of convertible lands
Chapter 4.2 (Condominium Act)	§ 55-79.62	Conversion of convertible spaces	Chapter 19 (Virginia Condominium Act)	§ 55.1-1925	Conversion of convertible spaces
Chapter 4.2 (Condominium Act)	§ 55-79.63	Expansion of condominium	Chapter 19 (Virginia Condominium Act)	§ 55.1-1926	Expansion of condominium
Chapter 4.2 (Condominium Act)	§ 55-79.64	Contraction of condominium	Chapter 19 (Virginia Condominium Act)	§ 55.1-1927	Contraction of condominium
Chapter 4.2 (Condominium Act)	§ 55-79.65	Easement to facilitate conversion and expansion	Chapter 19 (Virginia Condominium Act)	§ 55.1-1928	Easement to facilitate conversion and expansion
Chapter 4.2 (Condominium Act)	§ 55-79.66	Easement to facilitate sales	Chapter 19 (Virginia Condominium Act)	§ 55.1-1929	Easement to facilitate sales
Chapter 4.2 (Condominium Act)	§ 55-79.67	Declarant's obligation to complete and restore	Chapter 19 (Virginia Condominium Act)	§ 55.1-1930	Declarant's obligation to complete and restore
Chapter 4.2 (Condominium Act)	§ 55-79.68	Alterations within units	Chapter 19 (Virginia Condominium Act)	§ 55.1-1931	Alterations within units
Chapter 4.2 (Condominium Act)	§ 55-79.69	Relocation of boundaries between units	Chapter 19 (Virginia Condominium Act)	§ 55.1-1932	Relocation of boundaries between units
Chapter 4.2 (Condominium Act)	§ 55-79.70	Subdivision of units	Chapter 19 (Virginia Condominium Act)	§ 55.1-1933	Subdivision of units
Chapter 4.2 (Condominium Act)	§ 55-79.71	Amendment of condominium instruments	Chapter 19 (Virginia Condominium Act)	§ 55.1-1934	Amendment of condominium instruments
Chapter 4.2 (Condominium Act)	§ 55-79.71:1	Use of technology	Chapter 19 (Virginia Condominium Act)	§ 55.1-1935	Use of technology
Chapter 4.2 (Condominium Act)	§ 55-79.71:2	Merger or consolidation of condominiums; procedure	Chapter 19 (Virginia Condominium Act)	§ 55.1-1936	Merger or consolidation of condominiums; procedure
Chapter 4.2 (Condominium Act)	§ 55-79.72	Repealed	N/A – Repealed		
Chapter 4.2 (Condominium Act)	§ 55-79.72:1	Termination of	Chapter 19 (Virginia	§ 55.1-1937	Termination of condominium

		condominium	Condominium Act)		
Chapter 4.2 (Condominium Act)	§ 55-79.72:2	Rights of mortgagees	Chapter 19 (Virginia Condominium Act)	§ 55.1-1938	Rights of mortgagees
Chapter 4.2 (Condominium Act)	§ 55-79.72:3	Statement of unit owner rights	Chapter 19 (Virginia Condominium Act)	§ 55.1-1939	Statement of unit owner rights
Chapter 4.2 (Condominium Act)	§ 55-79.73	Bylaws to be recorded with declaration; contents; unit owners' association; executive organ; amendment of bylaws	Chapter 19 (Virginia Condominium Act)	§ 55.1-1940	Bylaws to be recorded with declaration; contents; unit owners' association; executive board; amendment of bylaws
Chapter 4.2 (Condominium Act)	§ 55-79.73:1	Amendment to condominium instruments; consent of mortgagee	Chapter 19 (Virginia Condominium Act)	§ 55.1-1941	Amendment to condominium instruments; consent of mortgagee
Chapter 4.2 (Condominium Act)	§ 55-79.73:2	Reformation of declaration; judicial procedure	Chapter 19 (Virginia Condominium Act)	§ 55.1-1942	Reformation of declaration; judicial procedure
Chapter 4.2 (Condominium Act)	§ 55-79.74	Control of condominium by declarant	Chapter 19 (Virginia Condominium Act)	§ 55.1-1943	Control of condominium by declarant
Chapter 4.2 (Condominium Act)	§ 55-79.74:01	Deposit of funds	Chapter 19 (Virginia Condominium Act)	§ 55.1-1944	Deposit of funds
Chapter 4.2 (Condominium Act)	§ 55-79.74:1	Books, minutes and records; inspection	Chapter 19 (Virginia Condominium Act)	§ 55.1-1945	Books, minutes and records; inspection
Chapter 4.2 (Condominium Act)	§ 55-79.74:2	Management office	Chapter 19 (Virginia Condominium Act)	§ 55.1-1946	Management office
Chapter 4.2 (Condominium Act)	§ 55-79.74:3	Transfer of special declarant rights	Chapter 19 (Virginia Condominium Act)	§ 55.1-1947	Transfer of special declarant rights
Chapter 4.2 (Condominium Act)	§ 55-79.74:4	Declarants not succeeding to special declarant rights	Chapter 19 (Virginia Condominium Act)	§ 55.1-1948	Declarants not succeeding to special declarant rights
Chapter 4.2 (Condominium Act)	§ 55-79.75	Meetings of unit owners' associations and executive organ	Chapter 19 (Virginia Condominium Act)	§ 55.1-1949	Meetings of unit owners' associations and executive board

Chapter 4.2 (Condominium Act)	§ 55-79.75:1	Distribution of information by members	Chapter 19 (Virginia Condominium Act)	§ 55.1-1950	Distribution of information by members
Chapter 4.2 (Condominium Act)	§ 55-79.75:2	Display of the flag of the United States; necessary supporting structures; affirmative defense	Chapter 19 (Virginia Condominium Act)	§ 55.1-1951	Display of the flag of the United States; necessary supporting structures; affirmative defense
Chapter 4.2 (Condominium Act)	§ 55-79.76	Meetings of unit owners' associations and executive organ; quorums	Chapter 19 (Virginia Condominium Act)	§ 55.1-1952	Meetings of unit owners' associations and executive board; quorums
Chapter 4.2 (Condominium Act)	§ 55-79.77	Meetings of unit owners' associations and executive organ; voting by unit owners; proxies	Chapter 19 (Virginia Condominium Act)	§ 55.1-1953	Meetings of unit owners' associations and executive board; voting by unit owners; proxies
Chapter 4.2 (Condominium Act)	§ 55-79.78	Officers	Chapter 19 (Virginia Condominium Act)	§ 55.1-1954	Officers
Chapter 4.2 (Condominium Act)	§ 55-79.79	Upkeep of condominiums; warranty against structural defects; statute of limitations for warranty; warranty review committee	Chapter 19 (Virginia Condominium Act)	§ 55.1-1955	Upkeep of condominiums; warranty against structural defects; statute of limitations for warranty; warranty review committee
Chapter 4.2 (Condominium Act)	§ 55-79.80	Control of common elements	Chapter 19 (Virginia Condominium Act)	§ 55.1-1956	Control of common elements
Chapter 4.2 (Condominium Act)	§ 55-79.80:01	Common elements; notice of pesticide application	Chapter 19 (Virginia Condominium Act)	§ 55.1-1957	Common elements; notice of pesticide application
Chapter 4.2 (Condominium Act)	§ 55-79.80:1	Tort and contract liability; judgment lien	Chapter 19 (Virginia Condominium Act)	§ 55.1-1958	Tort and contract liability; judgment lien
Chapter 4.2 (Condominium Act)	§ 55-79.80:2	Suspension of services for failure to pay assessments; corrective action; assessment of	Chapter 19 (Virginia Condominium Act)	§ 55.1-1959	Suspension of services for failure to pay assessments; corrective action; assessment of charges for violations;

		charges for violations; notice; hearing; adoption and enforcement of rules			notice; hearing; adoption and enforcement of rules
Chapter 4.2 (Condominium Act)	§ 55-79.80:3	Power of unit owners' association to limit occupancy of a unit	Chapter 19 (Virginia Condominium Act)	§ 55.1-1960	Limitation of occupancy of a unit
Chapter 4.2 (Condominium Act)	§ 55-79.81	Insurance	Chapter 19 (Virginia Condominium Act)	§ 55.1-1963	Insurance
Chapter 4.2 (Condominium Act)	§ 55-79.82	Repealed	N/A - Repealed		
Chapter 4.2 (Condominium Act)	§ 55-79.83	Liability for common expenses; late fees	Chapter 19 (Virginia Condominium Act)	§ 55.1-1964	Liability for common expenses; late fees
Chapter 4.2 (Condominium Act)	§ 55-79.83:1	Reserves for capital components	Chapter 19 (Virginia Condominium Act)	§ 55.1-1965	Reserves for capital components
Chapter 4.2 (Condominium Act)	§ 55-79.84	Lien for assessments	Chapter 19 (Virginia Condominium Act)	§ 55.1-1966	Lien for assessments
Chapter 4.2 (Condominium Act)	§ 55-79.84:01	Notice of sale under deed of trust	Chapter 19 (Virginia Condominium Act)	§ 55.1-1967	Notice of sale under deed of trust
Chapter 4.2 (Condominium Act)	§ 55-79.84:1	Bond to be posted by declarant	Chapter 19 (Virginia Condominium Act)	§ 55.1-1968	Bond to be posted by declarant
Chapter 4.2 (Condominium Act)	§ 55-79.85	Restraints on alienation	Chapter 19 (Virginia Condominium Act)	§ 55.1-1969	Restraints on alienation
Chapter 4.2 (Condominium Act)	§ 55-79.86	Administrative agency	Chapter 19 (Virginia Condominium Act)	§ 55.1-1970	Common Interest Community Board
Chapter 4.2 (Condominium Act)	§ 55-79.87	Exemptions from certain provisions of article	Chapter 19 (Virginia Condominium Act)	§ 55.1-1972	Exemptions from certain provisions of article
Chapter 4.2 (Condominium Act)	§ 55-79.87:1	Rental of units	Chapter 19 (Virginia Condominium Act)	§ 55.1-1973	Rental of units
Chapter 4.2 (Condominium Act)	§ 55-79.88	Limitations on dispositions of units	Chapter 19 (Virginia Condominium Act)	§ 55.1-1974	Limitations on dispositions of units
Chapter 4.2 (Condominium Act)	§ 55-79.89	Application for registration; fee	Chapter 19 (Virginia Condominium Act)	§ 55.1-1975	Application for registration; fee
Chapter 4.2 (Condominium Act)	§ 55-79.90	Public offering statement; condominium securities	Chapter 19 (Virginia Condominium Act)	§ 55.1-1976	Public offering statement; condominium securities

Chapter 4.2 (Condominium Act)	§ 55-79.91	Inquiry and examination	Chapter 19 (Virginia Condominium Act)	§ 55.1-1977	Inquiry and examination
Chapter 4.2 (Condominium Act)	§ 55-79.92	Notice of filing and registration	Chapter 19 (Virginia Condominium Act)	§ 55.1-1978	Notice of filing and registration
Chapter 4.2 (Condominium Act)	§ 55-79.93	Annual report by declarant	Chapter 19 (Virginia Condominium Act)	§ 55.1-1979	Annual report by declarant
Chapter 4.2 (Condominium Act)	§ 55-79.93:1	Annual report by unit owners' association	Chapter 19 (Virginia Condominium Act)	§ 55.1-1980	Annual report by unit owners' association
Chapter 4.2 (Condominium Act)	§ 55-79.93:2	Termination of registration	Chapter 19 (Virginia Condominium Act)	§ 55.1-1981	Termination of registration
Chapter 4.2 (Condominium Act)	§ 55-79.94	Conversion condominiums; special provisions	Chapter 19 (Virginia Condominium Act)	§ 55.1-1982	Conversion condominiums; special provisions
Chapter 4.2 (Condominium Act)	§ 55-79.95	Escrow of deposits	Chapter 19 (Virginia Condominium Act)	§ 55.1-1983	Escrow of deposits
Chapter 4.2 (Condominium Act)	§ 55-79.96	Declarant to deliver declaration, etc., to purchaser	Chapter 19 (Virginia Condominium Act)	§ 55.1-1984	Declarant to deliver declaration to purchaser
Chapter 4.2 (Condominium Act)	§ 55-79.98	General powers and duties of the Common Interest Community Board	Chapter 19 (Virginia Condominium Act)	§ 55.1-1971	General powers and duties of the Common Interest Community Board
Chapter 4.2 (Condominium Act)	§ 55-79.99	Investigations and proceedings	Chapter 19 (Virginia Condominium Act)	§ 55.1-1985	Investigations and proceedings
Chapter 4.2 (Condominium Act)	§ 55-79.100	Cease and desist orders	Chapter 19 (Virginia Condominium Act)	§ 55.1-1986	Cease and desist orders
Chapter 4.2 (Condominium Act)	§ 55-79.101	Revocation of registration	Chapter 19 (Virginia Condominium Act)	§ 55.1-1987	Revocation of registration
Chapter 4.2 (Condominium Act)	§ 55-79.102	Judicial review	Chapter 19 (Virginia Condominium Act)	§ 55.1-1988	Judicial review
Chapter 4.2 (Condominium Act)	§ 55-79.103	Penalties	Chapter 19 (Virginia Condominium Act)	§ 55.1-1989	Penalties
Chapter 4.2 (Condominium Act)	Resale Certificate Provisions				
	§ 55-79.97	Resale by purchaser;	Chapter 19 (Virginia	§ 55.1-1990	Resale by purchaser; contract

		resale certificate; use of for sale sign in connection with resale; designation of authorized representative	Condominium Act)		disclosure; right of cancellation
				§ 55.1-1991	Contents of resale certificate; delivery
				§ 55.1-1995	Exceptions to disclosure requirements
				§ 55.1-1961	Use of for sale sign in connection with resale
				§ 55.1-1962	Designation of authorized representative
Chapter 4.2 (Condominium Act)	§ 55-79.97:1	Fees for resale certificate	Chapter 19 (Virginia Condominium Act)	§ 55.1-1992	Fees for resale certificate
Chapter 4.2 (Condominium Act)	§ 55-79.97:2	Properties subject to more than one declaration	Chapter 19 (Virginia Condominium Act)	§ 55.1-1993	Properties subject to more than one declaration
Chapter 4.2 (Condominium Act)	§ 55-79.97:3	Requests by settlement agents	Chapter 19 (Virginia Condominium Act)	§ 55.1-1994	Requests by settlement agents
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-360	Title	N/A – Repealed		
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-361	Repealed	N/A – Repealed		
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-361.1	Applicability	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2201	Applicability
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-362	Definitions	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2200	Definitions
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-362.1	Administrative agency	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2202	Administrative agency
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-363	Status of time-share estates with respect to real property interests	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2203	Status of time-share estates with respect to real property interests
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-364	Applicability of local ordinances, regulations, and building codes	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2204	Applicability of local ordinances, regulations, and building codes
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-364.1	Use of terms	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2205	Use of terms

Time-Share Act)			Estate Time-Share Act)		
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-365	Repealed	N/A – Repealed		
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-365.1	Severability of provisions of time-share instruments	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2206	Severability of provisions of time-share instruments
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-366	Time-sharing permitted	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2207	Time-sharing permitted
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-367	Instruments	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2208	Instruments
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-368	Time-share instrument for time-share estate project	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2209	Time-share instrument for time-share estate project
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-369	Developer control in time-share estate program	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2210	Developer control in time-share estate program
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-370	Time-share estate owners' association control liens	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2211	Time-share estate owners' association control liens
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-370.01	Time-share owners' association books and records; meetings; use of e-mail	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2212	Time-share owners' association books and records; meetings; use of e-mail
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-370.1	Time-share estate owners' association annual report	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2213	Time-share estate owners' association annual report
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-371	Time-share instrument for project	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2214	Time-share instrument for project
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-372	Partition	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2215	Partition
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-373	Termination of certain time-shares	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2216	Termination of certain time-shares
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-374	Public offering statement	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2217	Public offering statement

Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-374.1	Certain advertising practices regulated	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2218	Certain advertising practices regulated
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-374.2	Exchange programs	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2219	Exchange programs
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-375	Escrow of deposits; use of corporate surety bond or irrevocable letter of credit	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2220	Escrow of deposits; use of corporate surety bond or irrevocable letter of credit
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-376	Purchaser's rights of cancellation	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2221	Purchaser's rights of cancellation
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-376.1	Possibility of reverter	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2222	Possibility of reverter
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-376.2	Recording and delivery of deed	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2223	Recording and delivery of deed
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-376.3	Liability limited; liability actions prohibited	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2224	Liability limited; liability actions prohibited
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-376.4	Warning required	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2225	Warning required
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-376.5	Buyer's Acknowledgment	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2226	Buyer's Acknowledgment
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-377	Repealed	N/A – Repealed		
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-379	Repealed	N/A – Repealed		
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-380	Resale of time-shares	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2227	Resale of time-shares
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-380.1	Required resale disclosures	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2228	Required resale disclosures
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-381	Liens	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2229	Liens
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-382	Effect of violations on rights of action; attorney's fees; prior determination of Real	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2230	Effect of violations on rights of action; attorney's fees; prior determination of Common Interest Community Board

		Estate Board required for certain violations			required for certain violations
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-383	Statute of limitations; actions; limitation on rescission rights	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2231	Statute of limitations; actions; limitation on rescission rights
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-384	Class actions	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2232	Class actions
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-385	Financial records	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2233	Financial records
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-386	Developer's obligation to complete	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2234	Developer's obligation to complete
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-387	Financing of time-share programs	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2235	Financing of time-share programs
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-388	Purchaser's rights under developer's foreclosure	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2236	Purchaser's rights under developer's foreclosure
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-389	Protection of lien holder	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2237	Protection of lien holder
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-390	Registration of time-share program required	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2238	Registration of time-share program required
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-391	Repealed	N/A – Repealed		
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-391.1	Application for registration	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2239	Application for registration
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-392	Repealed	N/A – Repealed		
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-392.1	Filing fee	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2240	Filing fee
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-393	Repealed	N/A – Repealed		
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-393.1	Receipt of application; effectiveness of registration	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2241	Receipt of application; effectiveness of registration
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-394	Repealed	N/A – Repealed		

Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-394.1	Annual report; amendments	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2242	Annual report; amendments
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-394.2	Termination of registration	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2243	Termination of registration
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-394.3	Registration required for time-share resellers; exemptions; prohibited practices	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2244	Registration required for time-share resellers; exemptions; prohibited practices
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-394.4	Recordkeeping by resellers	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2245	Recordkeeping by resellers
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-394.5	Alternative purchase; registration	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2246	Alternative purchase; registration
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-395	Repealed	N/A – Repealed		
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-396	General powers and duties of Board	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2247	General powers and duties of Board
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-397	Cancellation of cease and desist order; reinstatement of registration of developer	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2248	Cancellation of cease and desist order; reinstatement of registration of developer
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-398	Board regulation of public offering statement	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2249	Board regulation of public offering statement
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-399	Investigations	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2250	Investigations
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-399.1	Proceedings before the Board	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2251	Proceedings before the Board
Chapter 21 (Virginia Real Estate Time-Share Act)	§ 55-400	Penalties	Chapter 22 (Virginia Real Estate Time-Share Act)	§ 55.1-2252	Penalties
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-424	Title	N/A – Repealed		
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-425	Applicability	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2101	Applicability
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-426	Definitions	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2100	Definitions

Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-427	Variation by agreement	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2102	Variation by agreement
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-428	Property classification of cooperative interests; taxation	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2103	Property classification of cooperative interests; taxation
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-429	Applicability of local ordinances, regulations and building codes; county and municipal authority	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2104	Applicability of local ordinances, regulations and building codes; local authority
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-430	Eminent domain	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2105	Eminent domain
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-431	General principles of law applicable	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2106	General principles of law applicable
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Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-433	Uniformity of application and construction	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2108	Uniformity of application and construction
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-434	Unconscionable agreement or term of contract	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2109	Unconscionable agreement or term of contract
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-435	Obligation of good faith	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2110	Obligation of good faith
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-436	Remedies to be liberally administered	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2111	Remedies to be liberally administered
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-437	Repealed	N/A – Repealed		
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-438	Creation of cooperative ownership	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2112	Creation of cooperative ownership
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-439	Unit boundaries	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2113	Unit boundaries
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-440	Construction and validity of declaration and bylaws	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2114	Construction and validity of declaration and bylaws
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-441	Description of units	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2115	Description of units

Cooperative Act)			Estate Cooperative Act)		
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-442	Contents of declaration	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2116	Contents of declaration
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-443	Leasehold cooperatives	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2117	Leasehold cooperatives
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-444	Allocation of ownership interests, votes and common expense liabilities	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2118	Allocation of ownership interests, votes and common expense liabilities
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-445	Limited common elements	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2119	Limited common elements
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-446	Exercise of development rights	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2120	Exercise of development rights
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-447	Alterations of units	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2121	Alterations of units
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-448	Relocation of boundaries between adjoining units	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2122	Relocation of boundaries between adjoining units
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-449	Subdivision of units	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2123	Subdivision of units
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-450	Easement for encroachments	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2124	Easement for encroachments
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-451	Use for sales purposes	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2125	Use for sales purposes
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-452	Easement rights	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2626	Easement rights
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-453	Amendment of declaration	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2127	Amendment of declaration
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-454	Termination of cooperative ownership	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2128	Termination of cooperative ownership
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-455	Rights of secured lenders	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2129	Rights of secured lenders
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-456	Master associations	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2130	Master associations
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-457	Merger or consolidation	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2131	Merger or consolidation of

Cooperative Act)		of cooperatives	Estate Cooperative Act)		cooperatives
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-458	Organization of the association	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2132	Organization of the association
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-459	Powers of the association	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2133	Powers of the association
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-460	Executive board members and officers	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2134	Executive board members and officers
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-461	Transfer of special declarant rights	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2135	Transfer of special declarant rights
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-462	Termination of contracts and leases of declarant	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2136	Termination of contracts and leases of declarant
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-463	Bylaws	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2137	Bylaws
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-464	Upkeep of cooperative	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2138	Upkeep of cooperative
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-464.1	Common elements; notice of pesticide application	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2139	Common elements; notice of pesticide application
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-465	Meetings	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2140	Meetings
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-466	Quorums	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2141	Quorums
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-467	Voting; proxies	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2142	Voting; proxies
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-468	Tort and contract liability	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2143	Tort and contract liability
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-469	Conveyance or encumbrance of the cooperative	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2144	Conveyance or encumbrance of the cooperative
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-470	Insurance	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2145	Insurance
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-471	Assessments for common expenses	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2146	Assessments for common expenses
Chapter 24 (Virginia Real Estate	§ 55-471.1	Reserves for capital	Chapter 21 (Virginia Real	§ 55.1-2147	Reserves for capital

Cooperative Act)		components	Estate Cooperative Act)		components
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-472	Remedies for nonpayment of assessments	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2148	Remedies for nonpayment of assessments
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-473	Other liens affecting the cooperative	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2149	Other liens affecting the cooperative
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-473.1	Limitation of assumption of debt and encumbrances	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2150	Limitation of assumption of debt and encumbrances
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-474	Association records	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2151	Association records
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-475	Association as trustee	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2152	Association as trustee
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-476	Applicability; waiver	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2153	Applicability; waiver
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-477	Liability for public offering statement; requirements	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2154	Liability for public offering statement; requirements
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-478	Public offering statement; general provisions	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2155	Public offering statement; general provisions
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-479	Public offering statement; cooperatives subject to development rights	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2156	Public offering statement; cooperatives subject to development rights
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-480	Public offering statement; time shares	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2157	Public offering statement; time shares
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-481	Public offering statement; cooperatives containing conversion building	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2158	Public offering statement; cooperatives containing conversion building
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-482	Public offering statement; cooperative securities	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2159	Public offering statement; cooperative securities

Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-483	Purchaser's right to cancel	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2160	Purchaser's right to cancel
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-484	Resales of cooperative interests	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2161	Resales of cooperative interests
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-485	Escrow of deposits	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2162	Escrow of deposits
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-486	Release of liens	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2163	Release of liens
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-487	Conversion buildings	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2164	Conversion buildings
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-488	Express warranties of quality	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2165	Express warranties of quality
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-489	Implied warranties of quality	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2166	Implied warranties of quality
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-490	Exclusion or modification of implied warranties of quality	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2167	Exclusion or modification of implied warranties of quality
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-491	Statute of limitations for warranties	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2168	Statute of limitations for warranties
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-492	Effect of violation on rights of action; attorney's fees; arbitration of disputes	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2169	Effect of violation on rights of action; attorney's fees; arbitration of disputes
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-493	Labeling of promotional material	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2170	Labeling of promotional material
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-494	Declarant's obligation to complete and restore	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2171	Declarant's obligation to complete and restore
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-495	Substantial completion of units	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2172	Substantial completion of units
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-496	Administrative agency	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2173	Common Interest Community Board
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-497	Registration required	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2175	Registration required
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-498	Application for	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2176	Application for registration;

Cooperative Act)		registration; approval of uncompleted unit	Estate Cooperative Act)		approval of uncompleted unit
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-499	Receipt of application; order or registration	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2177	Receipt of application; order or registration
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-500	Cease and desist order	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2178	Cease and desist order
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-501	Revocation of registration	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2179	Revocation of registration
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-502	General powers and duties of agency	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2174	General powers and duties of the Common Interest Community Board
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-503	Investigative powers of agency	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2180	Investigative powers of the Common Interest Community Board
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-504	Annual report and amendments	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2181	Annual report and amendments
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-504.1	Annual report by associations	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2182	Annual report by associations
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-505	Agency regulation of public offering statement	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2183	Common Interest Community Board regulation of public offering statement
Chapter 24 (Virginia Real Estate Cooperative Act)	§ 55-506	Penalties	Chapter 21 (Virginia Real Estate Cooperative Act)	§ 55.1-2184	Penalties
Chapter 26 (Property Owners' Association Act)	§ 55-508	Applicability	Chapter 18 (Property Owners' Association Act)	§ 55.1-1801	Applicability
Chapter 26 (Property Owners' Association Act)	§ 55-509	Definitions	Chapter 18 (Property Owners' Association Act)	§ 55.1-1800	Definitions
Chapter 26 (Property Owners' Association Act)	§ 55-509.1	Developer to register and file annual report; payment of real estate taxes attributable to the common area upon transfer to association	Chapter 18 (Property Owners' Association Act)	§ 55.1-1802	Developer to register and file annual report; payment of real estate taxes attributable to the common area
Chapter 26 (Property Owners' Association Act)	§ 55-509.1:1	Limitation on certain	Chapter 18 (Property	§ 55.1-1803	Limitation on certain contracts

Association Act)		contracts and leases by declarant	Owners' Association Act)		and leases by declarant
Chapter 26 (Property Owners' Association Act)	§ 55-509.2	Documents to be provided by declarant upon transfer of control	Chapter 18 (Property Owners' Association Act)	§ 55.1-1804	Documents to be provided by declarant upon transfer of control
Chapter 26 (Property Owners' Association Act)	§ 55-509.3	Association charges	Chapter 18 (Property Owners' Association Act)	§ 55.1-1805	Association charges
Chapter 26 (Property Owners' Association Act)	§ 55-509.3:1	Rental of lots	Chapter 18 (Property Owners' Association Act)	§ 55.1-1806	Rental of lots
Chapter 26 (Property Owners' Association Act)	§ 55-509.3:2	Statement of lot owner rights	Chapter 18 (Property Owners' Association Act)	§ 55.1-1807	Statement of lot owner rights
Chapter 26 (Property Owners' Association Act)	§ 55-509.4	Contract disclosure statement; right of cancellation; use of for sale sign in connection with resale; designation of authorized representative	Chapter 18 (Property Owners' Association Act)	§ 55.1-1808	Contract disclosure statement; right of cancellation
Chapter 26 (Property Owners' Association Act)	§ 55-509.4(J)(1)	Contract disclosure statement; right of cancellation; use of for sale sign in connection with resale; designation of authorized representative	Chapter 18 (Property Owners' Association Act)	§ 55.1-1822	Use of for sale signs in connection with sale.
Chapter 26 (Property Owners' Association Act)	§ 55-509.4(J)(2)	Contract disclosure statement; right of cancellation; use of for sale sign in connection with resale; designation of authorized representative	Chapter 18 (Property Owners' Association Act)	§ 55.1-1823	Designation of authorized representative
Chapter 26 (Property Owners' Association Act)	§ 55-509.5	Contents of association disclosure packet;	Chapter 18 (Property Owners' Association Act)	§ 55.1-1809	Contents of association disclosure packet; delivery of

		delivery of packet			packet
Chapter 26 (Property Owners' Association Act)	§ 55-509.6	Fees for disclosure packet; professionally managed associations	Chapter 18 (Property Owners' Association Act)	§ 55.1-1810	Fees for disclosure packet; professionally managed associations
Chapter 26 (Property Owners' Association Act)	§ 55-509.7	Fees for disclosure packets; associations not professionally managed	Chapter 18 (Property Owners' Association Act)	§ 55.1-1811	Fees for disclosure packets; associations not professionally managed
Chapter 26 (Property Owners' Association Act)	§ 55-509.8	Properties subject to more than one declaration	Chapter 18 (Property Owners' Association Act)	§ 55.1-1812	Properties subject to more than one declaration
Chapter 26 (Property Owners' Association Act)	§ 55-509.9	Requests by settlement agents	Chapter 18 (Property Owners' Association Act)	§ 55.1-1813	Requests by settlement agents
Chapter 26 (Property Owners' Association Act)	§ 55-509.10	Exceptions to disclosure requirements	Chapter 18 (Property Owners' Association Act)	§ 55.1-1814	Exceptions to disclosure requirements
Chapter 26 (Property Owners' Association Act)	§ 55-510	Access to association records; association meetings; notice	Chapter 18 (Property Owners' Association Act)	§ 55.1-1815	Access to association records; association meetings; notice
Chapter 26 (Property Owners' Association Act)	§ 55-510.1	Meetings of the board of directors	Chapter 18 (Property Owners' Association Act)	§ 55.1-1816	Meetings of the board of directors
Chapter 26 (Property Owners' Association Act)	§ 55-510.2	Distribution of information by members	Chapter 18 (Property Owners' Association Act)	§ 55.1-1817	Distribution of information by members
Chapter 26 (Property Owners' Association Act)	§ 55-510.3	Common areas; notice of pesticide application	Chapter 18 (Property Owners' Association Act)	§ 55.1-1818	Common areas; notice of pesticide application
Chapter 26 (Property Owners' Association Act)	§ 55-511	Repealed	N/A – Repealed		
Chapter 26 (Property Owners' Association Act)	§ 55-513	Adoption and enforcement of rules	Chapter 18 (Property Owners' Association Act)	§ 55.1-1819	Adoption and enforcement of rules
Chapter 26 (Property Owners' Association Act)	§ 55-513.1	Display of the flag of the United States; necessary supporting structures; affirmative defense	Chapter 18 (Property Owners' Association Act)	§ 55.1-1820	Display of the flag of the United States; necessary supporting structures; affirmative defense
Chapter 26 (Property Owners' Association Act)	§ 55-513.2	Home-based businesses permitted; compliance with local ordinances	Chapter 18 (Property Owners' Association Act)	§ 55.1-1821	Home-based businesses permitted; compliance with local ordinances

Chapter 26 (Property Owners' Association Act)	§ 55-513.3	Assessments; late fees	Chapter 18 (Property Owners' Association Act)	§ 55.1-1824	Assessments; late fees
Chapter 26 (Property Owners' Association Act)	§ 55-514	Authority to levy special assessments	Chapter 18 (Property Owners' Association Act)	§ 55.1-1825	Authority to levy special assessments
Chapter 26 (Property Owners' Association Act)	§ 55-514.1	Reserves for capital components	Chapter 18 (Property Owners' Association Act)	§ 55.1-1826	Reserves for capital components
Chapter 26 (Property Owners' Association Act)	§ 55-514.2	Deposit of funds; fidelity bond	Chapter 18 (Property Owners' Association Act)	§ 55.1-1827	Deposit of funds; fidelity bond
Chapter 26 (Property Owners' Association Act)	§ 55-515	Compliance with declaration	Chapter 18 (Property Owners' Association Act)	§ 55.1-1828	Compliance with declaration
Chapter 26 (Property Owners' Association Act)	§ 55-515.1	Amendment to declaration and bylaws; consent of mortgagee	Chapter 18 (Property Owners' Association Act)	§ 55.1-1829	Amendment to declaration and bylaws; consent of mortgagee
Chapter 26 (Property Owners' Association Act)	§ 55-515.2	Validity of declaration; corrective amendments	Chapter 18 (Property Owners' Association Act)	§ 55.1-1830	Validity of declaration; corrective amendments
Chapter 26 (Property Owners' Association Act)	§ 55-515.2:1	Reformation of declaration; judicial procedure	Chapter 18 (Property Owners' Association Act)	§ 55.1-1831	Reformation of declaration; judicial procedure
Chapter 26 (Property Owners' Association Act)	§ 55-515.3	Use of technology	Chapter 18 (Property Owners' Association Act)	§ 55.1-1832	Use of technology
Chapter 26 (Property Owners' Association Act)	§ 55-516	Lien for assessments	Chapter 18 (Property Owners' Association Act)	§ 55.1-1833	Lien for assessments
Chapter 26 (Property Owners' Association Act)	§ 55-516.01	Notice of sale under deed of trust	Chapter 18 (Property Owners' Association Act)	§ 55.1-1834	Notice of sale under deed of trust
Chapter 26 (Property Owners' Association Act)	§ 55-516.1	Annual report by association	Chapter 18 (Property Owners' Association Act)	§ 55.1-1835	Annual report by association
Chapter 26 (Property Owners' Association Act)	§ 55-516.2	Condemnation of common area; procedure	Chapter 18 (Property Owners' Association Act)	§ 55.1-1836	Condemnation of common area; procedure
Chapter 29 (Common Interest Community Management Information Fund)	§ 55-528	Definitions	Chapter 23.3 (Common Interest Communities)	§ 54.1-2345	Definitions
Chapter 29 (Common Interest Community Management Information Fund)	§ 55-528	Definitions *Specific to CIC Management Information	Chapter 23.3 (Common Interest Communities)	§ 54.1-2354.1	Definitions

		Fund and CIC Recovery Fund			
Chapter 29 (Common Interest Community Management Information Fund)	§ 55-529	Common Interest Community Management Information Fund	Chapter 23.3 (Common Interest Communities)	§ 54.1-2354.2	Common Interest Community Management Information Fund
Chapter 29 (Common Interest Community Management Information Fund)	§ 55-530	Powers of the Board; Common interest community ombudsman; final adverse decisions	Chapter 23.3 (Common Interest Communities)	§ 54.1-2354.3	Common Interest Community Ombudsman; appointment; powers and duties
Chapter 29 (Common Interest Community Management Information Fund)	§ 55-530	Powers of the Board; Common interest community ombudsman; final adverse decisions	Chapter 23.3 (Common Interest Communities)	§ 54.1-2354.4	Association complaint procedures; final adverse decisions; certificate of registration
Chapter 29 (Common Interest Community Management Information Fund)	§ 55-530.1	Common Interest Community Management Recovery Fund	Chapter 23.3 (Common Interest Communities)	§ 54.1-2354.5	Common Interest Community Management Recovery Fund

Code of Virginia

Title 54.1. Professions and Occupations

Chapter 23.3. Common Interest Communities

§ 54.1-2345. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Association" means the same as that term is defined in § 55-528.

"Board" means the Common Interest Community Board.

"Common interest community" means the same as that term is defined in § 55-528; provided that for the purposes of this chapter only, a common interest community shall not include any time-share project registered pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et seq.) or any additional land that is a part of such registration.

"Common interest community manager" means a person or business entity, including but not limited to a partnership, association, corporation, or limited liability company, who, for compensation or valuable consideration, provides management services to a common interest community.

"Declaration" means the same as that term is defined in § 55-528.

"Governing board" means the governing board of an association, including the executive organ of a condominium unit owners' association, the executive board of a cooperative proprietary lessees' association, and the board of directors or other governing body of a property owners' association.

"Lot" means the same as that term is defined in § 55-528.

"Management services" means (i) acting with the authority of an association in its business, legal, financial, or other transactions with association members and nonmembers; (ii) executing the resolutions and decisions of an association or, with the authority of the association, enforcing the rights of the association secured by statute, contract, covenant, rule, or bylaw; (iii) collecting, disbursing, or otherwise exercising dominion or control over money or other property belonging to an association; (iv) preparing budgets, financial statements, or other financial reports for an association; (v) arranging, conducting, or coordinating meetings of an association or the governing body of an association; (vi) negotiating contracts or otherwise coordinating or arranging for services or the purchase of property and goods for or on behalf of an association; or (vii) offering or soliciting to perform any of the aforesaid acts or services on behalf of an association.

2008, cc. 851, 871.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 54.1-2346. License required; certification of employees; renewal; provisional license.

A. Unless exempted by § 54.1-2347, any person, partnership, corporation, or other entity offering management services to a common interest community on or after January 1, 2009, shall hold a valid license issued in accordance with the provisions of this chapter prior to engaging in such

management services.

B. Unless exempted by § 54.1-2347, any person, partnership, corporation, or other entity offering management services to a common interest community without being licensed in accordance with the provisions of this chapter, shall be subject to the provisions of § 54.1-111.

C. On or after July 1, 2012, it shall be a condition of the issuance or renewal of the license of a common interest community manager that all employees of the common interest community manager who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community shall, within two years after employment with the common interest community manager, hold a certificate issued by the Board certifying the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community or shall be under the direct supervision of a certified employee of such common interest community manager. A common interest community manager shall notify the Board if a certificated employee is discharged or in any way terminates his active status with the common interest community manager.

D. It shall be a condition of the issuance or renewal of the license of a common interest community manager that the common interest community manager shall obtain and maintain a blanket fidelity bond or employee dishonesty insurance policy insuring the common interest community manager against losses resulting from theft or dishonesty committed by the officers, directors, and persons employed by the common interest community manager. Such bond or insurance policy shall include coverage for losses of clients of the common interest community manager resulting from theft or dishonesty committed by the officers, directors, and persons employed by the common interest community manager. Such bond or insurance policy shall provide coverage in an amount equal to the lesser of \$2 million or the highest aggregate amount of the operating and reserve balances of all associations under the control of the common interest community manager during the prior fiscal year. The minimum coverage amount shall be \$10,000.

E. It shall be a condition of the issuance or renewal of the license of a common interest community manager that the common interest community manager certifies to the Board (i) that the common interest community manager is in good standing and authorized to transact business in Virginia; (ii) that the common interest community manager has established a code of conduct for the officers, directors, and persons employed by the common interest community manager to protect against conflicts of interest; (iii) that the common interest community manager provides all management services pursuant to written contracts with the associations to which such services are provided; (iv) that the common interest community manager has established a system of internal accounting controls to manage the risk of fraud or illegal acts; and (v) that an independent certified public accountant reviews or audits the financial statements of the common interest community manager at least annually in accordance with standards established by the American Institute of Certified Public Accountants or by any successor standard-setting authorities.

F. The Board shall issue a provisional license to any person, partnership, corporation, or other entity offering management services to a common interest community on or before December 31, 2008, who makes application for licensure prior to January 1, 2009. Such provisional license shall expire on June 30, 2012, and shall not be renewed. This subsection shall not be construed to limit

the powers and authority of the Board.

2008, cc. 851, 871;2011, cc. 334, 605.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 54.1-2347. Exceptions and exemptions generally.

A. The provisions of this chapter shall not be construed to prevent or prohibit:

1. An employee of a duly licensed common interest community manager from providing management services within the scope of the employee's employment by the duly licensed common interest community manager;
2. An employee of an association from providing management services for that association's common interest community;
3. A resident of a common interest community acting without compensation from providing management services for that common interest community;
4. A resident of a common interest community from providing bookkeeping, billing, or recordkeeping services for that common interest community for compensation, provided the blanket fidelity bond or employee dishonesty insurance policy maintained by the association insures the association against losses resulting from theft or dishonesty committed by such person;
5. A member of the governing board of an association acting without compensation from providing management services for that association's common interest community;
6. A person acting as a receiver or trustee in bankruptcy in the performance of his duties as such or any person acting under order of any court from providing management services for a common interest community;
7. A duly licensed attorney-at-law from representing an association or a common interest community manager in any business that constitutes the practice of law;
8. A duly licensed certified public accountant from providing bookkeeping or accounting services to an association or a common interest community manager;
9. A duly licensed real estate broker or agent from selling, leasing, renting, or managing lots within a common interest community; or
10. An association, exchange agent, exchange company, managing agent, or managing entity of a time-share project registered pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et seq.) from providing management services for such time-share project.

B. A licensee of the Board shall comply with the Board's regulations, notwithstanding the fact that the licensee would be otherwise exempt from licensure under subsection A. Nothing in this subsection shall be construed to require a person to be licensed in accordance with this chapter if he would be otherwise exempt from such licensure.

2008, cc. 851, 871;2010, c. 511;2011, cc. 334, 605.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 54.1-2348. Common Interest Community Board; membership; meetings; quorum.

There is hereby created the Common Interest Community Board (the Board) as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. Members of the Board shall be appointed by the Governor and consist of eleven members as follows: three shall be representatives of Virginia common interest community managers, one shall be a Virginia attorney whose practice includes the representation of associations, one shall be a representative of a Virginia certified public accountant whose practice includes providing attest services to associations, one shall be a representative of the Virginia time-share industry, two shall be representatives of developers of Virginia common interest communities, and three shall be Virginia citizens, one of whom serves or who has served on the governing board of an association that is not professionally managed at the time of appointment and two of whom reside in a common interest community. Of the initial appointments, one representative of Virginia common interest community managers and one representative of developers of Virginia common interest communities shall serve terms of two years and one representative of Virginia common interest community managers and one representative of developers of Virginia common interest communities shall serve terms of three years; the Virginia attorney shall serve a term of three years; the Virginia certified public accountant shall serve a term of one year; the Virginia citizen who serves or who has served on the governing board of an association shall serve a term of two years, and the two Virginia citizens who reside in a common interest community shall serve terms of one year. All other initial appointments and all subsequent appointments shall be for terms for four years, except that vacancies may be filled for the remainder of the unexpired term. Each appointment of a representative of a Virginia common interest community manager to the Board may be made from nominations submitted by the Virginia Association of Community Managers, who may nominate no more than three persons for each manager vacancy. In no case shall the Governor be bound to make any appointment from such nominees. No person shall be eligible to serve for more than two successive four-year terms.

The Board shall meet at least once each year and at other such times as it deems necessary. The Board shall elect from its membership a chairman and a vice-chairman to serve for a period of one year. A majority of the Board shall constitute a quorum. The Board is vested with the powers and duties necessary to execute the purposes of this chapter.

2008, cc. 851, 871;2010, c. 511;2012, c. 522.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 54.1-2349. Powers and duties of the Board.

A. The Board shall administer and enforce the provisions of this chapter. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:

1. Promulgate regulations necessary to carry out the requirements of this chapter in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) to include but not be

limited to the prescription of fees, procedures, and qualifications for the issuance and renewal of common interest community manager licenses. The Board shall annually assess each common interest community manager an amount equal to the lesser of (i) \$1,000, or such other amount as the Board may establish by regulation, or (ii) five hundredths of one percent (0.05%) of the gross receipts from common interest community management during the preceding year. For the purposes of clause (ii), no minimum payment shall be less than \$10. The annual payment shall be remitted to the State Treasurer and shall be placed to the credit of the Common Interest Community Management Fund established pursuant to § 55-529;

2. Establish criteria for the licensure of common interest community managers to ensure the appropriate training and educational credentials for the provision of management services to common interest communities. Such criteria may include experiential requirements and shall include designation as an Accredited Association Management Company by the Community Associations Institute. As an additional alternative to such designation, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of common interest community managers;

3. Establish criteria for the certification of the employees of common interest community managers who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community to ensure the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community. Such criteria shall include designation as a Certified Manager of Community Associations by the National Board of Certification for Community Association Managers, designation as an Association Management Specialist by the Community Associations Institute, or designation as a Professional Community Association Manager by the Community Associations Institute. As an additional alternative to such designations, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program as developed by the Virginia Association of Realtors or other organization, and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of the employees of common interest community managers who participate directly in the provision of management services to a common interest community. The fee paid to the Board for the issuance of such certificate shall be paid to the Common Interest Community Management Information Fund established pursuant to § 55-529;

4. Approve the criteria for accredited common interest community manager training programs;

5. Approve accredited common interest community manager training programs;

6. Establish, by regulation, standards of conduct for common interest community managers and for employees of common interest community managers certified in accordance with the provisions of this chapter;

7. Establish, by regulation, an education-based certification program for persons who are involved in the business or activity of providing management services for compensation to common interest communities. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this chapter; and

8. Develop and publish best practices for the content of declarations consistent with the requirements of the Property Owners' Association Act (§ 55-508 et seq.).

B. 1. The Board shall have the sole responsibility for the administration of this chapter and for the promulgation of regulations to carry out the requirements thereof.

2. The Board shall also be responsible for the enforcement of this chapter, provided that the Real Estate Board shall have the sole responsibility for the enforcement of this chapter with respect to a real estate broker, real estate salesperson, or real estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) who is also licensed as a common interest community manager.

3. For purposes of enforcement of this chapter or Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, any requirement for the conduct of a hearing shall be satisfied by an informal fact-finding proceeding convened and conducted pursuant to § 2.2-4019 of the Administrative Process Act (§ 2.2-4000 et seq.).

C. The Board is authorized to obtain criminal history record information from any state or federal law-enforcement agency relating to an applicant for licensure or certification. Any information so obtained is for the exclusive use of the Board and shall not be released to any other person or agency except in furtherance of the investigation of the applicant or with the authorization of the applicant or upon court order.

D. Notwithstanding the provisions of subsection E of § 55-530, the Board may receive a complaint directly from any person aggrieved by an association's failure to deliver a resale certificate or disclosure packet within the time period required under § 55-79.97, 55-79.97:1, 55-484, 55-509.5, 55-509.6, or 55-509.7.

2008, cc. 851, 871;2009, c. 557;2010, cc. 511, 615;2011, c. 334;2012, cc. 481, 797;2015, c. 268; 2017, cc. 387, 393, 405, 406.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 54.1-2350. Annual report; form to accompany resale certificates and disclosure packets.

In addition to the provisions of § 54.1-2349, the Board shall:

1. Administer the provisions of Chapter 29 (§ 55-528 et seq.) of Title 55;

2. Develop and disseminate an association annual report form for use in accordance with §§ 55-79.93:1, 55-504.1, and 55-516.1;and

3. Develop and disseminate a form to accompany resale certificates required pursuant to § 55-79.97 and association disclosure packets required pursuant to § 55-509.5, which form shall summarize the unique characteristics of common interest communities generally that may affect a prospective purchaser's decision to purchase a lot or unit located in a common interest community. The form shall include information on the following, which may or may not be applicable to a particular common interest community: (i) the obligation on the part of an owner to pay regular annual or special assessments to the association; (ii) the penalty for failure or refusal to pay such assessments; (iii) the purposes for which such assessments, if any, may be

used; (iv) the importance the declaration of restrictive covenants or condominium instruments, as applicable, and other governing documents play in association living; (v) limitations on an owner's ability to rent his lot or unit; (vi) limitations on an owner's ability to park or store certain types of motor vehicles or boats within the common interest community; (vii) limitations on an owner's ability to maintain an animal as a pet within the lot or unit, or in common areas or common elements; (viii) architectural guidelines applicable to an owner's lot or unit; (ix) limitations on an owner's ability to operate a business within a dwelling unit on a lot or within a unit; (x) the period or length of declarant control; and (xi) that the purchase contract for a lot within an association is a legally binding document once it is signed by the prospective purchaser where the purchaser has not elected to cancel the purchase contract in accordance with law. The form shall also provide that (a) the purchaser remains responsible for his own examination of the materials that constitute the resale certificate or disclosure packet and of any table of contents that may be contained therein; (b) the purchaser shall carefully review the entire resale certificate or disclosure packet; and (c) the contents of the resale certificate or disclosure packet shall control to the extent that there are any inconsistencies between the form and the resale certificate or disclosure packet.

2008, cc. 851, 871;2017, c. 257;2018, cc. 70, 733.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 54.1-2351. General powers and duties of Board concerning associations.

A. The Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in furtherance of the objectives of this chapter, but the Board may not intervene in the internal activities of an association except to the extent necessary to prevent or cure violations of this chapter or of the chapter pursuant to which the association is created. The Board may prescribe forms and procedures for submitting information to the Board.

B. If it appears that any governing board has engaged, is engaging, or is about to engage in any act or practice in violation of this chapter, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, or any of the Board's regulations or orders, the Board without prior administrative proceedings may bring suit in the appropriate court to enjoin that act or practice or for other appropriate relief. The Board is not required to post a bond or prove that no adequate remedy at law exists.

C. The Board may intervene in any action or suit involving a violation by a declarant or a developer of a time-share project of this chapter, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, or any of the Board's regulations or orders.

D. The Board may accept grants-in-aid from any governmental source and may contract with agencies charged with similar functions in this or other jurisdictions in furtherance of the objectives of this chapter.

E. The Board may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices, and may develop information that may be useful in the discharge of the Board's duties.

F. In issuing any cease and desist order the Board shall state the basis for the adverse determination and the underlying facts.

G. Without limiting the remedies that may be obtained under this chapter, the Board, without compliance with the Administrative Process Act (§ 2.2-4000 et seq.), shall have the authority to enforce the provisions of this section and may institute proceedings in equity to enjoin any person, partnership, corporation, or any other entity violating this chapter, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, or any of the Board's regulations or orders. Such proceedings shall be brought in the name of the Commonwealth by the Board in the circuit court or general district court of the city or county in which the unlawful act occurred or in which the defendant resides.

H. The Board may assess a monetary penalty to be paid to the Common Interest Community Management Information Fund of not more than \$1,000 per violation against any governing board that violates any provision of this chapter, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, or any of the Board's regulations or orders. In determining the amount of the penalty, the Board shall consider the degree and extent of harm caused by the violation. No monetary penalty may be assessed under this chapter, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, or any of the Board's regulations or orders unless the governing board has been given notice and an opportunity to be heard pursuant to the Administrative Process Act (§ 2.2-4000 et seq.). The penalty may be sued for and recovered in the name of the Commonwealth.

2008, cc. 851, 871;2009, c. 557;2010, c. 615.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 54.1-2352. Cease and desist orders.

A. The Board may issue an order requiring the governing board of the association to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the Board will carry out the purposes of this chapter, if the Board determines after notice and hearing that the governing board of an association has:

1. Violated any statute or regulation of the Board governing the association regulated pursuant to this chapter, including engaging in any act or practice in violation of this chapter, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, or any of the Board's regulations or orders;
2. Failed to register as an association or to file an annual report as required by statute or regulation;
3. Materially misrepresented facts in an application for registration or an annual report; or
4. Willfully refused to furnish the Board information or records required or requested pursuant to statute or regulation.

B. If the Board makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary cease and desist order. Prior to

issuing the temporary cease and desist order, the Board shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent.

2008, cc. 851, 871;2009, c. 557.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 54.1-2353. Protection of the interests of associations; appointment of receiver for common interest community manager.

A. A common interest community manager owes a fiduciary duty to the associations to which it provides management services with respect to the manager's handling the funds or the records of each association. All funds deposited with the common interest community manager shall be handled in a fiduciary capacity and shall be kept in a separate fiduciary trust account or accounts in an FDIC-insured financial institution separate from the assets of the common interest community manager. The funds shall be the property of the association and shall be segregated for each depository in the records of the common interest community manager in a manner that permits the funds to be identified on an association basis. All records having administrative or fiscal value to the association that a common interest community manager holds, maintains, compiles, or generates on behalf of a common interest community are the property of the association. A common interest community manager may retain and dispose of association records in accordance with a policy contained in the contract between the common interest community manager and the association. Within a reasonable time after a written request for any such records, the common interest community manager shall provide copies of the requested records to the association at the association's expense. The common interest community manager shall return all association records that it retains and any originals of legal instruments or official documents that are in the possession of the common interest community manager to the association within a reasonable time after termination of the contract for management services without additional cost to the association. Records maintained in electronic format may be returned in such format.

B. If the Board has reasonable cause to believe that a common interest community manager is unable to properly discharge its fiduciary responsibilities to an association to which it provides management services, the Board may submit an ex parte petition to the circuit court of the city or county wherein the common interest community manager maintains an office or is doing business for the issuance of an order authorizing the immediate inspection by and production to representatives of the petitioner of any records, documents, and physical or other evidence belonging to the subject common interest community manager. The court may issue such order without notice to the common interest community manager if the petition, supported by affidavit of the petitioner and such other evidence as the court may require, shows reasonable cause to believe that such action is required to prevent immediate loss of property of one or more of the associations to which the subject common interest community manager provides management services. The court may also temporarily enjoin further activity by the common interest community manager and take such further action as shall be necessary to conserve, protect, and disburse the funds involved, including the appointment of a receiver. The papers

filed with the court pursuant to this subsection shall be placed under seal.

C. If the Board has reasonable cause to believe that a common interest community manager is unable to properly discharge its fiduciary responsibilities to an association to which it provides management services, the Board may file a petition with the circuit court of the county or city wherein the subject common interest community manager maintains an office or is doing business. The petition may seek the following relief: (i) an injunction prohibiting the withdrawal of any bank deposits or the disposition of any other assets belonging to or subject to the control of the subject common interest community manager; and (ii) the appointment of a receiver for all or part of the funds or property of the subject common interest community manager. The subject common interest community manager shall be given notice of the time and place of the hearing on the petition and an opportunity to offer evidence. The court, in its discretion, may require a receiver appointed pursuant to this section to post bond, with or without surety. The papers filed with the court under this subsection shall be placed under seal until such time as the court grants an injunction or appoints a receiver. The court may issue an injunction, appoint a receiver, or provide such other relief as the court may consider proper if, after a hearing, the court finds that such relief is necessary or appropriate to prevent loss of property of one or more of the associations to which the subject common interest community manager provides management services.

D. In any proceeding under subsection C, any person or entity known to the Board to be indebted to or having in his possession property, real or personal, belonging to or subject to the control of the subject common interest community manager's business and which property the Board reasonably believes may become part of the receivership assets, shall be served with a copy of the petition and notice of the time and place of the hearing.

E. The court shall describe the powers and duties of the receiver in its appointing order, which may be amended from time to time. The receiver shall, unless otherwise ordered by the court in the appointing order, (i) prepare and file with the Board a list of all associations managed by the subject common interest community manager; (ii) notify in writing all of the associations to which the subject common interest community manager provides management services of the appointment, and take whatever action the receiver deems appropriate to protect the interests of the associations until such time as the associations have had an opportunity to obtain a successor common interest community manager; (iii) facilitate the transfer of records and information to such successor common interest community manager; (iv) identify and take control of all bank accounts, including without limitation trust and operating accounts, over which the subject common interest community manager had signatory authority in connection with its management business; (v) prepare and submit an accounting of receipts and disbursements and account balances of all funds under the receiver's control for submission to the court within four months of the appointment and annually thereafter until the receivership is terminated by the court; (vi) attempt to collect any accounts receivable related to the subject common interest community manager's business; (vii) identify and attempt to recover any assets wrongfully diverted from the subject common interest community manager's business, or assets acquired with funds wrongfully diverted from the subject common interest community manager's business; (viii) terminate the subject common interest community manager's business; (ix) reduce to cash all of the assets of the subject common interest community manager; (x) determine the nature and amount of all claims of creditors of the subject common interest community manager, including associations to which the subject common interest community manager provided management services; and (xi) prepare and file with the court a report of such

assets and claims proposing a plan for the distribution of funds in the receivership to such creditors in accordance with the provisions of subsection F.

F. Upon the court's approval of the receiver's report referenced in subsection E, at a hearing after such notice as the court may require to creditors, the receiver shall distribute the assets of the common interest community manager and funds in the receivership first to clients whose funds were or ought to have been held in a fiduciary capacity by the subject common interest community manager, then to the receiver for fees, costs, and expenses awarded pursuant to subsection G, and thereafter to the creditors of the subject common interest community manager, and then to the subject common interest community manager or its successors in interest.

G. A receiver appointed pursuant to this section shall be entitled, upon proper application to the court in which the appointment was made, to recover an award of reasonable fees, costs, and expenses. If there are not sufficient nonfiduciary funds to pay the award, then the shortfall shall be paid by the Common Interest Community Management Recovery Fund as a cost of administering the Fund pursuant to § 55-530.1, to the extent that the said Fund has funds available. The Fund shall have a claim against the subject common interest community manager for the amount paid.

H. The court may determine whether any assets under the receiver's control should be returned to the subject common interest community manager.

I. If the Board shall find that any common interest community manager is insolvent, that its merger into another common interest community manager is desirable for the protection of the associations to which such common interest community manager provides management services, and that an emergency exists, and, if the board of directors of such insolvent common interest community manager shall approve a plan of merger of such common interest community manager into another common interest community manager, compliance with the requirements of § 13.1-718 shall be dispensed with as to such insolvent common interest community manager and the approval by the Board of such plan of merger shall be the equivalent of approval by the holders of more than two-thirds of the outstanding shares of such insolvent common interest community manager for all purposes of Article 12 (§ 13.1-715.1 et seq.) of Chapter 9 of Title 13.1. If the Board finds that a common interest community manager is insolvent, that the acquisition of its assets by another common interest community manager is in the best interests of the associations to which such common interest community manager provides management services, and that an emergency exists, it may, with the consent of the boards of directors of both common interest community managers as to the terms and conditions of such transfer, including the assumption of all or certain liabilities, enter an order transferring some or all of the assets of such insolvent common interest community manager to such other common interest community manager, and no compliance with the provisions of §§ 13.1-723 and 13.1-724 shall be required, nor shall §§ 13.1-730 through 13.1-741 be applicable to such transfer. In the case either of such a merger or of such a sale of assets, the Board shall provide that prompt notice of its finding of insolvency and of the merger or sale of assets be sent to the stockholders of record of the insolvent common interest community manager for the purpose of providing such shareholders an opportunity to challenge the finding that the common interest community manager is insolvent. The relevant books and records of such insolvent common interest community manager shall remain intact and be made available to such shareholders for a period of 30 days after such notice is sent. The Board's finding of insolvency shall become final if a hearing before

the Board is not requested by any such shareholder within such 30-day period. If, after such hearing, the Board finds that such common interest community manager was solvent, it shall rescind its order entered pursuant to this subsection and the merger or transfer of assets shall be rescinded. But if, after such hearing, the Board finds that such common interest community manager was insolvent, its order shall be final.

J. The provisions of this chapter are declared to be remedial. The purpose of this chapter is to protect the interests of associations adversely affected by common interest community managers who have breached their fiduciary duty. The provisions of this chapter shall be liberally administered in order to protect those interests and thereby the public's interest in the quality of management services provided by Virginia common interest community managers.

2008, cc. [851](#), [871](#);2011, cc. [334](#), [605](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 54.1-2354. Variation by agreement.

Except as expressly provided in this chapter, provisions of this chapter may not be varied by agreement, and rights conferred by this chapter may not be waived. All management agreements entered into by common interest community managers shall comply with the terms of this chapter and the provisions of Chapter 4.2 (§ [55-79.39](#) et seq.), 21 (§ [55-360](#) et seq.), 24 (§ [55-424](#) et seq.), or 26 (§ [55-508](#) et seq.) of Title 55, as applicable.

2008, cc. [851](#), [871](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

1 **COMMON INTEREST COMMUNITY BOARD**

2 **Condominium Regulations - Title 55 Recodification**

3
4 Part I

5 General

6 **18VAC48-30-10. Purpose.**

7 This chapter governs the exercise of powers granted to and the performance of duties
8 imposed upon the Common Interest Community Board by the Virginia Condominium Act (~~§ 55-~~
9 ~~79.39 et seq. of the Code of Virginia~~) (§ 55.1-1900 et seq. of the Code of Virginia) as the act
10 pertains to the registration of condominiums.

11 Statutory Authority

12
13 § 54.1-2349 of the Code of Virginia.

14 Historical Notes

15 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

16
17 **18VAC48-30-20. Definitions.**

18 A. Section 54.1-2345 of the Code of Virginia provides definitions of the following terms and
19 phrases as used in this chapter:

20 "Association"

21 "Board"

22 B. ~~Section 55-79.44~~ Section 55.1-1900 of the Code of Virginia provides definitions of the
23 following terms and phrases as used in this chapter:

"Common elements"

"Identifying number"

"Common expenses"

"Land"

"Condominium"

"Leasehold condominium"

"Condominium instruments"

"Limited common element"

"Condominium unit"

"Nonbinding reservation agreement"

"Conversion condominium"

"Offer"

"Convertible land"

"Person"

"Convertible space"

"Purchaser"

"Declarant"

"Special declarant rights"

"Dispose" or "disposition"

"Unit"

~~"Executive organ"~~ "Executive board"

"Unit owner"

"Expandable condominium"

24 C. The following words, terms, and phrases when used in this chapter shall have the
25 following meanings unless the context clearly indicates otherwise.

26 "Annual report" means a completed, board-prescribed form and required documentation
27 submitted in compliance with ~~§ 55-79-93~~ § 55.1-1979 of the Code of Virginia.

28 "Application" means a completed, board-prescribed form submitted with the appropriate fee
29 and other required documentation in compliance with ~~§ 55-79-89~~ § 55.1-1975 of the Code of
30 Virginia.

31 "Class of physical assets" means two or more physical assets that are substantially alike in
32 function, manufacture, date of construction or installation, and history of use and maintenance.

33 ~~"Condominium Act"~~ "Virginia Condominium Act" means Chapter 4.2 (~~§ 55-79-39 et seq.~~) of
34 ~~Title 55 Chapter 19~~ (§ 55.1-1900 et seq.) of Title 55.1 of the Code of Virginia.

35 "Department" means the Department of Professional and Occupational Regulation.

36 "Expected useful life" means the estimated number of years from the date on which such
37 estimate is made until the date when, because of the effects of time, weather, stress, or wear, a
38 physical asset will become incapable of performing its intended function and will have to be
39 replaced.

40 "Firm" means a sole proprietorship, association, partnership, corporation, limited liability
41 company, limited liability partnership, or any other form of business organization recognized
42 under the laws of the Commonwealth of Virginia.

43 "Full and fair disclosure" means the degree of disclosure necessary to ensure reasonably
44 complete and materially accurate representation of the condominium in order to protect the
45 interests of purchasers.

46 "Limited common expense" means any common expense against one or more, but less than
47 all, of the units.

48 "Major utility installation" means a utility installation or portion thereof that is a common
49 element or serves more than one unit.

50 "Material change" means a change in any information or document disclosed in the
51 application for registration, including the public offering statement or an attachment thereto, that
52 renders inaccurate, incomplete, or misleading any information or document in such a way as to
53 affect substantially a purchaser's rights or obligations or the nature of a unit or appurtenant
54 limited common element or the amenities of the project available for the purchaser's use as
55 described in the public offering statement.

56 "Offering" means the continuing act of the declarant in making condominium units owned by
57 the declarant within a particular condominium available for acquisition by purchasers or, where
58 appropriate, to the aggregate of the condominium units thus made available.

59 "Offering literature" means any written promise, assertion, representation, or statement of
60 fact or opinion made in connection with a condominium marketing activity mailed or delivered
61 directly to a specific prospective purchaser, except that information printed in a publication shall
62 not be deemed offering literature solely by virtue of the fact that the publication is mailed or
63 delivered directly to a prospective purchaser.

64 "Personal communication" means a communication directed to a particular prospective
65 purchaser that has not been and is not intended to be directed to any other prospective
66 purchaser.

67 "Physical asset" means either a structural component or a major utility installation.

68 "Present condition" means condition as of the date of the inspection by means of which
69 condition is determined.

70 "Registration file" means the application for registration, supporting materials, annual
71 reports, and amendments that constitute all information submitted and reviewed pertaining to a
72 particular condominium registration. A document that has not been accepted for filing by the
73 board is not part of the registration file.

74 "Regular common expense" means a common expense apportioned among and assessed
75 to all of the condominium units pursuant to subsection D of ~~§ 55-79.83~~ § 55.1-1964 of the Code
76 of Virginia or similar law or condominium instrument provision.

77 "Replacement cost" means the expenditure that would be necessary to replace a physical
78 asset with an identical or substantially equivalent physical asset as of the date on which
79 replacement cost is determined and includes all costs of (i) removing the physical asset to be
80 replaced, (ii) obtaining its replacement, and (iii) erecting or installing the replacement.

81 "Structural component" means a component constituting any portion of the structure of a unit
82 or common element.

83 "Structural defect" shall have the meaning given in subsection B of ~~§ 55-79.79~~ § 55.1-1955
84 of the Code of Virginia.

85 "Substituted public offering statement" means a document originally prepared in compliance
86 with the laws of another jurisdiction and modified in accordance with the provisions of this
87 chapter to fulfill the disclosure requirements established for public offering statements by
88 subsection A of ~~§ 55-79.90~~ § 55.1-1976 of the Code of Virginia and, if applicable, ~~subsection A~~
89 of ~~§ 55-79.94~~ subsection B of § 55.1-1982 of the Code of Virginia.

90

91 Statutory Authority

92 § 54.1-2349 of the Code of Virginia.

93 Historical Notes

94 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

95

96 **18VAC48-30-30. Explanation of terms.**

97 Each reference in this chapter to a "declarant," "purchaser," and "unit owner" or to the plural
98 of those terms shall be deemed to refer, as appropriate, to the masculine and the feminine, to
99 the singular and the plural, and to natural persons and organizations. The term "declarant" shall
100 refer to any successors to the persons referred to in ~~§ 55-79.41~~ § 55.1-1900 of the Code of
101 Virginia who come to stand in the same relation to the condominium as their predecessors in
102 that they assumed rights reserved for the benefit of a declarant that (i) offers to dispose of his
103 interest in a condominium unit not previously disposed of, (ii) reserves or succeeds to any
104 special declarant right, or (iii) applies for registration of the condominium.

105

106 Statutory Authority

107 § 54.1-2349 of the Code of Virginia.

108 Historical Notes

109 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

110

111 18VAC48-30-40. Condominiums located outside of Virginia.

112 A. In any case involving a condominium located outside of Virginia in which the laws or
113 practices of the jurisdiction in which such condominium is located prevent compliance with a
114 provision of this chapter, the board shall prescribe, by order, a substitute provision to be
115 applicable in such case that is as nearly equivalent to the original provision as is reasonable
116 under the circumstances.

117 B. The words "declaration," "bylaws," "plats," and "plans," when used in this chapter with
118 reference to a condominium located outside of Virginia, shall refer to documents, portions of
119 documents, or combinations thereof, by whatever name denominated, that have a content and
120 function identical or substantially equivalent to the content and function of their Virginia
121 counterparts.

122 C. The words "recording" or "recordation," when used with reference to condominium
123 instruments of a condominium located outside of Virginia, shall refer to a procedure that, in the
124 jurisdiction in which such condominium is located, causes the condominium instruments to
125 become legally effective.

126 D. This chapter shall apply to a contract for the disposition of a condominium unit located
127 outside of Virginia only to the extent permissible under the provisions of subsection B of ~~§ 55-~~
128 ~~79.40~~ § 55.1-1901 of the Code of Virginia.

129

130 Statutory Authority

131 § 54.1-2349 of the Code of Virginia.

132 Historical Notes

133 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

134

135 18VAC48-30-50. Exemptions from registration.

136 A. The exemption from registration of condominiums in which all units are restricted to
137 nonresidential use provided in subsection B of ~~§ 55-79.87~~ § 55.1-1972 of the Code of Virginia
138 shall not be deemed to apply to any condominium as to which there is a substantial possibility
139 that a unit therein other than a unit owned by the declarant or the unit owners' association will
140 be used as permanent or temporary living quarters or as a site upon which vehicular or other

141 portable living quarters will be placed and occupied. Residential use for the purposes of this
142 chapter includes transient occupancy.

143 B. Nothing in this chapter shall apply in the case of a condominium exempted from
144 registration by ~~§ 55-79.87~~ § 55.1-1972 of the Code of Virginia or condominiums located outside
145 of Virginia as provided in subsection B of ~~§ 55-79.40~~ § 55.1-1901 of the Code of Virginia for
146 which no contracts are to be signed in Virginia.

147

148 Statutory Authority

149 § 54.1-2349 of the Code of Virginia.

150 Historical Notes

151 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

152

153 **18VAC48-30-80. Offering literature.**

154 A. Offering literature mailed or delivered prior to the registration of the condominium that is
155 the subject of the offering literature shall bear a conspicuous legend containing the substance of
156 the following language:

157 "The condominium has not been registered by the Common Interest Community Board.
158 A condominium unit may be reserved on a nonbinding reservation agreement, but no
159 contract of sale or lease may be entered into prior to registration."

160 B. Offering literature or marketing activities violative of the Virginia Fair Housing Law (§ 36-
161 96.1 et seq. of the Code of Virginia) and subsection C of ~~§ 55-79.52~~ § 55.1-1914 of the Code of
162 Virginia is prohibited.

163 C. Offering literature shall indicate that the property being offered is under the condominium
164 form of ownership. The requirement of this subsection is satisfied by including the full name of
165 the condominium in all offering literature.

166

167 Statutory Authority

168 § 54.1-2349 of the Code of Virginia.

169 Historical Notes

170 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

171

172

Part III

173

Application for Registration

174 **18VAC48-30-90. Application procedures.**

175 A declarant seeking registration of a condominium pursuant to ~~Chapter 4.2 (§ 55-79.39 et~~
176 ~~seq.) of Title 55 Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1~~ of the Code of Virginia shall
177 submit an application on the appropriate form provided by the board, along with the appropriate
178 fee specified in 18VAC48-30-100.

179 By submitting the application to the board, the declarant certifies that the declarant has read
180 and understands the applicable statutes and the board's regulations.

181 The receipt of an application and the deposit of fees by the board do not indicate approval or
182 acceptance of the application by the board.

183 The board may make further inquiries and investigations to confirm or amplify information
184 supplied. All applications shall be completed in accordance with the instructions contained in
185 this section and on the application. Applications will not be considered complete until all
186 required documents are received by the board.

187 Applications that are not approved within 12 months after receipt of the application in the
188 board's office will be purged and a new application and fee must be submitted in order to be
189 reconsidered for registration.

190

191 Statutory Authority

192 § 54.1-2349 of the Code of Virginia.

193 Historical Notes

194 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

195

196 **18VAC48-30-110. Review of application for registration.**

197 A. Upon receipt of an application for registration, the board shall issue the notice of filing
198 required by subsection A of ~~§ 55-79.92~~ § 55.1-1978 of the Code of Virginia.

199 B. Upon the review of the application for registration, if the requirements of ~~§§ 55-79.89 and~~
200 ~~55-79.91~~ §§ 55.1-1975 and 55.1-1977 of the Code of Virginia have not been met, the board

201 shall notify the applicant as required by subsection C of ~~§ 55-79.92~~ § 55.1-1978 of the Code of
202 Virginia.

203 C. A request for an extension of the 60-day application review period described in ~~§ 55-~~
204 ~~79.92~~ § 55.1-1978 of the Code of Virginia shall be in writing and shall be delivered to the board
205 prior to the expiration of the period being extended. The request shall be for an extension of
206 definite duration. The board may grant in writing a request for an extension of the application
207 review period, and it may limit the extension to a period not longer than is reasonably necessary
208 to permit correction of the application. An additional extension of the application review period
209 may be obtained, subject to the conditions applicable to the initial request. A request for an
210 extension of the application review period shall be deemed a consent to delay within the
211 meaning of subsection A of ~~§ 55-79.92~~ § 55.1-1978 of the Code of Virginia.

212 D. If the requirements for registration are not met within the application review period or a
213 valid extension thereof, the board shall, upon the expiration of such period, enter an order
214 rejecting the registration as required by subsection C of ~~§ 55-79.92~~ § 55.1-1978 of the Code of
215 Virginia.

216 E. An applicant may submit a written request for an informal conference in accordance with
217 § 2.2-4019 of the Code of Virginia at any time between receipt of a notification pursuant to
218 subsection B of this section and the effective date of the order of rejection entered pursuant to
219 subsection D of this section. A request for such proceeding shall be deemed a consent to delay
220 within the meaning of subsection A of ~~§ 55-79.92~~ § 55.1-1978 of the Code of Virginia.

221 F. The board shall receive and act upon corrections to the application for registration at any
222 time prior to the effective date of an order rejecting the registration. If the board determines after
223 review of the corrections that the requirements for registration have not been met, the board
224 may proceed with an informal conference in accordance with § 2.2-4019 of the Code of Virginia
225 to allow reconsideration of whether the requirements for registration are met. If the board does
226 not opt to proceed with an informal conference, the applicant may submit a written request for
227 an informal conference in accordance with § 2.2-4019 of the Code of Virginia to reconsider
228 whether the requirements for registration are met. If the board does not proceed with an
229 informal conference and no request for an informal conference is received from the applicant,
230 an amended order of rejection stating the factual basis for the rejection shall be issued. A new
231 20-day period for the order of rejection to become effective shall commence.

232 G. At such time as the board affirmatively determines that the requirements of ~~§§ 55-79.89~~
233 ~~and 55-79.94~~ §§ 55.1-1975 and 55.1-1977 of the Code of Virginia have been met, the board

234 shall enter an order registering the condominium and shall designate the form, content, and
235 effective date of the public offering statement, substituted public offering statement, or
236 prospectus to be used.

237
238 Statutory Authority

239 § 54.1-2349 of the Code of Virginia.

240 Historical Notes

241 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

242

243 **18VAC48-30-120. Prerequisites for registration.**

244 The following provisions are prerequisites for registration and are supplementary to the
245 provisions of ~~§ 55-79.94~~ § 55.1-1977 of the Code of Virginia.

246 A. The declarant shall own or have the right to acquire an estate in the land constituting or to
247 constitute the condominium that is of at least as great a degree and duration as the estate to be
248 conveyed in the condominium units.

249 B. The condominium instruments must be adequate to bring a condominium into existence
250 upon recordation except that the certification requirements of ~~§ 55-79.58~~ § 55.1-1920 of the
251 Code of Virginia need not be complied with as a prerequisite for registration. This subsection
252 does not apply to condominium instruments that may be recorded after the condominium has
253 been created.

254 C. The declarant shall have filed with the board reasonable evidence of its financial ability to
255 complete all proposed improvements on the condominium. Such evidence may include (i)
256 financial statements and a signed affidavit attesting that the declarant has sufficient funds to
257 complete all proposed improvements on the condominium and that the funds will be used for
258 completion of the proposed improvements or (ii) proof of a commitment of an institutional lender
259 to advance construction funds to the declarant and, to the extent that any such commitments
260 will not furnish all the necessary funds, other evidence, satisfactory to the board, of the
261 availability to the declarant of necessary funds. A lender's commitment may be subject to such
262 conditions, including registration of the condominium units and presale requirements, as are
263 normal for loans of the type and as to which nothing appears to indicate that the conditions will
264 not be complied with or fulfilled.

265 1. In the case of a condominium located in Virginia, "proposed improvements" are
266 improvements that are not yet begun or not yet complete and that the declarant is
267 affirmatively and unconditionally obligated to complete under ~~§§ 55-79.58 and 55-79.67~~
268 ~~(a4) §§ 55.1-1920 and 55.1-1930 B~~ of the Code of Virginia and applicable provisions of
269 the condominium instruments or that the declarant would be so obligated to complete if
270 plats and plans filed with the board in accordance with 18VAC48-30-140 A were
271 recorded.

272 2. In the case of a condominium located outside of Virginia, "proposed improvements"
273 are improvements that are not yet begun or not yet complete and that the declarant
274 represents, without condition or limitation, will be built or placed in the condominium.

275 D. The current and planned condominium marketing activities of the declarant shall comply
276 with § 18.2-216 of the Code of Virginia, 18VAC48-30-80, and 18VAC48-30-660.

277 E. The declarant shall have filed with the board (i) a proposed public offering statement that
278 complies with this chapter and subsection A of ~~§ 55-79.90~~ § 55.1-1976 of the Code of Virginia
279 and, if applicable, ~~subsection A of § 55-79.94~~ subsection B of § 55.1-1982 of the Code of
280 Virginia; (ii) a substituted public offering statement that complies with this chapter; or (iii) a
281 prospectus that complies with this chapter.

282 F. Declarants may be organized as individuals or firms. Firms shall be organized as
283 business entities under the laws of the Commonwealth of Virginia or otherwise authorized to
284 transact business in Virginia. Firms shall register any trade or fictitious names with the State
285 Corporation Commission or the clerk of court in the jurisdiction where the business is to be
286 conducted in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia before
287 submitting an application to the board.

288

289 Statutory Authority

290 § 54.1-2349 of the Code of Virginia.

291 Historical Notes

292 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

293

294 **18VAC48-30-130. Minimum requirements for registration.**

295 Applications for registration shall include the following:

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1. The documents and information contained in ~~§ 55-79.89~~ § 55.1-1975 of the Code of Virginia.
2. The application fee specified in 18VAC48-30-100.
3. The following documents shall be included as exhibits. All exhibits shall be labeled as indicated and submitted in hardcopy form and electronically in a format acceptable to the board.
 - a. Exhibit A: A copy of the certificate of incorporation or certificate of authority to transact business in Virginia issued by the Virginia State Corporation Commission or other entity formation documents.
 - b. Exhibit B: A copy of the title opinion, title policy, or a statement of the condition of the title to the condominium project including encumbrances as of a specified date within 30 days of the date of application by a title company or licensed attorney who is not a salaried employee, officer, or director of the declarant or owner, in accordance with subdivision A 5 of ~~§ 55-79.89~~ § 55.1-1975 of the Code of Virginia.
 - c. Exhibit C: A copy of the instruments that will be delivered to a purchaser to evidence the purchaser's interest in the unit and of the contracts and other agreements that a purchaser will be required to agree to or sign.
 - d. Exhibit D: A narrative description of the promotional plan for the disposition of the condominium units.
 - e. Exhibit E: A copy of documentation demonstrating the declarant's financial ability to complete the project in accordance with 18VAC48-30-120.
 - f. Exhibit F: A copy of the proposed public offering statement that complies with subsection A of ~~§ 55-79.90~~ § 55.1-1976 and ~~subsection A of § 55-79.94~~ subsection B of § 55.1-1982 of the Code of Virginia, as applicable, and this chapter. A substitute public offering statement or a prospectus pursuant to 18VAC48-30-370 and 18VAC48-30-380 respectively may be submitted for a condominium formed in another jurisdiction.
 - g. Exhibit G: Copies of bonds required by ~~§§ 55-79.58:1, 55.79.84:1, and 55-79.95~~ §§ 55.1-1921, 55.1-1968, and 55.1-1983 of the Code of Virginia, as applicable.
 - h. Exhibit H: A list with the name of every officer of the declarant who is directly responsible for the project or person occupying a similar status within, or performing similar functions for, the declarant. The list must include each individual's address,

328 principal occupation for the past five years, and extent and nature of the individual's
329 interest in the condominium as of a specified date within 30 days of the filing of the
330 application.

331 i. Exhibit I: Plats and plans of the condominium that (i) comply with the provisions
332 of ~~§ 55-79.58~~ § 55.1-1920 of the Code of Virginia and 18VAC48-30-140 other than
333 the certification requirements and (ii) show all units and buildings containing units to
334 be built anywhere within the submitted land other than within the boundaries of any
335 convertible lands. Hardcopy submittals of plats and plans must be no larger than 11
336 inches by 17 inches.

337 j. Exhibit J: Conversion condominiums must attach (i) a copy of the general notice
338 provided to tenants of the condominium at the time of application pursuant
339 to ~~subsection B of § 55-79.94~~ subsection C of § 55.1-1982 of the Code of Virginia, (ii)
340 a copy of the formal notice to be sent at the time of registration to the tenants, if any,
341 of the building or buildings, and (iii) the certified statement required in accordance
342 with ~~subsection C of § 55-79.94~~ subsection D of § 55.1-1982 of the Code of Virginia.

343
344 Statutory Authority

345 § 54.1-2349 of the Code of Virginia.

346 Historical Notes

347 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

348

349 **18VAC48-30-140. Requirements for plats and plans.**

350 A. Except as provided in subsection C of this section, all plats and plans submitted with the
351 application for registration shall comply with ~~§ 55-79.58~~ § 55.1-1920 of the Code of Virginia but
352 the certification need not be signed until recordation. The plats and plans filed with the
353 application for registration shall be the same as the plats and plans the declarant intends to
354 record. A material change to the plats and plans shall be submitted to the board in accordance
355 with Part VI (18VAC48-30-460 et seq.) of this chapter. Once recorded, copies of plats and plans
356 as recorded shall be filed with the board in accordance with Part VI of this chapter.

357 B. In the case of units that are substantially identical, the requirement to show the location
358 and dimensions (within normal construction tolerances) of the boundaries of each unit pursuant
359 to subsection B of ~~§ 55-79.58~~ § 55.1-1920 of the Code of Virginia may be deemed satisfied by

360 depiction of the location and dimensions of the vertical boundaries and horizontal boundaries, if
361 any, of one such unit. The identifying numbers of all units represented by such depiction shall
362 be indicated. Each structure within which any such units are located shall be depicted so as to
363 indicate the exact location of each such unit within the structure.

364 C. In the case of a condominium located outside Virginia, certain materials may be filed with
365 the application for registration in lieu of plats and plans complying with the provisions of ~~§ 55-~~
366 ~~79.58~~ § 55.1-1920 of the Code of Virginia. Such materials shall contain, as a minimum, (i) a plat
367 of survey depicting all existing improvements, and all improvements that the declarant
368 represents, without condition or limitation, will be built or placed in the condominium; and (ii)
369 legally sufficient descriptions of each unit. Any improvements whose completion is subject to
370 conditions or limitations shall be appropriately labeled to indicate that such improvements may
371 not be completed. Unit descriptions may be written or graphic, shall demarcate each unit
372 vertically and, if appropriate, horizontally, and shall indicate each unit's location relative to
373 established points or datum.

374 D. The plats and plans must bear the form of the certification statement required by
375 subsections A and B ~~§ 55-79.58~~ § 55.1-1920 of the Code of Virginia. However, as stated in
376 subsection A of this section, the statement need not be executed prior to recordation. The
377 certification statement may appear in a separate document that is recorded, or to be recorded.

378
379 Statutory Authority

380 § 54.1-2349 of the Code of Virginia.

381 Historical Notes

382 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015

383

384 Part IV

385 Public Offering Statement

386 **18VAC48-30-160. Public offering statement requirements, generally.**

387 In addition to the provisions of ~~§ 55-79.90~~ § 55.1-1976 of the Code of Virginia, the following
388 will be considered, as applicable, during review of the public offering statement.

389 1. The public offering statement shall provide full and fair disclosure in accordance with
390 18VAC48-30-170.

391 2. The public offering statement shall pertain to a single offering and to the entire
392 condominium in which the condominium units being offered are located.

393 3. The public offering statement shall be clear, organized, and legible.

394 4. Except for brief excerpts, the public offering statement may refer to, but should not
395 incorporate verbatim, portions of the condominium instruments, the Virginia
396 Condominium Act, or this chapter. This does not preclude compliance with 18VAC48-30-
397 180.

398
399 Statutory Authority

400 § 54.1-2349 of the Code of Virginia.

401 Historical Notes

402 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

403

404 **18VAC48-30-170. Full and fair disclosure.**

405 A. The provisions of ~~§ 55-79.90~~ § 55.1-1976 and ~~subsection A of § 55-79.94~~ subsection B of
406 § 55.1-1982 of the Code of Virginia and this chapter shall be strictly construed to promote full
407 and fair disclosure in the public offering statement. In addition, the following will be considered,
408 as applicable, during review to assure full and fair disclosure:

409 1. The information shall be presented in a manner that is clear and understandable to a
410 reasonably informed consumer, while maintaining consistency with the requirements of
411 this chapter and the Virginia Condominium Act.

412 2. In addition to specific information required by this chapter and the Virginia
413 Condominium Act, the public offering statement shall disclose any other information
414 necessary for full and fair disclosure.

415 3. No information shall be incorporated by reference to an outside source that is not
416 reasonably available to a prospective purchaser.

417 4. If required information is not known or not reasonably available, such fact shall be
418 stated and explained in the public offering statement.

419 B. The board has the sole discretion to require additional information or amendment of
420 existing information as it finds necessary to ensure full and fair disclosure.

421

422 Statutory Authority

423 § 54.1-2349 of the Code of Virginia.

424 Historical Notes

425 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

426

427 **18VAC48-30-180. Contents of public offering statement.**

428 A. A cover, if used, must be blank or bear identification information only.

429 B. The first page of the public offering statement shall be substantially as follows:

PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S PROTECTION

PUBLIC OFFERING STATEMENT

NAME OF CONDOMINIUM:

LOCATION OF

CONDOMINIUM:

NAME OF DECLARANT:

ADDRESS OF

DECLARANT:

EFFECTIVE DATE OF

PUBLIC OFFERING

STATEMENT:

REVISED:

430 **THE PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S OWN**
431 **PROTECTION. Living in a common interest community carries with it certain rights,**
432 **responsibilities, and benefits, including certain financial obligations, rights, and**
433 **restrictions concerning the use and maintenance of units and common elements, and**
434 **decision-making authority vested in the unit owners' association. The purchaser will be**
435 **bound by the provisions of the condominium instruments and should review the Public**
436 **Offering Statement, the condominium instruments, and other exhibits carefully prior to**
437 **purchase.**

438 This Public Offering Statement presents information regarding condominium units being
439 offered for sale by the declarant. Virginia law requires that a Public Offering Statement be given

440 to every Purchaser in order to provide full and fair disclosure of the significant features of the
441 condominium units being offered. The Public Offering Statement is not intended, however, to be
442 all-inclusive. The Purchaser should consult other sources for details not covered by the Public
443 Offering Statement.

444 The Public Offering Statement summarizes information and documents furnished by the
445 declarant to the Virginia Common Interest Community Board. The Board has carefully reviewed
446 the Public Offering Statement to ensure that it contains required disclosures, but the Board does
447 not guarantee the accuracy or completeness of the Public Offering Statement. In the event of
448 any inconsistency between the Public Offering Statement and the material it is intended to
449 summarize, the latter will control.

450 Under Virginia law a purchaser of a condominium unit is afforded a 5-day period during
451 which the purchaser may cancel the purchase contract of sale and obtain a full refund of any
452 sums deposited in connection with the purchase contract. The 5-day period begins on the
453 purchase contract date or the date of delivery of a Public Offering Statement, whichever is later.
454 The purchaser may, if practicable, inspect the condominium unit and the common elements and
455 obtain professional advice. If the purchaser elects to cancel, the purchaser must deliver notice
456 of cancellation to the declarant pursuant to ~~§ 55-79-88~~ § 55.1-1974 of the Code of Virginia.

457 Allegations of violation of any law or regulation contained in the Virginia Condominium Act or
458 the Condominium Regulations should be reported to the Virginia Common Interest Community
459 Board, Perimeter Center, Suite 400, 9960 Mayland Drive, Richmond, Virginia 23233.

460 C. A summary of important considerations shall immediately follow the first page for the
461 purpose of reinforcing the disclosure of significant information. The summary shall be titled as
462 such and shall be introduced by the following statement:

463 "Following are important matters to be considered in acquiring a condominium unit. They
464 are highlights only. The Public Offering Statement should be examined in its entirety to
465 obtain detailed information."

466 Appropriate modifications shall be made to reflect facts and circumstances that may vary.
467 The summary shall consist of, but not be limited to, the following, as applicable:

468 1. A statement on the governance of the condominium wherein unit owners are allocated
469 votes for certain decisions of the association. In addition, the statement shall include that
470 all unit owners will be bound by the decisions made by the association, even if the
471 individual unit owner disagrees.

- 472 2. A statement concerning the decision-making authority of the ~~executive~~
473 ~~organ~~ executive board of the unit owners' association.
- 474 3. A statement regarding the payment of expenses of the association on the basis of a
475 periodic budget, to include a disclosure of any provision for reserves, including a
476 statement if there are no reserves.
- 477 4. A statement detailing the requirement for each unit owner to pay a periodic
478 assessment and the inability to reduce the amount of an assessment by refraining from
479 the use of the common elements.
- 480 5. A statement of the unit owner's responsibility to pay additional assessments, if any.
- 481 6. A statement regarding the consequences for failure to pay an assessment when due.
482 The statement shall include reference to the enforcement mechanisms available to the
483 association, including obtaining a lien against the condominium unit, pursuing civil action
484 against the unit owner, and certain other penalties.
- 485 7. A statement that the declarant must pay assessments on unsold condominium units.
- 486 8. A statement indicating whether the declarant, its predecessors, or principal officer
487 have undergone a debtor's relief proceeding.
- 488 9. A statement that the declarant will retain control of the unit owners' association for an
489 initial period.
- 490 10. A statement indicating whether a managing agent will perform the routine operations
491 of the unit owners' association. The statement shall include whether the managing agent
492 is related to the declarant, director, or officer of the unit owners' association.
- 493 11. A statement indicating whether the declarant may lease unsold condominium units
494 and a statement indicating whether the right of a unit owner to lease that owner's unit to
495 another is subject to restrictions.
- 496 12. A statement indicating whether the declarant may expand or contract the
497 condominium or convert convertible land or space without the consent of any unit owner.
- 498 13. A statement indicating whether the right of the unit owner to resell the owner's
499 condominium unit is subject to restrictions.
- 500 14. A statement indicating whether the units are restricted to residential use and whether
501 the units may be utilized for commercial, retail, or professional use. The statement shall
502 provide detail if units have different voting rights. Further, the statement shall also detail

503 whether the allocation of rights and responsibilities among commercial, retail,
504 professional, or residential use units are the same.

505 15. A statement indicating whether approval of the declarant or unit owners' association
506 is necessary in order for a unit owner to alter the structure of the unit or modify the
507 exterior of the unit.

508 16. A statement regarding the obligation of the unit owners' association to obtain certain
509 insurance benefiting the unit owner, along with the necessity for a unit owner to obtain
510 other insurance.

511 17. A statement regarding the unit owner's obligation to pay real estate taxes.

512 18. A statement regarding any limits the declarant asserts on the association or the unit
513 owner's right to bring legal action against the declarant. Nothing in this statement shall
514 be deemed to authorize such limits where those limits are otherwise prohibited by law.

515 19. A statement that the association or unit owners are members of another association
516 or obligated to perform duties or pay fees or charges to that association or entity.

517 20. A statement indicating whether the condominium is subject to development as a
518 time-share.

519 21. A statement affirming that marketing and sale of condominium units will be
520 conducted in accordance with the Virginia Fair Housing Law (§ 36-96.1 et seq. of the
521 Code of Virginia) and the Virginia Condominium Act (Chapter 4.2 (§ 55-79.39 et seq.) of
522 Title 55 of the Code of Virginia) (Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1 of the
523 Code of Virginia).

524 D. The content after the summary of important considerations shall include the narrative
525 sections in 18VAC48-30-190 through 18VAC48-30-360. Supplementary sections may be
526 included as necessary.

527 E. Clear and legible copies of the following documents shall be attached as exhibits to the
528 public offering statement:

529 1. The declaration;

530 2. The bylaws;

531 3. The projected budget;

532 4. Rules and regulations of the unit owners' association, if available;

533 5. Master association documents, if applicable;

- 534 6. Any management contract, along with the license number of the common interest
535 community manager, if applicable;
536 7. Depiction of unit layouts;
537 8. Any lease of recreational areas;
538 9. Any contract or agreement affecting the use, maintenance, or access of all or any
539 portion of the condominium, the nature, duration, or expense of which has a material
540 impact on the operation and administration of the condominium;
541 10. Warranty information, if applicable; and
542 11. Other documents obligating the association or unit owner to perform duties or
543 obligations or pay charges or fees.

544 F. Other information and documentation may be included as necessary to ensure full and
545 fair disclosure. The board may also require additional information as necessary to ensure full
546 and fair disclosure.

547

548 Statutory Authority

549 § 54.1-2349 of the Code of Virginia.

550 Historical Notes

551 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

552

553 **18VAC48-30-200. Narrative sections; creation of condominium.**

554 The public offering statement shall contain a section captioned "Creation of the
555 Condominium." The section shall briefly explain the manner in which the condominium was or
556 will be created, the locality wherein the condominium instruments will be or have been recorded,
557 and each of the condominium instruments, their functions, and the procedure for their
558 amendment. The section shall indicate where each of the condominium instruments or copies
559 thereof may be found. In the case of a condominium located in Virginia or in a jurisdiction having
560 a law similar to ~~§ 55-79.96~~ § 55.1-1984 of the Code of Virginia, the section shall indicate that the
561 purchaser will receive copies of the recorded declaration and bylaws, including amendments, as
562 appropriate, within the time provided in the applicable statute.

563

564 Statutory Authority

565 § 54.1-2349 of the Code of Virginia.

566 Historical Notes

567 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

568

569 **18VAC48-30-230. Narrative sections; common elements.**

570 A. The public offering statement shall contain a section captioned "Common Elements." The
571 section shall contain a general description of the common elements.

572 B. For any common elements that are not completed or not expected to be substantially
573 complete when the units are complete, a statement of the anticipated completion dates of
574 unfinished common elements shall be included.

575 C. In the case of a condominium located in Virginia, if common elements are not expected to
576 be substantially complete when the units are completed, the section shall state the nature,
577 source, and extent of the obligation to complete such common elements that the declarant has
578 incurred or intends to incur upon recordation of the condominium instruments pursuant to ~~§§ 55-~~
579 ~~79.58 A and 55-79.67 (a1)~~ §§ 55.1-1920 A and 55.1-1930 B of the Code of Virginia and
580 applicable provisions of the condominium instruments. In addition the section shall state that
581 pursuant to ~~§ 55-79.58:1~~ § 55.1-1921 of the Code of Virginia, the declarant has filed with the
582 board a bond to insure completion of improvements to the common elements that the declarant
583 is obligated as stated in the declaration.

584 D. In the case of a condominium located outside of Virginia, a description of the nature,
585 source, and extent of the obligation to complete such common elements that the declarant has
586 incurred or intends to incur under the law of the jurisdiction in which the condominium is located
587 shall be included.

588 E. The section shall describe any limited common elements that are assigned or that may
589 be assigned and shall indicate the reservation of exclusive use. In the case of limited common
590 elements that may be assigned, the section shall state the manner of such assignment or
591 reassignment.

592 F. The section shall indicate the availability of vehicular parking spaces including the
593 number of spaces available per unit and restrictions on or charges for the use of spaces.

594

595 Statutory Authority

596 § 54.1-2349 of the Code of Virginia.

597 Historical Notes

598 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

599

600 **18VAC48-30-250. Narrative sections; declarant.**

601 A. The public offering statement shall contain a section captioned "The Declarant." The
602 section shall contain a brief history of the declarant with emphasis on its experience in
603 condominium development.

604 B. The following information shall be stated with regard to persons immediately responsible
605 for the development of the condominium: (i) name, (ii) length of time associated with the
606 declarant, (iii) role in the development of the condominium, and (iv) experience in real estate
607 development. If different from the persons immediately responsible for the development of the
608 condominium, the principal officers of the declarant shall also be identified.

609 C. The section shall describe the type of legal entity of the declarant and explain if any other
610 entities have any obligation to satisfy the financial obligations of the declarant.

611 D. If the declarant or its parent or predecessor organization has, during the preceding 10
612 years, been adjudicated as bankrupt or has undergone any proceeding for the relief of debtors,
613 such fact or facts shall be stated. If any of the persons identified pursuant to subsection B of this
614 section has, during the preceding three years, been adjudicated a bankrupt or undergone any
615 proceeding for the relief of debtors, such fact or facts shall be stated.

616 E. The section shall indicate any final action taken against the declarant, its principals, or the
617 condominium by an administrative agency, civil court, or criminal court where the action
618 reflected adversely upon the performance of the declarant as a developer of real estate
619 projects. The section shall also indicate any current or past proceedings brought against the
620 declarant by any condominium unit owners' association or by its ~~executive organ~~ executive
621 board or any managing agent on behalf of such association or that has been certified as a class
622 action on behalf of some or all of the unit owners. For the purposes of the previous sentence
623 with respect to past proceedings, if the ultimate disposition of those proceedings was one that
624 reflected adversely upon the performance of the declarant, that disposition shall be disclosed. If
625 the ultimate disposition was resolved favorably towards the declarant, its principals, or the
626 condominium, the final action does not need to be disclosed. The board has the sole discretion
627 to require additional disclosure of any proceedings where it finds such disclosure necessary to
628 assure full and fair disclosure.

629

630 Statutory Authority

631 § 54.1-2349 of the Code of Virginia.

632 Historical Notes

633 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

634

635 **18VAC48-30-260. Narrative sections; terms of the offering.**

636 A. The public offering statement shall contain a section captioned "Terms of the Offering."

637 The section shall discuss the expenses to be borne by a purchaser in acquiring a condominium
638 unit and present information regarding the settlement of purchase contracts as provided in
639 subsections B through H of this section.

640 B. The section shall indicate the offering prices for condominium units or a price range for
641 condominium units, if either is established.

642 C. The section shall set forth the significant terms of any financing offered by or through the
643 declarant to purchasers. Such discussion shall include the substance of the following statement:

644 "Financing is subject to additional terms and conditions stated in the loan commitment or
645 instruments."

646 D. The section shall discuss in detail any costs collected by or paid to the declarant,
647 association, or master association that are not normal for residential real estate transactions
648 including, without limitation, any contribution to the initial or working capital of the unit owners'
649 association, including any master association, to be paid by a purchaser.

650 E. The section shall discuss any penalties or forfeitures to be incurred by a purchaser upon
651 default in performance of a purchase contract that are not normal for residential real estate
652 transactions. Penalties or forfeitures to be discussed include, without limitation, the declarant's
653 right to retain sums deposited in connection with a purchase contract in the event of a refusal by
654 a lending institution to provide financing to a purchaser who has made proper application for
655 same.

656 F. The section shall discuss the right of the declarant to cancel a purchase contract upon
657 failure of the declarant to obtain purchase contracts on a given number or percentage of
658 condominium units being offered or upon failure of the declarant to meet other conditions
659 precedent to obtaining necessary financing.

660 G. The section shall discuss the process for cancellation of a purchase contract by a
661 purchaser in accordance with subdivision 2 of ~~§ 55-79.88~~ § 55.1-1974 of the Code of Virginia.

662 The section shall include a statement as to whether deposits will be held in an escrow fund or if
663 a bond or letter of credit will be filed with the board in lieu of escrowing deposits, all in
664 accordance with ~~§ 55-79.95~~ § 55.1-1983 of the Code of Virginia.

665 H. The section shall set forth any restrictions in the purchase contract that limit the unit
666 owner's right to bring legal action against the declarant or the association. The section shall set
667 forth the paragraph or section and page number of the purchase contract where such provision
668 is located. Nothing in this statement shall be deemed to authorize such limits where those limits
669 are otherwise prohibited by law.

670
671 Statutory Authority
672 § 54.1-2349 of the Code of Virginia.

673 Historical Notes
674 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

675
676 **18VAC48-30-270. Narrative sections; encumbrances.**

677 A. The public offering statement shall contain a section captioned "Encumbrances" that shall
678 include the significant terms of any encumbrances, easements, liens, and matters of title
679 affecting the condominium other than those contained in the condominium instruments and
680 disclosed elsewhere in the public offering statement, as provided in subsections B through J of
681 this section.

682 B. Except to the extent that such encumbrances are required to be satisfied or released by
683 subsection A of ~~§ 55-79.46~~ § 55.1-1908 of the Code of Virginia, or a similar law, the section
684 shall describe every mortgage, deed of trust, other perfected lien, or choate mechanics' or
685 materialmen's lien affecting all or any portion of the condominium other than those placed on
686 condominium units by their purchasers or owners. Such description shall (i) identify the lender
687 secured or the lienholder, (ii) state the nature and original amount of the obligation secured, (iii)
688 identify the party having primary responsibility for performance of the obligation secured, and
689 (iv) indicate the practical effect upon unit owners of failure of the party to perform the obligation.

690 C. Normal easements for utilities, municipal rights-of-way, and emergency access shall be
691 described only as such, without reference to ownership, location, or other details.

692 D. Easements reserved to the declarant to facilitate conversion, expansion, or sales shall be
693 briefly described.

694 E. Easements reserved to the declarant or to the unit owners' association or to either entity's
695 representatives or agents for access to units shall be briefly described. In the event that access
696 to a unit may be had without notice to the unit owner, such fact shall be stated.

697 F. Easements across the condominium reserved to the owners or occupants of land located
698 in the vicinity of the condominium, or across adjacent land benefitting the condominium
699 including, without limitation, easements for the use of recreational areas shall be briefly
700 described.

701 G. Covenants, servitudes, or other devices that create an actual restriction on the right of
702 any unit owner to use and enjoy the unit or any portion of the common elements other than
703 limited common elements shall be briefly described.

704 H. Any matter of title that is not otherwise required to be disclosed by the provisions of this
705 section and that has or may have a substantial adverse impact upon unit owners' interests in
706 the condominium shall be described. Under normal circumstances, normal and customary utility
707 easements, easements for encroachments, and easements running in favor of unit owners for
708 ingress and egress across the common elements shall be deemed not to have a substantial
709 adverse impact upon unit owners' interest in the condominium.

710 I. The section need not include any information required to be disclosed by 18VAC48-30-
711 210 C, 18VAC48-30-220, or 18VAC48-30-280.

712 J. In addition to the description of easements required in this section, pertinent easements
713 that can be located shall be shown on the condominium plats and plans.

714

715 Statutory Authority

716 § 54.1-2349 of the Code of Virginia.

717 Historical Notes

718 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

719

720 **18VAC48-30-290. Narrative sections; unit owners' association.**

721 A. The public offering statement shall contain a section captioned "Unit Owners'
722 Association." The section shall discuss the manner in which the condominium is governed and
723 administered and shall include the information required by subsections B through K of this
724 section.

725 B. The section shall summarize the functions of the unit owners' association.

726 C. The section shall describe the organizational structure of the unit owners' association.
727 Such description shall indicate (i) the existence of or provision for an ~~executive organ~~ executive
728 board, officers, and managing agent, if any; (ii) the relationships between such persons or
729 bodies; (iii) the manner of election or appointment of such persons or bodies; and (iv) the
730 assignment or delegation of responsibility for the performance of the functions of the unit
731 owners' association.

732 D. The section shall describe the method of allocating votes among the unit owners.

733 E. The section shall describe any retention by the declarant of control over the unit owners'
734 association, including the time period of declarant control. The section shall state that the
735 association shall register with the Common Interest Community Board upon t ransition of
736 declarant control by filing the required annual report in accordance with ~~§ 55-79.93:4~~ § 55.1-
737 1980 of the Code of Virginia.

738 F. The managing agent, if any, shall be identified. If a managing agent is to be employed in
739 the future, the criteria, if any, for selection of the managing agent shall be briefly stated. The
740 section shall indicate any relationship between the managing agent and the declarant or a
741 member of the ~~executive organ~~ executive board or an officer of the unit owners' association.
742 The duration of any management agreement shall be stated.

743 G. Except to the extent otherwise disclosed in connection with discussion of a management
744 agreement, the significant terms of any lease of recreational areas or similar contract or
745 agreement affecting the use, maintenance, or access of all or any part of the condominium shall
746 be stated. The section shall include a brief narrative statement of the effect of each such
747 agreement upon a purchaser.

748 H. Rules and regulations of the unit owners' association and the authority to promulgate
749 rules and regulations shall be discussed. Particular provisions of the rules and regulations need
750 not be discussed except as required by other provisions of this chapter. The purchaser's
751 attention shall be directed to the copy of rules and regulations, if any, attached to the public
752 offering statement.

753 I. Any standing committees established or to be established to perform functions of the unit
754 owners' association shall be discussed. Such committees include, without limitation,
755 architectural control committees and committees having the authority to interpret condominium
756 instruments, rules, and regulations or other operative provisions.

757 J. Unless required to be disclosed by 18VAC48-30-270 E, any power of the declarant or of
758 the unit owners' association or its representatives or agents to enter units shall be discussed. To

759 the extent each is applicable, the following facts shall be stated (i) a unit may be entered without
760 notice to the unit owner, (ii) the declarant or the unit owners' association or its representatives or
761 agents are empowered to take actions or perform work in a unit without the consent of the unit
762 owner, and (iii) the unit owner may be required to bear the costs of actions so taken or work so
763 performed.

764 K. The section shall state whether the condominium is part of a master or other association
765 and briefly describe such relationship and the responsibilities of and obligations to the master
766 association, including any charges for which the unit owner or the unit owners' association may
767 be responsible. The disclosures required by this subsection may be contained in this narrative
768 section or another narrative section. The section shall also describe any other obligation of the
769 association or unit owners arising out of any agreements, easements, deed restrictions, or
770 proffers, including the obligation to pay fees or other charges.

771

772 Statutory Authority

773 § 54.1-2349 of the Code of Virginia.

774 Historical Notes

775 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

776

777 **18VAC48-30-300. Narrative sections; display of flag.**

778 The public offering statement shall include a section captioned "Display of Flag." This
779 section shall describe any restrictions, limitations, or prohibitions on the right of a unit owner to
780 display the flag of the United States in accordance with ~~§ 55-79.75:2~~ § 55.1-1951 of the Code of
781 Virginia.

782

783 Statutory Authority

784 § 54.1-2349 of the Code of Virginia.

785 Historical Notes

786 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

787

788 18VAC48-30-320. Narrative sections; financial matters.

789 A. The public offering statement shall contain a section captioned "Financial Matters." The
790 section shall discuss the expenses incident to the ownership of a condominium unit, excluding
791 certain taxes, in the manner provided in subsections B through I of this section.

792 B. The section shall distinguish, in general terms, the following categories of costs of
793 operation, maintenance, repair, and replacement of various portions of the condominium: (i)
794 common expenses apportioned among and assessed to all of the condominium units pursuant
795 to subsection C of ~~§ 55-79.83~~ § 55.1-1964 of the Code of Virginia or similar law or condominium
796 instrument provision; (ii) common expenses, if any, apportioned among and assessed to less
797 than all of the condominium units pursuant to subsections A and B of ~~§ 55-79.83~~ § 55.1-1964 of
798 the Code of Virginia or similar law or condominium instrument provisions; and (iii) costs borne
799 directly by individual unit owners. The section need not discuss taxes assessed against
800 individual condominium units and payable directly by the unit owners.

801 C. A budget shall show projected common expenses for the first year of the condominium's
802 operation or, if different, the latest year for which a budget is available. The projected budget
803 shall be attached to the public offering statement as an exhibit and the section shall direct the
804 purchaser's attention to such exhibit. The section shall describe the manner in which the
805 projected budget is established. If the condominium is phased, the budget shall project future
806 years until all phases are projected to be developed and all common elements that must be built
807 have been completed. The budget shall include an initial working capital budget showing
808 sources and uses of initial working capital and a reserve table showing amounts to be collected
809 to fund those reserves. The budget shall show regular individual assessments by unit type. The
810 budget shall note that the figures are not guaranteed and may vary.

811 D. The section shall describe the manner in which regular common expenses are
812 apportioned among and assessed to the condominium units. The section shall include the
813 substance of the following statement, if applicable:

814 "A unit owner cannot obtain a reduction of the regular common expenses assessed
815 against the unit by refraining from use of any of the common elements."

816 E. The section shall describe budget provisions for reserves for capital expenditures in
817 accordance with ~~§ 55-79.83:1~~ § 55.1-1965 of the Code of Virginia and for contingencies, if any.
818 If there are no reserves, the section shall so state.

819 F. The section shall describe provisions for additional assessments to be levied in
820 accordance with subsection E of ~~§ 55-79.83~~ § 55.1-1964 of the Code of Virginia in the event
821 that budgeted assessments provide insufficient funds for operation of the unit owners'
822 association. The section shall also describe the provisions for an assessment against an
823 individual unit owner.

824 G. The section shall discuss any common expenses actually planned to be specially
825 assessed pursuant to subsections A and B of ~~§ 55-79.83~~ § 55.1-1964 of the Code of Virginia or
826 similar law or condominium instrument provisions.

827 H. The section shall indicate any fee, rent, or other charge to be payable by unit owners
828 other than through common expense assessments to any party for use of the common elements
829 or for use of recreational or parking facilities in the vicinity of the condominium. As an exception
830 to the provisions of this subsection, the section need not discuss any fees provided for in
831 subsection H of ~~§ 55-79.84~~ § 55.1-1966 and ~~§ 55-79.85~~ § 55.1-1969 of the Code of Virginia, or
832 similar laws or condominium instrument provisions or any costs for certificates for resale.

833 I. The section shall discuss the effect of failure of a unit owner to pay the assessments
834 levied against the condominium unit. Such discussion shall indicate provisions for charges or
835 other remedies that may be imposed to be applied in the case of overdue assessments and for
836 acceleration of unpaid assessments. The section shall indicate the existence of a lien for unpaid
837 assessments and where applicable the bond or letter of credit conditioned on the payment of
838 assessments filed with the board in accordance with ~~§ 55-79.84:4~~ § 55.1-1968 of the Code of
839 Virginia. The section shall include, to the extent applicable, the substance of the following
840 statement:

841 "The unit owners' association may obtain payment of overdue assessments by bringing
842 legal action against the unit owner or by foreclosure of the lien resulting in a forced sale
843 of the condominium unit."

844

845 Statutory Authority

846 § 54.1-2349 of the Code of Virginia.

847 Historical Notes

848 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

849

850 18VAC48-30-330. Narrative sections; insurance.

851 A. The public offering statement shall contain a section captioned "Insurance." The section
852 shall describe generally the insurance on the condominium to be maintained by the unit owners'
853 association. The section shall state, with respect to such insurance, each of the following
854 circumstances, to the extent applicable: (i) property damage coverage will not insure personal
855 property belonging to unit owners; (ii) property damage coverage will not insure improvements
856 to a unit that increase its value beyond the limits of coverage provided in the unit owners'
857 association's policy, and (iii) liability coverage will not insure against liability arising from an
858 accident or injury occurring within a unit or as a result of the act or negligence of a unit owner.
859 The section shall include a statement whether the unit owner is obligated to obtain coverage for
860 any or all of the coverages described. The section shall also include a statement that the unit
861 owner should consult with an insurance professional to determine the appropriate coverage.

862 B. The section shall indicate any conditions imposed by the condominium instruments or the
863 rules and regulations to which insurance obtained directly by unit owners will be subject. Such
864 indication may be made by reference to pertinent provisions of the condominium instruments or
865 the rules and regulations.

866 C. The section shall explain that the association is the only party that can make a claim
867 under the master policy and is the sole decision-maker as to whether to make a claim, including
868 a statement as to the circumstances under which a unit owner could be responsible for payment
869 of the deductible.

870 D. The section shall state that the unit owners' association is required to obtain and maintain
871 a blanket fidelity bond or employee dishonesty insurance policy in accordance with subsection B
872 of ~~§ 55-79.84~~ § 55.1-1963 of the Code of Virginia.

873

874 Statutory Authority

875 § 54.1-2349 of the Code of Virginia.

876 Historical Notes

877 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

878

879 18VAC48-30-360. Narrative sections; warranties.

880 The public offering statement shall contain a section captioned "Warranties." The section
881 shall describe any warranties provided by or through the declarant on the units or the common
882 elements and a summary of the process for commencement of an action for breach of warranty
883 in accordance with subsection C of ~~§ 55-79.79~~ § 55.1-1955 of the Code of Virginia. The section
884 shall describe the structural defect warranty required by and described in subsection B of ~~§ 55-~~
885 ~~79.79~~ § 55.1-1955 of the Code of Virginia. The section shall also include the substance of the
886 following statement:

887 "Nothing contained in the warranty provided by the declarant shall limit the protection
888 afforded by the statutory warranty."

889

890 Statutory Authority

891 § 54.1-2349 of the Code of Virginia.

892 Historical Notes

893 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

894

895 18VAC48-30-370. Documents from other jurisdictions.

896 A. A substituted public offering statement shall only be permitted for a condominium located
897 outside of Virginia.

898 B. The substituted public offering statement shall be prepared by deleting from the original
899 disclosure document (i) references to any governmental agency of another jurisdiction to which
900 application has been made or will be made for registration or related action; (ii) references to the
901 action of such governmental agency relative to the condominium; (iii) statements of the legal
902 effect in another jurisdiction of delivery, failure to deliver, acknowledgment of receipt, or related
903 events involving the disclosure document; (iv) the effective date or dates in another jurisdiction
904 of the disclosure document; and (v) all other information that is untrue, inaccurate, or misleading
905 with respect to marketing, offers, or disposition of condominium units in Virginia.

906 C. The substituted public offering statement shall incorporate all information not otherwise
907 included that is necessary to effect fully and accurately the disclosures required by subsection A
908 of ~~§ 55-79.90~~ § 55.1-1976 of the Code of Virginia and, if applicable, ~~subsection A of § 55-~~
909 ~~79.94~~ subsection B of § 55.1-1982 of the Code of Virginia. The substituted disclosure document

910 shall clearly explain any nomenclature that is different from the definitions provided in ~~§ 55-~~
911 ~~79.44~~ § 55.1-1900 of the Code of Virginia.

912 D. The substituted public offering statement shall include as the first item of the summary of
913 important considerations a statement that includes the following information: (i) the designation
914 by which the original disclosure document is identified in the original jurisdiction, (ii) the
915 governmental agency of such other jurisdiction where the original disclosure document is or will
916 be filed, and (iii) the jurisdiction of such filing.

917 E. The provisions of subdivision 2 of ~~§ 55-79.88~~ § 55.1-1974, ~~§ 55-79.90~~ § 55.1-1976,
918 and ~~subsection A of § 55-79.94~~ subsection B of § 55.1-1982 of the Code of Virginia and
919 18VAC48-30-160, 18VAC48-30-170, and 18VAC48-30-180 shall apply to substituted public
920 offering statements in the same manner and to the same extent that they apply to public offering
921 statements.

922

923 Statutory Authority

924 § 54.1-2349 of the Code of Virginia.

925 Historical Notes

926 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

927

928 **18VAC48-30-380. Condominium securities.**

929 A prospectus filed in compliance with the securities laws of a state or federal agency used in
930 lieu of a public offering statement shall contain or have attached thereto copies of documents,
931 other than the projected budget required to be attached to a public offering statement by
932 subsection E of 18VAC48-30-180. Such prospectus shall be deemed to satisfy all of the
933 disclosure requirements of subsections C and D of 18VAC48-30-180 and 18VAC48-30-190
934 through 18VAC48-30-360. In the case of a conversion condominium, the prospectus shall have
935 attached thereto, in suitable form, the information required by 18VAC48-30-420, subsections C
936 and D of 18VAC48-30-430, and 18VAC48-30-440 to be disclosed in public offering statements
937 for conversion condominiums. The provisions of subdivision 2 of ~~§ 55-79.88~~ § 55.1-1974 of the
938 Code of Virginia shall apply to the delivery of the prospectus in the same manner and to the
939 same extent that they apply to the delivery of a public offering statement.

940

941 Statutory Authority

942 § 54.1-2349 of the Code of Virginia.

943 Historical Notes

944 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

945

946 **18VAC48-30-390. Board oversight of public offering statement.**

947 The board at any time may require a declarant to alter or amend the public offering
948 statement to assure full and fair disclosure to prospective purchasers and to ensure compliance
949 with the Virginia Condominium Act and this chapter.

950 In accordance with subsection B of ~~§ 55-79.90~~ § 55.1-1976 of the Code of Virginia, the
951 board does not approve or recommend the condominium or disposition thereof. The board's
952 issuance of an effective date for a public offering statement shall not be construed to (i)
953 constitute approval of the condominium, (ii) represent that the board asserts that either all facts
954 or material changes or both concerning the condominium have been fully or adequately
955 disclosed, or (iii) indicate that the board has made judgment on the value or merits of the
956 condominium.

957

958 Statutory Authority

959 § 54.1-2349 of the Code of Virginia.

960 Historical Notes

961 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

962

963 **18VAC48-30-430. Present condition of conversion condominium.**

964 A. The section captioned "Present Condition of the Condominium" shall contain a statement
965 of the approximate dates of original construction or installation of all physical assets in the
966 condominium. A single construction or installation date may be stated for all of the physical
967 assets (i) in the condominium, (ii) within a distinctly identifiable portion of the condominium, or
968 (iii) within a distinctly identifiable category of physical assets. A statement made pursuant to the
969 preceding sentence shall include a separate reference to the construction or installation date of
970 any physical asset within a stated group of physical assets that was constructed or installed
971 significantly earlier than the construction or installation date indicated for the group generally.
972 No statement shall be made that a physical asset or portion thereof has been repaired, altered,

973 improved, or replaced subsequent to its construction or installation unless the approximate date,
974 nature, and extent of such repair, alteration, improvement, or replacement is also stated.

975 B. Subject to the exceptions provided in subsections D, E, and F of this section, the section
976 captioned "Present Condition of the Condominium" shall contain a description of the present
977 condition of all physical assets within the condominium. The description of present condition
978 shall disclose all structural defects and incapacities of major utility installations to perform their
979 intended functions as would be observable, detectable, or deducible by means of standard
980 inspection and investigative techniques employed by architects or professional engineers, as
981 the case may be.

982 C. The section shall indicate the dates of inspection by means of which the described
983 present condition was determined; provided, however, that such inspections shall have been
984 conducted not more than one year prior to the date of filing the application for registration. The
985 section shall identify the party or parties by whom present condition was ascertained and shall
986 indicate the relationship of such party or parties to the declarant.

987 D. A single statement of the present condition of a class of physical assets shall suffice to
988 disclose the present condition of each physical asset within the class; provided, however, that,
989 unless subsection F of this section applies, such statement shall include a separate reference to
990 the present condition of any physical asset within the class that is significantly different from the
991 present condition indicated for the class generally.

992 E. The description of present condition may include a statement that all structural
993 components in the condominium or in a distinctly identifiable portion thereof are in sound
994 condition except those for which structural defects are noted.

995 F. In a case in which there are numerous physical assets within a class of physical assets
996 and inspection of each such physical asset is impracticable, the description of present condition
997 of all the physical assets within the class may be based upon an inspection of a number of them
998 selected at random, provided that the number selected is large enough to yield a reasonably
999 reliable sample and that the total number of physical assets within the class and the number
1000 selected are disclosed.

1001 G. The section shall include statements disclosing any environmental issues pertaining to
1002 the building and the surrounding area, to include but not be limited to:

1003 1. The presence of any asbestos-containing material following an inspection of each
1004 building completed prior to July 1, 1978, as well as whether any response actions have

1005 been or will need to be taken as required by ~~§ 55-79.94 A 5~~ § 55.1-1982 B 5 of the Code
1006 of Virginia;

1007 2. Any known information on lead-based paint and lead-based paint hazards in each
1008 building constructed prior to 1978 pursuant to the Residential Lead-Based Paint Hazard
1009 Reduction Act of 1992 - Title X (42 USC § 4851 et seq.); and

1010 3. Any obligations related to the declarant's participation in voluntary or nonvoluntary
1011 remediation activities.

1012

1013 Statutory Authority

1014 § 54.1-2349 of the Code of Virginia.

1015 Historical Notes

1016 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1017

1018 **18VAC48-30-450. Notice to tenants.**

1019 No notice to terminate tenancy of a unit provided for by ~~subsection B of § 55-~~
1020 ~~79.94~~ subsection C of § 55.1-1982 of the Code of Virginia shall be given prior to the registration
1021 of the condominium including such unit as to which the tenancy is to be terminated.

1022

1023 Statutory Authority

1024 § 54.1-2349 of the Code of Virginia.

1025 Historical Notes

1026 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1027

1028 Part VI

1029 Post-Registration Provisions

1030 **18VAC48-30-460. Minimum post-registration reporting requirements.**

1031 A. Subsequent to the issuance of a registration for a condominium by the board, the
1032 declarant of a condominium shall:

1033 1. File an annual report in accordance with ~~§ 55-79.93~~ § 55.1-1979 of the Code of
1034 Virginia and this chapter.

- 1035 2. File a copy of the formal notice to the tenants of a conversion condominium upon
 1036 delivery or no later than 15 days after delivery to such tenants in accordance
 1037 with ~~subsection B of § 55-79.94~~ subsection C of § 55.1-1982.
- 1038 3. Upon the occurrence of a material or nonmaterial change, file an amended public
 1039 offering statement or substituted public offering statement in accordance with the
 1040 provisions of 18VAC48-30-480 or 18VAC48-30-490, as applicable.
- 1041 4. Notify the board of a change in the bond or letter of credit, as applicable, required
 1042 by ~~§§ 55-79.58:1, 55-79.84:1, and 55-79.95~~ §§ 55.1-1921, 55.1-1968, and 55.1-1983 of
 1043 the Code of Virginia.
- 1044 5. File a complete application for registration of unregistered additional units upon the
 1045 expansion of the condominium or the formation of units out of additional land.
 1046 Notwithstanding the preceding, nonresidential units created out of convertible space
 1047 need not be registered. Documents on file with the board and not changed with the
 1048 creation of additional units need not be refiled provided that the application indicates that
 1049 such documents are unchanged.
- 1050 6. Notify the board of transition of control of the unit owners' association.
- 1051 7. Notify the board upon the transfer of special declarant rights to a successor declarant.
- 1052 8. Submit appropriate documentation to the board once the registration is eligible for
 1053 termination.
- 1054 9. Submit to the board any other document or information that may include information
 1055 or documents that have been amended or may not have existed previously that affects
 1056 the accuracy, completeness, or representation of any information or document filed with
 1057 the application for registration.
- 1058 10. Submit to the board any document or information to make the registration file
 1059 accurate and complete.
- 1060 B. Notwithstanding the requirements of subsection A of this section, the board at any time
 1061 may require a declarant to provide information or documents, or amendments thereof, to assure
 1062 full and fair disclosure to prospective purchasers and to ensure compliance with the Virginia
 1063 Condominium Act and this chapter.
- 1064
- 1065 Statutory Authority
- 1066 § 54.1-2349 of the Code of Virginia.

1067 Historical Notes

1068 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1069

1070 **18VAC48-30-480. Nonmaterial changes to the public offering statement.**

1071 A. Changes to the public offering statement that are not material shall be filed with the board

1072 but shall not be deemed an amendment of the public offering statement for the purposes of this

1073 chapter and shall not give rise to a renewed right of rescission in any purchase. Nonmaterial

1074 changes to the public offering statement include, but may not be limited to, the following:

1075 1. Correction of spelling, grammar, omission, or other similar errors not affecting the
1076 substance of the public offering statement;

1077 2. Changes in presentation or format;

1078 3. Substitution of an executed, filed, or recorded copy of a document for the otherwise
1079 substantially identical unexecuted, unfiled, or unrecorded copy of the document that was
1080 previously submitted;

1081 4. Inclusion of updated information such as identification or description of the current
1082 officers and directors of the declarant;

1083 5. Disclosure of completion of improvements for improvements that were previously
1084 proposed or not complete;

1085 6. Changes in real estate tax assessment or rate or modifications related to those
1086 changes;

1087 7. Changes in utility charges or rates or modifications related to those changes;

1088 8. Adoption of a new budget that does not result in a significant change in the common
1089 expense assessment or significantly impact the rights or obligations of the prospective
1090 purchasers;

1091 9. Modifications related to changes in insurance company or financial institution, policy,
1092 or amount for bonds or letters of credit required pursuant to ~~§§ 55-79.58:1, 55-79.84:1,~~
1093 ~~and 55-79.95~~ §§ 55.1-1921, 55.1-1968, and 55.1-1983 of the Code of Virginia;

1094 10. Changes in management agent or common interest community manager; and

1095 11. Any change that is the result of orderly development of the condominium in
1096 accordance with the condominium instruments as described in the public offering
1097 statement.

1098 B. Nonmaterial changes to the public offering statement shall be submitted with the effective
1099 date of the changes detailed. All changes shall be clearly represented in the documentation
1100 presented. The additions and deletions of text in the public offering statement and exhibits shall
1101 be identified by underlining and striking through text to be added and deleted, and any
1102 documents being added to or deleted from the contents of the public offering statement shall be
1103 clearly and accurately reflected in the table of contents utilizing underlines and strike-throughs
1104 for additions and deletions. In addition to the copies showing edits to the text, a clean copy of all
1105 new and amended documents shall be provided. In addition, the declarant shall include a
1106 statement with the submission of the declarant's plans, if any, to deliver the public offering
1107 statement to purchasers pursuant to subdivision 2 of ~~§ 55-79-88~~ § 55.1-1974 of the Code of
1108 Virginia.

1109 C. The board has the sole discretion for determining whether a change is nonmaterial. The
1110 declarant will be notified in writing within 15 days of receipt by the board if the submitted
1111 changes are determined to be material. Should a change be submitted as nonmaterial but
1112 determined to be a material change during review, the requirements contained in 18VAC48-30-
1113 470 and 18VAC48-30-490 shall be applicable.

1114

1115 Statutory Authority

1116 § 54.1-2349 of the Code of Virginia.

1117 Historical Notes

1118 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1119

1120 **18VAC48-30-490. Filing of amended public offering statement.**

1121 A. The declarant shall promptly file with the board for review a copy of the amended public
1122 offering statement or substituted public offering statement together with a copy of a summary of
1123 proposed amendments that shall be distributed to purchasers during the board review period.
1124 The summary of proposed amendments shall enumerate the amendments to the public offering
1125 statement submitted for board review and include a statement that the amendments to the
1126 public offering statement have been filed with the board but have not yet been accepted. The
1127 form of the submission is at the discretion of the declarant provided, however, that (i) all
1128 amendments are clearly represented in the documentation presented, (ii) the additions and
1129 deletions of text in the public offering statement and exhibits shall be identified by underlining
1130 and striking through text to be added and deleted, and (iii) any documents being added to or

1131 deleted from the contents of the public offering statement shall be clearly and accurately
1132 reflected in the table of contents utilizing underlines and strike-throughs for additions and
1133 deletions. In addition to the copies showing edits to the text, a clean copy of all new and
1134 amended documents shall be provided.

1135 B. The amended public offering statement submitted to the board for review shall include the
1136 effective date of the amendments.

1137 C. The board shall issue a notice of filing within five business days following receipt of the
1138 amended public offering statement.

1139 D. Within 30 days of the issuance of the notice of filing required by subsection C of this
1140 section, the board shall review the amended public offering statement and supporting materials
1141 to determine whether the amendment complies with this chapter. If the board's review
1142 determines that the amended public offering statement complies with this chapter, it shall notify
1143 the declarant in writing and confirm the new effective date of the public offering statement.

1144 E. If the board's review determines that the amended public offering statement does not
1145 comply with this chapter, it shall immediately notify the declarant in writing that the review has
1146 determined the amended public offering statement is not in compliance and shall specify the
1147 particulars of such noncompliance. The declarant shall then have 20 days in which to correct
1148 the particulars of noncompliance identified by the board. The declarant may, prior to the
1149 completion of the 20-day correction period, request an extension in writing of the 20-day
1150 correction period. Upon expiration of the 20-day correction period, if requested corrections have
1151 not been made or a request for extension properly received, the board may issue a temporary
1152 cease and desist order in accordance with ~~§ 55-79.100 (b)~~ § 55.1-1986 B of the Code of Virginia
1153 to require the cessation of sales until such time as affirmative action as directed by the board is
1154 taken. Use of the noncompliant public offering statement may result in further action by the
1155 board pursuant to ~~§§ 55-79.100, 55-79.101, and 55-79.103~~ §§ 55.1-1986, 55.1-1987, and 55.1-
1156 1989 of the Code of Virginia.

1157 F. Notwithstanding an extension of the 30-day period for review agreed to in writing by the
1158 board and declarant, if the board does not perform the required review of the public offering
1159 statement in accordance with subsection D of this section, the amendment shall be deemed to
1160 comply with 18VAC48-30-160 through 18VAC48-30-380, and the new effective date shall be the
1161 effective date of the amendment provided pursuant to subsection B of this section.

1162 G. In each case in which an amended document is filed pursuant to this section and the
1163 manner of its amendment is not apparent on the face of the document, the declarant shall
1164 provide an indication of the manner and extent of amendment.

1165
1166 Statutory Authority

1167 § 54.1-2349 of the Code of Virginia.

1168 Historical Notes

1169 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1170

1171 **18VAC48-30-500. Current public offering statement.**

1172 A. Upon issuance of an effective date by the board, any purchasers who received a public
1173 offering statement and summary of proposed amendments during the board review period
1174 pursuant to subsection A of 18VAC48-30-490 shall be provided with the public offering
1175 statement as accepted by the board. A public offering statement remains current until such time
1176 as the occurrence of a material change requires amendment of the public offering statement
1177 pursuant to this chapter and a new effective date is issued by the board.

1178 B. Upon issuance of an effective date by the board, a public offering statement remains
1179 current until such time as a new effective date is established pursuant to this chapter.

1180 C. Notwithstanding the board's authority to issue a cease and desist order pursuant to ~~§ 55-~~
1181 ~~79.100~~ § 55.1-1986 of the Code of Virginia, the filing of an amended public offering statement
1182 shall not require the declarant to cease sales provided that the declarant provides to purchasers
1183 the summary of proposed amendments pursuant to subsection A of 18VAC48-30-490 pending
1184 the issuance of a new effective date by the board.

1185

1186 Statutory Authority

1187 § 54.1-2349 of the Code of Virginia.

1188 Historical Notes

1189 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1190

1191 18VAC48-30-510. Public offering statement not current; notification of purchasers.

1192 A. A purchaser who has been delivered a public offering statement that is not current due to
1193 a material change and was not provided with the summary of proposed amendments containing
1194 the proposed changes to the amended public offering statement pursuant to subsection A of
1195 18VAC48-30-490 pending the issuance of a new effective date by the board shall be notified of
1196 such fact by the declarant.

1197 B. A purchaser who has been delivered a public offering statement and summary of
1198 proposed amendments pursuant to subsection A of 18VAC48-30-490, but the amended public
1199 offering statement is determined to be noncompliant in accordance with subsection E of
1200 18VAC48-30-490 shall be notified of such fact by the declarant.

1201 1. The notification shall indicate that any contract for disposition of a condominium unit
1202 may be canceled by the purchaser pursuant to subdivision 2 of ~~§ 55-79.88~~ § 55.1-1974
1203 of the Code of Virginia.

1204 2. The declarant shall file a copy of the notification with the board and provide proof that
1205 such notification has been delivered to all purchasers under contract.

1206

1207 Statutory Authority

1208 § 54.1-2349 of the Code of Virginia.

1209 Historical Notes

1210 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1211

1212 18VAC48-30-530. Filing of phase amendment application.

1213 A. A phase amendment application shall be filed when adding land to or converting land in
1214 the condominium, provided that no such application need be filed for units previously registered.
1215 Such phase amendment application shall be accompanied by the fee provided for in 18VAC48-
1216 30-100 and shall be subject to all of the provisions of 18VAC48-30-90 through 18VAC48-30-
1217 150. Documents on file with the board that have not changed in connection with the additional
1218 units need not be refiled, provided that the phase amendment application indicates that such
1219 documents are unchanged.

1220 B. The application shall include a new or amended bond or letter of credit required pursuant
1221 to ~~§ 55-79.84:1~~ § 55.1-1968 of the Code of Virginia for the additional units.

1222 C. The board shall review the phase amendment application and supporting materials to
1223 determine whether the amendment complies with this chapter. If the board's review determines
1224 the phase amendment application complies with this chapter, it shall issue an amended order of
1225 registration for the condominium and shall provide that any previous orders and designations of
1226 the form, content, and effective date of the public offering statement, substituted public offering
1227 statement, or prospectus to be used are superseded. If the board's review determines that the
1228 phase amendment application is not complete, the board shall correspond with the declarant to
1229 specify the particulars that must be completed to obtain compliance with this chapter.

1230

1231 Statutory Authority

1232 § 54.1-2349 of the Code of Virginia.

1233 Historical Notes

1234 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1235

1236 **18VAC48-30-540. Annual report by declarant.**

1237 A. A declarant shall file an annual report on a form provided by the board to update the
1238 material contained in the registration file at least 30 days prior to the anniversary date of the
1239 order registering the condominium. Prior to filing the annual report required by ~~§ 55-79.93~~ §
1240 55.1-1979 of the Code of Virginia, the declarant shall review the public offering statement then
1241 being delivered to purchasers. If such public offering statement is current, the declarant shall so
1242 certify in the annual report. If such public offering statement is not current, the declarant shall
1243 amend the public offering statement, and the annual report shall, in that event, include a filing in
1244 accordance with 18VAC48-30-490.

1245 B. The annual report shall contain, but may not be limited to, the following:

- 1246 1. Current contact information for the declarant;
- 1247 2. Current contact information for the declarant's attorney, if applicable;
- 1248 3. Date of the public offering statement currently being delivered to purchasers;
- 1249 4. Date the condominium instruments were recorded and locality wherein recorded;
- 1250 5. Number of phases registered with the board, if applicable;
- 1251 6. Number of phases recorded, if applicable;
- 1252 7. Number of units recorded;

- 1253 8. Number of units conveyed;
- 1254 9. Status of completion of all common elements within the condominium;
- 1255 10. Status of declarant control;
- 1256 11. Whether the declarant is current in the payment of assessments; and
- 1257 12. Current evidence from the surety or financial institution of any bond or letters of
- 1258 credit, or submittal of replacement bonds or letters of credit, required pursuant to ~~§§ 55-~~
- 1259 ~~79.58:1, 55-79.84:1, and 55-79.95~~ §§ 55.1-1921, 55.1-1968, and 55.1-1983 of the Code
- 1260 of Virginia. Such verification shall provide the following:
- 1261 a. Principal of bond or letter of credit;
- 1262 b. Beneficiary of bond or letter of credit;
- 1263 c. Name of the surety or financial institution that issued the bond or letter of credit;
- 1264 d. Bond or letter of credit number as assigned by the issuer;
- 1265 e. The dollar amount; and
- 1266 f. The expiration date or, if self-renewing, the date by which the bond or letter of
- 1267 credit shall be renewed.
- 1268
- 1269 Statutory Authority
- 1270 § 54.1-2349 of the Code of Virginia.
- 1271 Historical Notes
- 1272 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.
- 1273
- 1274 **18VAC48-30-550. Board review of annual report.**
- 1275 A. During review of the annual report, the board may make inquiries or request additional
- 1276 documentation to amplify or clarify the information provided.
- 1277 B. If the board does not accept the annual report and the annual report filing is not
- 1278 completed within 60 days of a request by the board for additional information, the board may
- 1279 take further action pursuant to ~~§ 55-79.100, 55-79.101, or 55-79.103~~ §§ 55.1-1986, 55.1-1987,
- 1280 and 55.1-1989 of the Code of Virginia for failing to file an annual report as required by ~~§ 55-~~
- 1281 ~~79.93~~ § 55.1-1979 of the Code of Virginia.

1282 C. If the board does not perform the required review of the annual report within 30 days of
1283 receipt by the board, the annual report shall be deemed to comply with ~~§ 55-79.93~~ § 55.1-1979
1284 of the Code of Virginia.

1285
1286 Statutory Authority

1287 § 54.1-2349 of the Code of Virginia.

1288 Historical Notes

1289 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1290

1291 **18VAC48-30-560. Transition of control of unit owners' association.**

1292 Upon transition of control of the association to the unit owners following the period of
1293 declarant control, the declarant shall, in addition to the requirements contained in subsection H
1294 of ~~§ 55-79.74~~ § 55.1-1943 of the Code of Virginia, notify the board in writing of the date of such
1295 transition and provide the name and contact information for members of the board of directors of
1296 the unit owners' association or the association's common interest community manager.

1297

1298 Statutory Authority

1299 § 54.1-2349 of the Code of Virginia.

1300 Historical Notes

1301 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015; Volume 35, Issue 17,
1302 eff. May 15, 2019.

1303

1304 **18VAC48-30-570. Return of assessment bond or letter of credit to declarant.**

1305 A. The declarant of a condominium required to post a bond or letter of credit pursuant to §
1306 ~~55-79.84:1~~ § 55.1-1968 of the Code of Virginia shall maintain such bond or letter of credit for all
1307 units registered with the board until the declarant owns less than 10% of the units in the
1308 condominium and is current in the payment of assessments. For condominiums containing less
1309 than 10 units, the bond or letter of credit shall be maintained until the declarant owns only one
1310 unit.

1311 B. The declarant shall submit a written request to the board for the return of the bond or
1312 letter of credit. The written request shall attest that the declarant (i) owns less than 10% of the

1313 units or for condominiums containing less than 10 units, that the declarant owns only one unit
1314 and (ii) is current in the payment of assessments. The written request shall provide contact
1315 information for the unit owners' association.

1316 C. Upon receipt of the written request from the declarant, the board shall send a request to
1317 the unit owners' association to confirm the information supplied by the declarant. The person
1318 certifying the information on behalf of the unit owners' association must not be affiliated with the
1319 declarant. The managing agent may confirm the information supplied by the declarant.

1320 D. The board shall return the bond or letter of credit to the declarant if (i) the unit owners'
1321 association confirms that the declarant is current in the payment of assessments and owns less
1322 than 10% of the units in the condominium or (ii) no response is received from the unit owners'
1323 association within 90 days. The 90-day time frame in clause (ii) of this subsection may be
1324 extended at the discretion of the board.

1325 E. If the unit owners' association attests the declarant is not current in the payment of
1326 assessments, the board shall retain the bond or letter of credit until evidence is received
1327 satisfactory to the board that the declarant is current in the payment of assessments.

1328 F. The board may ask for additional information from the unit owners' association or the
1329 declarant as needed to confirm compliance with ~~§ 55-79.84:1~~ § 55.1-1968 of the Code of
1330 Virginia.

1331
1332 Statutory Authority
1333 § 54.1-2349 of the Code of Virginia.

1334 Historical Notes
1335 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1336
1337 **18VAC48-30-580. Return of completion bond or letter of credit to declarant.**

1338 A bond on file with the board pursuant to ~~§ 55-79.58:1~~ § 55.1-1921 of the Code of Virginia
1339 may be returned to the declarant upon written request. Such request shall include a copy of the
1340 recorded plat or plan showing completion or documentation acceptable to the board that the
1341 improvements to the common elements for which the bond was submitted is completed to the
1342 extent of the declarant's obligation.

1343
1344 Statutory Authority

1345 § 54.1-2349 of the Code of Virginia.

1346 Historical Notes

1347 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1348

1349 **18VAC48-30-600. Maintenance of bond or letter of credit.**

1350 A. The declarant shall report the extension, cancellation, amendment, expiration,
1351 termination, or any other change of any bond or letter of credit submitted in accordance with §§
1352 ~~55-79.58:1, 55-79.84:1, and 55-79.95~~ §§ 55.1-1921, 55.1-1968, and 55.1-1983 of the Code of
1353 Virginia within five days of the change.

1354 B. The board at any time may request verification from the declarant of the status of a bond
1355 or letter of credit on file with the board. Such verification shall comply with the provisions of
1356 subdivision B 12 of 18VAC48-30-540.

1357 C. Failure to report a change in the bond or letter of credit in accordance with this section
1358 shall result in further action by the board pursuant to ~~Chapter 4.2 (§ 55-79.39 et seq.)~~ of Title
1359 55 Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1 of the Code of Virginia.

1360

1361 Statutory Authority

1362 § 54.1-2349 of the Code of Virginia.

1363 Historical Notes

1364 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1365

1366 **18VAC48-30-610. Termination of condominium registration.**

1367 A. The condominium registration shall be terminated upon receipt of documentation of one
1368 of the following:

1369 1. In accordance with ~~§ 55-79.93~~ § 55.1-1979 of the Code of Virginia, an annual report
1370 filed pursuant to 18VAC48-30-540 indicates that all units in the condominium have been
1371 disposed of and all periods for conversion or expansion have expired.

1372 2. Written notification is received from the declarant attesting that all units have been
1373 disposed of and that all periods for conversion or expansion have expired and all
1374 common elements have been completed.

1375 3. Written notification is received from the declarant requesting termination pursuant to §
1376 ~~55-79.72:1~~ § 55.1-1937 of the Code of Virginia. Should the declarant later choose to
1377 offer condominium units in a condominium for which the registration has been
1378 terminated in accordance with this subsection, prior to offering a condominium unit, the
1379 declarant must submit a new application for registration of the condominium, meet all
1380 requirements in effect at the time of application, and be issued an order of registration
1381 for the condominium by the board.

1382 B. Upon receipt and review of documentation pursuant to subsection A of this section, the
1383 board shall issue an order of termination for the condominium registration. The board may
1384 request additional information as necessary during the review of the submitted documentation to
1385 ensure that the condominium registration is eligible for termination.

1386 C. The board shall send a copy of the order of termination for the condominium registration
1387 to the association.

1388

1389 Statutory Authority

1390 § 54.1-2349 of the Code of Virginia.

1391 Historical Notes

1392 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1393

1394 **18VAC48-30-620. Administrative termination of condominium registration.**

1395 In accordance with subsection B of ~~§ 55-79.93:2~~ § 55.1-1981 of the Code of Virginia, the
1396 board may administratively terminate the registration of a condominium. Prior to the
1397 administrative termination of the registration, the board shall send written notice of its intent to
1398 terminate the registration to all known parties associated with the condominium, including, but
1399 not limited to, the registered agent, officer or officers of the unit owners' association, declarant's
1400 and association's attorneys, and principal or principals of the declarant. Such written notice shall
1401 be given to the parties by mail or otherwise if acknowledged by them in writing.

1402 The board shall issue an order of termination for the condominium registration if (i) a
1403 response is not received within 30 days after sending the written notice or (ii) the response
1404 received does not indicate termination of the registration is inappropriate in accordance
1405 with ~~Chapter 4.2 (§ 55-79.39 et seq.) of Title 55~~ Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1 of
1406 the Code of Virginia and this chapter.

1407 Nothing contained in this section shall prevent the board from taking further action as
1408 allowed by law including issuance of a temporary cease and desist order, issuance of a cease
1409 and desist order, revocation of registration, and bringing action in the appropriate circuit court to
1410 enjoin the acts or practices and to enforce compliance.

1411
1412 Statutory Authority

1413 § 54.1-2349 of the Code of Virginia.

1414 Historical Notes

1415 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1416

1417 **18VAC48-30-630. Notification of successor declarant and transfer of special declarant**
1418 **rights.**

1419 A. In the event the special declarant rights of a condominium are transferred to a successor
1420 in accordance with ~~§ 55-79.74:3~~ § 55.1-1948 of the Code of Virginia, the successor declarant
1421 shall notify the board within 30 days. Before units may be offered for sale, the successor
1422 declarant shall submit the following to the board:

- 1423 1. Completed application for the successor declarant;
- 1424 2. Copy of the recorded document evidencing the transfer;
- 1425 3. Copies of all condominium instruments that were amended to reflect the successor or
1426 transfer of special declarant rights;
- 1427 4. A public offering statement amended in accordance with this chapter;
- 1428 5. All bonds or letters of credit required pursuant to ~~§§ 55-79.58:1, 55-79.84:1, and 55-~~
1429 ~~79.95~~ §§ 55.1-1921, 55.1-1968, and 55.1-1983 of the Code of Virginia; and
- 1430 6. Other documents that may be required to ensure compliance with ~~Chapter 4.2 (§ 55-~~
1431 ~~79.39 et seq.) of Title 55~~ Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1 of the Code of
1432 Virginia and this chapter.

1433 B. Documents on file with the board that have not changed in connection with the transfer
1434 need not be refiled, provided that the application for successor declarant indicates that such
1435 documents are unchanged.

1436

1437 Statutory Authority

1438 § 54.1-2349 of the Code of Virginia.

1439 Historical Notes

1440 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1441

1442 **18VAC48-30-640. Reporting of other changes to the condominium project.**

1443 Any other change made or known by the declarant that may affect the accuracy or

1444 completeness of the condominium registration file shall be promptly reported to the board. Such

1445 change may include but is not limited to the name of the declarant, name of the condominium

1446 project, or any other changes in information submitted in accordance with ~~§ 55-79.89~~ § 55.1-

1447 1975 of the Code of Virginia. The board may request additional information as necessary to

1448 ensure compliance with ~~Chapter 4.2 (§ 55-79.39 et seq.) of Title 55~~ Chapter 19 (§ 55.1-1900 et

1449 seq.) of Title 55.1 of the Code of Virginia and this chapter.

1450

1451 Statutory Authority

1452 § 54.1-2349 of the Code of Virginia.

1453 Historical Notes

1454 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1455

1456 Part VII

1457 Board Authority and Standards of Conduct

1458 **18VAC48-30-650. Grounds for disciplinary action.**

1459 The board may revoke a registration upon a finding that the registration is not in compliance

1460 with, or the declarant has violated, any provision of the regulations of the board or ~~Chapter 4.2~~

1461 ~~(§ 55-79.39 et seq.) of Title 55~~ Chapter 19 (§ 55.1-1900 et seq.) of Title 55.1 of the Code of

1462 Virginia. Additional action may include issuance of a temporary cease and desist order,

1463 issuance of a cease and desist order, revocation of registration, and bringing action in the

1464 appropriate circuit court to enjoin the acts or practices and to enforce compliance.

1465

1466 Statutory Authority

1467 § 54.1-2349 of the Code of Virginia.

1468 Historical Notes

1469 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

1470

1471 **18VAC48-30-690. Prohibited acts.**

1472 The following acts are prohibited and any violation may result in action by the board,
1473 including but not limited to issuance of a temporary cease and desist order in accordance with §
1474 ~~55-79.100 (b)~~ § 55.1-1986 B of the Code of Virginia:

1475 1. Violating, inducing another to violate, or cooperating with others in violating any of the
1476 provisions of any of the regulations of the board, Chapter 23.3 (§ 54.1-2345 et seq.) of
1477 Title 54.1 of the Code of Virginia, or Chapter 4.1 (~~§ 55-79.1 et seq.~~) or Chapter 4.2 (~~§ 55-~~
1478 ~~79.39 et seq.~~) of Title ~~55~~ Chapter 19 (§ 55.1-1900 et seq.) or Chapter 20 (§ 55.1-2000 et
1479 seq.) of Title 55.1 of the Code of Virginia.

1480 2. Obtaining or attempting to obtain a registration by false or fraudulent representation,
1481 or maintaining a registration by false or fraudulent representation.

1482 3. Failing to comply with 18VAC48-30-80 in offering literature.

1483 4. Failing to alter or amend the public offering statement as directed in accordance with
1484 18VAC48-30-390 or 18VAC48-30-490.

1485 5. Providing information to purchasers in a manner that willfully and intentionally fails to
1486 promote full and fair disclosure.

1487 6. Failing to provide information or documents, or amendments thereof, in accordance
1488 with subsection B of 18VAC48-30-460.

1489 7. Failing to comply with the post-registration requirements of 18VAC48-30-460,
1490 18VAC48-30-470, 18VAC48-30-480, 18VAC48-30-490, 18VAC48-30-500, 18VAC48-30-
1491 510, 18VAC48-30-520, 18VAC48-30-530, and 18VAC48-30-540.

1492 8. Failing to give notice to a purchaser in accordance with 18VAC48-30-510.

1493 9. Failing to give notice to the board of transition of control of unit owners' association in
1494 accordance with 18VAC48-30-560.

1495 10. Failing to transition control of the unit owners' association in accordance with ~~§ 55-~~
1496 ~~79.74~~ § 55.1-1943 of the Code of Virginia.

1497 11. Failing to turn over books and records in accordance with subsection H of ~~§ 55-~~
1498 ~~79.74~~ § 55.1-1943 of the Code of Virginia.

- 1499** 12. Providing false information or misrepresenting an affiliation with an association in
1500 seeking return of a bond or letter of credit in accordance with 18VAC48-30-570 or
1501 18VAC48-30-580.
1502 13. Filing false or misleading information in the course of terminating a registration in
1503 accordance with 18VAC48-30-610 or 18VAC48-30-620.
1504 14. Failing to comply with 18VAC48-30-630 and 18VAC48-30-640.
1505 15. Failing to comply with the advertising standards contained in 18VAC48-30-670.
1506
1507 Statutory Authority
1508 § 54.1-2349 of the Code of Virginia.
1509 Historical Notes
1510 Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

Virginia Administrative Code
Title 18. Professional and Occupational Licensing
Agency 48. Common Interest Community Board
Chapter 30. Condominium Regulations

18VAC48-30-10. Purpose.

Part I
General

This chapter governs the exercise of powers granted to and the performance of duties imposed upon the Common Interest Community Board by the Condominium Act (§ [55-79.39](#) et seq. of the Code of Virginia) as the act pertains to the registration of condominiums.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-20. Definitions.

A. Section [54.1-2345](#) of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Association"

"Board"

B. Section [55-79.41](#) of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Common elements"

"Identifying number"

"Common expenses"

"Land"

"Condominium"

"Leasehold condominium"

"Condominium instruments"

"Limited common element"

"Condominium unit"

"Nonbinding reservation agreement"

"Conversion condominium"

"Offer"

"Convertible land"

"Person"

"Convertible space"

"Purchaser"

"Declarant"

"Special declarant rights"

"Dispose" or "disposition"

"Unit"

"Executive organ"

"Unit owner"

"Expandable condominium"

C. The following words, terms, and phrases when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Annual report" means a completed, board-prescribed form and required documentation submitted in compliance with § [55-79.93](#) of the Code of Virginia.

"Application" means a completed, board-prescribed form submitted with the appropriate fee and other required documentation in compliance with § [55-79.89](#) of the Code of Virginia.

"Class of physical assets" means two or more physical assets that are substantially alike in function, manufacture, date of construction or installation, and history of use and maintenance.

"Condominium Act" means Chapter 4.2 (§ [55-79.39](#) et seq.) of Title 55 of the Code of Virginia.

"Department" means the Department of Professional and Occupational Regulation.

"Expected useful life" means the estimated number of years from the date on which such estimate is made until the date when, because of the effects of time, weather, stress, or wear, a physical asset will become incapable of performing its intended function and will have to be replaced.

"Firm" means a sole proprietorship, association, partnership, corporation, limited liability company, limited liability partnership, or any other form of business organization recognized under the laws of the Commonwealth of Virginia.

"Full and fair disclosure" means the degree of disclosure necessary to ensure reasonably complete and materially accurate representation of the condominium in order to protect the interests of purchasers.

"Limited common expense" means any common expense against one or more, but less than all, of the units.

"Major utility installation" means a utility installation or portion thereof that is a common element or serves more than one unit.

"Material change" means a change in any information or document disclosed in the application for registration, including the public offering statement or an attachment thereto, that renders inaccurate, incomplete, or misleading any information or document in such a way as to affect substantially a purchaser's rights or obligations or the nature of a unit or appurtenant limited common element or the amenities of the project available for the purchaser's use as described in the public offering statement.

"Offering" means the continuing act of the declarant in making condominium units owned by the declarant within a particular condominium available for acquisition by purchasers or, where appropriate, to the aggregate of the condominium units thus made available.

"Offering literature" means any written promise, assertion, representation, or statement of fact or opinion made in connection with a condominium marketing activity mailed or

delivered directly to a specific prospective purchaser, except that information printed in a publication shall not be deemed offering literature solely by virtue of the fact that the publication is mailed or delivered directly to a prospective purchaser.

"Personal communication" means a communication directed to a particular prospective purchaser that has not been and is not intended to be directed to any other prospective purchaser.

"Physical asset" means either a structural component or a major utility installation.

"Present condition" means condition as of the date of the inspection by means of which condition is determined.

"Registration file" means the application for registration, supporting materials, annual reports, and amendments that constitute all information submitted and reviewed pertaining to a particular condominium registration. A document that has not been accepted for filing by the board is not part of the registration file.

"Regular common expense" means a common expense apportioned among and assessed to all of the condominium units pursuant to subsection D of § [55-79.83](#) of the Code of Virginia or similar law or condominium instrument provision.

"Replacement cost" means the expenditure that would be necessary to replace a physical asset with an identical or substantially equivalent physical asset as of the date on which replacement cost is determined and includes all costs of (i) removing the physical asset to be replaced, (ii) obtaining its replacement, and (iii) erecting or installing the replacement.

"Structural component" means a component constituting any portion of the structure of a unit or common element.

"Structural defect" shall have the meaning given in subsection B of § [55-79.79](#) of the Code of Virginia.

"Substituted public offering statement" means a document originally prepared in compliance with the laws of another jurisdiction and modified in accordance with the provisions of this chapter to fulfill the disclosure requirements established for public offering statements by subsection A of § [55-79.90](#) of the Code of Virginia and, if applicable, subsection A of § [55-79.94](#) of the Code of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-30. Explanation of Terms.

Each reference in this chapter to a "declarant," "purchaser," and "unit owner" or to the plural of those terms shall be deemed to refer, as appropriate, to the masculine and the feminine, to

the singular and the plural, and to natural persons and organizations. The term "declarant" shall refer to any successors to the persons referred to in § [55-79.41](#) of the Code of Virginia who come to stand in the same relation to the condominium as their predecessors in that they assumed rights reserved for the benefit of a declarant that (i) offers to dispose of his interest in a condominium unit not previously disposed of, (ii) reserves or succeeds to any special declarant right, or (iii) applies for registration of the condominium.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-40. Condominiums Located Outside of Virginia.

A. In any case involving a condominium located outside of Virginia in which the laws or practices of the jurisdiction in which such condominium is located prevent compliance with a provision of this chapter, the board shall prescribe, by order, a substitute provision to be applicable in such case that is as nearly equivalent to the original provision as is reasonable under the circumstances.

B. The words "declaration," "bylaws," "plats," and "plans," when used in this chapter with reference to a condominium located outside of Virginia, shall refer to documents, portions of documents, or combinations thereof, by whatever name denominated, that have a content and function identical or substantially equivalent to the content and function of their Virginia counterparts.

C. The words "recording" or "recordation," when used with reference to condominium instruments of a condominium located outside of Virginia, shall refer to a procedure that, in the jurisdiction in which such condominium is located, causes the condominium instruments to become legally effective.

D. This chapter shall apply to a contract for the disposition of a condominium unit located outside of Virginia only to the extent permissible under the provisions of subsection B of § [55-79.40](#) of the Code of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-50. Exemptions from Registration.

A. The exemption from registration of condominiums in which all units are restricted to nonresidential use provided in subsection B of § [55-79.87](#) of the Code of Virginia shall not be deemed to apply to any condominium as to which there is a substantial possibility that a unit

therein other than a unit owned by the declarant or the unit owners' association will be used as permanent or temporary living quarters or as a site upon which vehicular or other portable living quarters will be placed and occupied. Residential use for the purposes of this chapter includes transient occupancy.

B. Nothing in this chapter shall apply in the case of a condominium exempted from registration by § [55-79.87](#) of the Code of Virginia or condominiums located outside of Virginia as provided in subsection B of § [55-79.40](#) of the Code of Virginia for which no contracts are to be signed in Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-60. Preregistration Offers Prohibited.

No condominium marketing activity shall be deemed an offer unless, by its express terms, it induces, solicits, or encourages a prospective purchaser to execute a contract of sale of the condominium unit or lease of a leasehold condominium unit or perform some other act that would create or purport to create a legal or equitable interest in the condominium unit other than a security interest in or a nonbinding reservation of the condominium unit.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-70. Condominium Marketing Activities.

Part II

Marketing

Condominium marketing activities shall include every contact for the purpose of promoting disposition of a condominium unit. Such contacts may be personal, by telephone, by mail, by electronic means including, but not limited to, social media, or by advertisement. A promise, assertion, representation, or statement of fact or opinion made in connection with a condominium marketing activity may be oral, written, or graphic.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-80. Offering Literature.

A. Offering literature mailed or delivered prior to the registration of the condominium that is the subject of the offering literature shall bear a conspicuous legend containing the substance of the following language:

"The condominium has not been registered by the Common Interest Community Board. A condominium unit may be reserved on a nonbinding reservation agreement, but no contract of sale or lease may be entered into prior to registration."

B. Offering literature or marketing activities violative of the Virginia Fair Housing Law (§ [36-96.1](#) et seq. of the Code of Virginia) and subsection C of § [55-79.52](#) of the Code of Virginia is prohibited.

C. Offering literature shall indicate that the property being offered is under the condominium form of ownership. The requirement of this subsection is satisfied by including the full name of the condominium in all offering literature.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-90. Application Procedures.

Part III. Application for Registration

A declarant seeking registration of a condominium pursuant to Chapter 4.2 (§ [55-79.39](#) et seq.) of Title 55 of the Code of Virginia shall submit an application on the appropriate form provided by the board, along with the appropriate fee specified in [18VAC48-30-100](#).

By submitting the application to the board, the declarant certifies that the declarant has read and understands the applicable statutes and the board's regulations.

The receipt of an application and the deposit of fees by the board do not indicate approval or acceptance of the application by the board.

The board may make further inquiries and investigations to confirm or amplify information supplied. All applications shall be completed in accordance with the instructions contained in this section and on the application. Applications will not be considered complete until all required documents are received by the board.

Applications that are not approved within 12 months after receipt of the application in the board's office will be purged and a new application and fee must be submitted in order to be reconsidered for registration.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-100. Fee Requirements.

All fees are nonrefundable and shall not be prorated. The date on which the fee is received by the board or its agent will determine whether the fee is timely. Checks or money orders shall be made payable to the Treasurer of Virginia.

1. Each application for registration of a condominium shall be accompanied by a fee in an amount equal to \$35 per unit, except that the fee shall not be less than \$1,750 or more than \$3,500.
2. Each phase filing application shall be accompanied by a fee in an amount equal to \$35 per unit, except that the fee for each phase filing shall not be less than \$875 or more than \$3,500.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-110. Review of Application for Registration.

- A. Upon receipt of an application for registration, the board shall issue the notice of filing required by subsection A of § [55-79.92](#) of the Code of Virginia.
- B. Upon the review of the application for registration, if the requirements of §§ [55-79.89](#) and [55-79.91](#) of the Code of Virginia have not been met, the board shall notify the applicant as required by subsection C of § [55-79.92](#) of the Code of Virginia.
- C. A request for an extension of the 60-day application review period described in § [55-79.92](#) of the Code of Virginia shall be in writing and shall be delivered to the board prior to the expiration of the period being extended. The request shall be for an extension of definite duration. The board may grant in writing a request for an extension of the application review period, and it may limit the extension to a period not longer than is reasonably necessary to permit correction of the application. An additional extension of the application review period may be obtained, subject to the conditions applicable to the initial request. A request for an extension of the application review period shall be deemed a consent to delay within the meaning of subsection A of § [55-79.92](#) of the Code of Virginia.
- D. If the requirements for registration are not met within the application review period or a valid extension thereof, the board shall, upon the expiration of such period, enter an order rejecting the registration as required by subsection C of § [55-79.92](#) of the Code of Virginia.
- E. An applicant may submit a written request for an informal conference in accordance with § [2.2-4019](#) of the Code of Virginia at any time between receipt of a notification pursuant to

subsection B of this section and the effective date of the order of rejection entered pursuant to subsection D of this section. A request for such proceeding shall be deemed a consent to delay within the meaning of subsection A of § [55-79.92](#) of the Code of Virginia.

F. The board shall receive and act upon corrections to the application for registration at any time prior to the effective date of an order rejecting the registration. If the board determines after review of the corrections that the requirements for registration have not been met, the board may proceed with an informal conference in accordance with § [2.2-4019](#) of the Code of Virginia to allow reconsideration of whether the requirements for registration are met. If the board does not opt to proceed with an informal conference, the applicant may submit a written request for an informal conference in accordance with § [2.2-4019](#) of the Code of Virginia to reconsider whether the requirements for registration are met. If the board does not proceed with an informal conference and no request for an informal conference is received from the applicant, an amended order of rejection stating the factual basis for the rejection shall be issued. A new 20-day period for the order of rejection to become effective shall commence.

G. At such time as the board affirmatively determines that the requirements of §§ [55-79.89](#) and [55-79.91](#) of the Code of Virginia have been met, the board shall enter an order registering the condominium and shall designate the form, content, and effective date of the public offering statement, substituted public offering statement, or prospectus to be used.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-120. Prerequisites for Registration.

The following provisions are prerequisites for registration and are supplementary to the provisions of § [55-79.91](#) of the Code of Virginia.

A. The declarant shall own or have the right to acquire an estate in the land constituting or to constitute the condominium that is of at least as great a degree and duration as the estate to be conveyed in the condominium units.

B. The condominium instruments must be adequate to bring a condominium into existence upon recordation except that the certification requirements of § [55-79.58](#) of the Code of Virginia need not be complied with as a prerequisite for registration. This subsection does not apply to condominium instruments that may be recorded after the condominium has been created.

C. The declarant shall have filed with the board reasonable evidence of its financial ability to complete all proposed improvements on the condominium. Such evidence may include (i) financial statements and a signed affidavit attesting that the declarant has sufficient funds to complete all proposed improvements on the condominium and that the funds will be used for

completion of the proposed improvements or (ii) proof of a commitment of an institutional lender to advance construction funds to the declarant and, to the extent that any such commitments will not furnish all the necessary funds, other evidence, satisfactory to the board, of the availability to the declarant of necessary funds. A lender's commitment may be subject to such conditions, including registration of the condominium units and presale requirements, as are normal for loans of the type and as to which nothing appears to indicate that the conditions will not be complied with or fulfilled.

1. In the case of a condominium located in Virginia, "proposed improvements" are improvements that are not yet begun or not yet complete and that the declarant is affirmatively and unconditionally obligated to complete under §§ [55-79.58](#) and [55-79.67](#) (a1) of the Code of Virginia and applicable provisions of the condominium instruments or that the declarant would be so obligated to complete if plats and plans filed with the board in accordance with [18VAC48-30-140](#) A were recorded.

2. In the case of a condominium located outside of Virginia, "proposed improvements" are improvements that are not yet begun or not yet complete and that the declarant represents, without condition or limitation, will be built or placed in the condominium.

D. The current and planned condominium marketing activities of the declarant shall comply with § [18.2-216](#) of the Code of Virginia, [18VAC48-30-80](#) , and [18VAC48-30-660](#) .

E. The declarant shall have filed with the board (i) a proposed public offering statement that complies with this chapter and subsection A of § [55-79.90](#) of the Code of Virginia and, if applicable, subsection A of § [55-79.94](#) of the Code of Virginia; (ii) a substituted public offering statement that complies with this chapter; or (iii) a prospectus that complies with this chapter.

F. Declarants may be organized as individuals or firms. Firms shall be organized as business entities under the laws of the Commonwealth of Virginia or otherwise authorized to transact business in Virginia. Firms shall register any trade or fictitious names with the State Corporation Commission or the clerk of court in the jurisdiction where the business is to be conducted in accordance with §§ [59.1-69](#) through [59.1-76](#) of the Code of Virginia before submitting an application to the board.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-130. Minimum Requirements for Registration.

Applications for registration shall include the following:

1. The documents and information contained in § [55-79.89](#) of the Code of Virginia.
2. The application fee specified in [18VAC48-30-100](#) .

3. The following documents shall be included as exhibits. All exhibits shall be labeled as indicated and submitted in hardcopy form and electronically in a format acceptable to the board.

a. Exhibit A: A copy of the certificate of incorporation or certificate of authority to transact business in Virginia issued by the Virginia State Corporation Commission or other entity formation documents.

b. Exhibit B: A copy of the title opinion, title policy, or a statement of the condition of the title to the condominium project including encumbrances as of a specified date within 30 days of the date of application by a title company or licensed attorney who is not a salaried employee, officer, or director of the declarant or owner, in accordance with subdivision A 5 of § [55-79.89](#) of the Code of Virginia.

c. Exhibit C: A copy of the instruments that will be delivered to a purchaser to evidence the purchaser's interest in the unit and of the contracts and other agreements that a purchaser will be required to agree to or sign.

d. Exhibit D: A narrative description of the promotional plan for the disposition of the condominium units.

e. Exhibit E: A copy of documentation demonstrating the declarant's financial ability to complete the project in accordance with [18VAC48-30-120](#).

f. Exhibit F: A copy of the proposed public offering statement that complies with subsection A of § [55-79.90](#) and subsection A of § [55-79.94](#) of the Code of Virginia, as applicable, and this chapter. A substitute public offering statement or a prospectus pursuant to [18VAC48-30-370](#) and [18VAC48-30-380](#) respectively may be submitted for a condominium formed in another jurisdiction.

g. Exhibit G: Copies of bonds required by §§ [55-79.58:1](#), [55.79.84:1](#), and [55-79.95](#) of the Code of Virginia, as applicable.

h. Exhibit H: A list with the name of every officer of the declarant who is directly responsible for the project or person occupying a similar status within, or performing similar functions for, the declarant. The list must include each individual's address, principal occupation for the past five years, and extent and nature of the individual's interest in the condominium as of a specified date within 30 days of the filing of the application.

i. Exhibit I: Plats and plans of the condominium that (i) comply with the provisions of § [55-79.58](#) of the Code of Virginia and [18VAC48-30-140](#) other than the certification requirements and (ii) show all units and buildings containing units to be built anywhere within the submitted land other than within the boundaries of any convertible lands. Hardcopy submittals of plats and plans must be no larger than 11 inches by 17 inches.

j. Exhibit J: Conversion condominiums must attach (i) a copy of the general notice provided to tenants of the condominium at the time of application pursuant to subsection B of § [55-79.94](#) of the Code of Virginia, (ii) a copy of the formal notice to be

sent at the time of registration to the tenants, if any, of the building or buildings, and (iii) the certified statement required in accordance with subsection C of § [55-79.94](#) of the Code of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-140. Requirements for Plats and Plans.

A. Except as provided in subsection C of this section, all plats and plans submitted with the application for registration shall comply with § [55-79.58](#) of the Code of Virginia but the certification need not be signed until recordation. The plats and plans filed with the application for registration shall be the same as the plats and plans the declarant intends to record. A material change to the plats and plans shall be submitted to the board in accordance with Part VI ([18VAC48-30-460](#) et seq.) of this chapter. Once recorded, copies of plats and plans as recorded shall be filed with the board in accordance with Part VI of this chapter.

B. In the case of units that are substantially identical, the requirement to show the location and dimensions (within normal construction tolerances) of the boundaries of each unit pursuant to subsection B of § [55-79.58](#) of the Code of Virginia may be deemed satisfied by depiction of the location and dimensions of the vertical boundaries and horizontal boundaries, if any, of one such unit. The identifying numbers of all units represented by such depiction shall be indicated. Each structure within which any such units are located shall be depicted so as to indicate the exact location of each such unit within the structure.

C. In the case of a condominium located outside Virginia, certain materials may be filed with the application for registration in lieu of plats and plans complying with the provisions of § [55-79.58](#) of the Code of Virginia. Such materials shall contain, as a minimum, (i) a plat of survey depicting all existing improvements, and all improvements that the declarant represents, without condition or limitation, will be built or placed in the condominium; and (ii) legally sufficient descriptions of each unit. Any improvements whose completion is subject to conditions or limitations shall be appropriately labeled to indicate that such improvements may not be completed. Unit descriptions may be written or graphic, shall demarcate each unit vertically and, if appropriate, horizontally, and shall indicate each unit's location relative to established points or datum.

D. The plats and plans must bear the form of the certification statement required by subsections A and B § [55-79.58](#) of the Code of Virginia. However, as stated in subsection A of this section, the statement need not be executed prior to recordation. The certification statement may appear in a separate document that is recorded, or to be recorded.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-150. Application for Registration of Expandable Condominium.

The declarant may include in the application for registration all units for which development rights have been reserved.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-160. Public Offering Statement Requirements, Generally.

Part IV. Public Offering Statement

In addition to the provisions of § [55-79.90](#) of the Code of Virginia, the following will be considered, as applicable, during review of the public offering statement.

1. The public offering statement shall provide full and fair disclosure in accordance with [18VAC48-30-170](#).
2. The public offering statement shall pertain to a single offering and to the entire condominium in which the condominium units being offered are located.
3. The public offering statement shall be clear, organized, and legible.
4. Except for brief excerpts, the public offering statement may refer to, but should not incorporate verbatim, portions of the condominium instruments, the Condominium Act, or this chapter. This does not preclude compliance with [18VAC48-30-180](#).

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-170. Full and Fair Disclosure.

A. The provisions of § [55-79.90](#) and subsection A of § [55-79.94](#) of the Code of Virginia and this chapter shall be strictly construed to promote full and fair disclosure in the public offering statement. In addition, the following will be considered, as applicable, during review to assure full and fair disclosure:

1. The information shall be presented in a manner that is clear and understandable to a

reasonably informed consumer, while maintaining consistency with the requirements of this chapter and the Condominium Act.

2. In addition to specific information required by this chapter and the Condominium Act, the public offering statement shall disclose any other information necessary for full and fair disclosure.

3. No information shall be incorporated by reference to an outside source that is not reasonably available to a prospective purchaser.

4. If required information is not known or not reasonably available, such fact shall be stated and explained in the public offering statement.

B. The board has the sole discretion to require additional information or amendment of existing information as it finds necessary to ensure full and fair disclosure.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-180. Contents of Public Offering Statement.

A. A cover, if used, must be blank or bear identification information only.

B. The first page of the public offering statement shall be substantially as follows:

PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S PROTECTION

PUBLIC OFFERING STATEMENT

NAME OF CONDOMINIUM:

LOCATION OF CONDOMINIUM:

NAME OF DECLARANT:

ADDRESS OF DECLARANT:

EFFECTIVE DATE OF PUBLIC OFFERING
STATEMENT:

REVISED:

THE PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S OWN PROTECTION. Living in a common interest community carries with it certain rights, responsibilities, and benefits, including certain financial obligations, rights, and restrictions concerning the use and maintenance of units and common elements, and decision-making authority vested in the unit owners' association. The purchaser will be bound by the provisions of the condominium instruments and should review the Public Offering Statement, the condominium instruments, and other exhibits carefully

prior to purchase.

This Public Offering Statement presents information regarding condominium units being offered for sale by the declarant. Virginia law requires that a Public Offering Statement be given to every Purchaser in order to provide full and fair disclosure of the significant features of the condominium units being offered. The Public Offering Statement is not intended, however, to be all-inclusive. The Purchaser should consult other sources for details not covered by the Public Offering Statement.

The Public Offering Statement summarizes information and documents furnished by the declarant to the Virginia Common Interest Community Board. The Board has carefully reviewed the Public Offering Statement to ensure that it contains required disclosures, but the Board does not guarantee the accuracy or completeness of the Public Offering Statement. In the event of any inconsistency between the Public Offering Statement and the material it is intended to summarize, the latter will control.

Under Virginia law a purchaser of a condominium unit is afforded a 5-day period during which the purchaser may cancel the purchase contract of sale and obtain a full refund of any sums deposited in connection with the purchase contract. The 5-day period begins on the purchase contract date or the date of delivery of a Public Offering Statement, whichever is later. The purchaser may, if practicable, inspect the condominium unit and the common elements and obtain professional advice. If the purchaser elects to cancel, the purchaser must deliver notice of cancellation to the declarant pursuant to § [55-79.88](#) of the Code of Virginia.

Allegations of violation of any law or regulation contained in the Condominium Act or the Condominium Regulations should be reported to the Virginia Common Interest Community Board, Perimeter Center, Suite 400, 9960 Mayland Drive, Richmond, Virginia 23233.

C. A summary of important considerations shall immediately follow the first page for the purpose of reinforcing the disclosure of significant information. The summary shall be titled as such and shall be introduced by the following statement:

"Following are important matters to be considered in acquiring a condominium unit. They are highlights only. The Public Offering Statement should be examined in its entirety to obtain detailed information."

Appropriate modifications shall be made to reflect facts and circumstances that may vary. The summary shall consist of, but not be limited to, the following, as applicable:

1. A statement on the governance of the condominium wherein unit owners are allocated votes for certain decisions of the association. In addition, the statement shall include that all unit owners will be bound by the decisions made by the association, even if the individual unit owner disagrees.
2. A statement concerning the decision-making authority of the executive organ of the unit owners' association.
3. A statement regarding the payment of expenses of the association on the basis of a periodic budget, to include a disclosure of any provision for reserves, including a statement

if there are no reserves.

4. A statement detailing the requirement for each unit owner to pay a periodic assessment and the inability to reduce the amount of an assessment by refraining from the use of the common elements.

5. A statement of the unit owner's responsibility to pay additional assessments, if any.

6. A statement regarding the consequences for failure to pay an assessment when due. The statement shall include reference to the enforcement mechanisms available to the association, including obtaining a lien against the condominium unit, pursuing civil action against the unit owner, and certain other penalties.

7. A statement that the declarant must pay assessments on unsold condominium units.

8. A statement indicating whether the declarant, its predecessors, or principal officer have undergone a debtor's relief proceeding.

9. A statement that the declarant will retain control of the unit owners' association for an initial period.

10. A statement indicating whether a managing agent will perform the routine operations of the unit owners' association. The statement shall include whether the managing agent is related to the declarant, director, or officer of the unit owners' association.

11. A statement indicating whether the declarant may lease unsold condominium units and a statement indicating whether the right of a unit owner to lease that owner's unit to another is subject to restrictions.

12. A statement indicating whether the declarant may expand or contract the condominium or convert convertible land or space without the consent of any unit owner.

13. A statement indicating whether the right of the unit owner to resell the owner's condominium unit is subject to restrictions.

14. A statement indicating whether the units are restricted to residential use and whether the units may be utilized for commercial, retail, or professional use. The statement shall provide detail if units have different voting rights. Further, the statement shall also detail whether the allocation of rights and responsibilities among commercial, retail, professional, or residential use units are the same.

15. A statement indicating whether approval of the declarant or unit owners' association is necessary in order for a unit owner to alter the structure of the unit or modify the exterior of the unit.

16. A statement regarding the obligation of the unit owners' association to obtain certain insurance benefiting the unit owner, along with the necessity for a unit owner to obtain other insurance.

17. A statement regarding the unit owner's obligation to pay real estate taxes.

18. A statement regarding any limits the declarant asserts on the association or the unit owner's right to bring legal action against the declarant. Nothing in this statement shall be deemed to authorize such limits where those limits are otherwise prohibited by law.

19. A statement that the association or unit owners are members of another association or obligated to perform duties or pay fees or charges to that association or entity.

20. A statement indicating whether the condominium is subject to development as a time-share.

21. A statement affirming that marketing and sale of condominium units will be conducted in accordance with the Virginia Fair Housing Law (§ [36-96.1](#) et seq. of the Code of Virginia) and the Condominium Act (Chapter 4.2 (§ [55-79.39](#) et seq.) of Title 55 of the Code of Virginia).

D. The content after the summary of important considerations shall include the narrative sections in [18VAC48-30-190](#) through [18VAC48-30-360](#) . Supplementary sections may be included as necessary.

E. Clear and legible copies of the following documents shall be attached as exhibits to the public offering statement:

1. The declaration;
2. The bylaws;
3. The projected budget;
4. Rules and regulations of the unit owners' association, if available;
5. Master association documents, if applicable;
6. Any management contract, along with the license number of the common interest community manager, if applicable;
7. Depiction of unit layouts;
8. Any lease of recreational areas;
9. Any contract or agreement affecting the use, maintenance, or access of all or any portion of the condominium, the nature, duration, or expense of which has a material impact on the operation and administration of the condominium;
10. Warranty information, if applicable; and
11. Other documents obligating the association or unit owner to perform duties or obligations or pay charges or fees.

F. Other information and documentation may be included as necessary to ensure full and fair disclosure. The board may also require additional information as necessary to ensure full and fair disclosure.

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-190. Narrative Sections; Condominium Concept.

The public offering statement shall contain a section captioned "The Condominium Concept." The section shall consist of a brief discussion of the condominium form of ownership. The section shall discuss the distinction among units, common elements and limited common elements, if any, and shall explain ownership of an undivided interest in the common elements. Attention shall be directed to any features of ownership of the condominium units being offered that are different from typical condominium unit ownership.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-200. Narrative Sections; Creation of Condominium.

The public offering statement shall contain a section captioned "Creation of the Condominium." The section shall briefly explain the manner in which the condominium was or will be created, the locality wherein the condominium instruments will be or have been recorded, and each of the condominium instruments, their functions, and the procedure for their amendment. The section shall indicate where each of the condominium instruments or copies thereof may be found. In the case of a condominium located in Virginia or in a jurisdiction having a law similar to § [55-79.96](#) of the Code of Virginia, the section shall indicate that the purchaser will receive copies of the recorded declaration and bylaws, including amendments, as appropriate, within the time provided in the applicable statute.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-210. Narrative Sections; Description of Condominium.

A. The public offering statement shall contain a section captioned "Description of the Condominium." The description shall include statements of (i) the land area of the condominium to include either the square footage or the acreage, (ii) the number of units in the condominium, (iii) the number of units in the offering, (iv) the number of units in the condominium planned to be rented, and (v) the percentage of units the declarant intends to

sell to persons who do not intend to occupy the units as their primary residence.

B. If the condominium is contractable, expandable, or includes convertible land or space, the section shall contain a brief description of each such feature, including the land area to include either the square footage or acreage, and the maximum number of units or maximum number of units per acre that may be added, withdrawn, or converted, as applicable, together with a statement of the declarant's plans for the implementation of each such feature. In the case of a contractable or expandable condominium, the section shall contain the substance of the following statement:

"At the declarant's option, the construction and development of the condominium may be abandoned or altered prior to completion, and land or buildings originally intended for condominium development may be put to other uses or sold."

In the case of a condominium including convertible land, the section shall contain the substance of the following statements:

"Until such time as the declarant converts the convertible land into units or limited common elements, the declarant is required by the Virginia Condominium Act to pay for the upkeep of the convertible land. Once the convertible land has been converted, maintenance and other financial responsibilities associated with the land so designated become the responsibility of the unit owners and, therefore, may be reflected in the periodic assessment for the condominium."

If the common expense assessments are expected to increase should convertible land be converted, this section shall also disclose an estimate of the approximate percentage by which such assessments are expected to increase as a result of such conversion.

C. The section shall state whether the units are restricted solely to residential use and shall identify where use and occupancy restrictions are found in the condominium instruments. If nonresidential use is permitted, the section shall identify the types of units and proportion of each, if known or reasonably anticipated.

D. The section shall state whether the project, as of the effective date of the public offering statement, is intended to comply with the underwriting guidelines of the secondary mortgage market agencies, including but not limited to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Virginia Housing Development Authority.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-220. Narrative Sections; Individual Units.

The public offering statement shall contain a section captioned "Individual Units." The section shall contain a general description of the various types of units being offered to

include the square footage, or number of bedrooms, or both, together with the dates on which substantial completion of unfinished units is anticipated. The section shall state any restrictions regarding changes unit owners may make to the structure or exterior of the units, regardless of whether the exterior is a portion of the common elements.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-230. Narrative Sections; Common Elements.

A. The public offering statement shall contain a section captioned "Common Elements." The section shall contain a general description of the common elements.

B. For any common elements that are not completed or not expected to be substantially complete when the units are complete, a statement of the anticipated completion dates of unfinished common elements shall be included.

C. In the case of a condominium located in Virginia, if common elements are not expected to be substantially complete when the units are completed, the section shall state the nature, source, and extent of the obligation to complete such common elements that the declarant has incurred or intends to incur upon recordation of the condominium instruments pursuant to §§ [55-79.58](#) A and [55-79.67](#) (a1) of the Code of Virginia and applicable provisions of the condominium instruments. In addition the section shall state that pursuant to § [55-79.58:1](#) of the Code of Virginia, the declarant has filed with the board a bond to insure completion of improvements to the common elements that the declarant is obligated as stated in the declaration.

D. In the case of a condominium located outside of Virginia, a description of the nature, source, and extent of the obligation to complete such common elements that the declarant has incurred or intends to incur under the law of the jurisdiction in which the condominium is located shall be included.

E. The section shall describe any limited common elements that are assigned or that may be assigned and shall indicate the reservation of exclusive use. In the case of limited common elements that may be assigned, the section shall state the manner of such assignment or reassignment.

F. The section shall indicate the availability of vehicular parking spaces including the number of spaces available per unit and restrictions on or charges for the use of spaces.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-240. Narrative Sections; Maintenance, Repair, and Replacement Responsibilities.

The public offering statement shall contain a section captioned "Maintenance, Repair, and Replacement Responsibilities." The section shall describe the basic allocation of maintenance, repair, and replacement responsibilities between the unit owner and the association as well as any unusual items to be maintained by the unit owner. The section shall refer to the location of the maintenance, repair, and replacement responsibility requirements in the condominium instruments.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-250. Narrative Sections; Declarant.

A. The public offering statement shall contain a section captioned "The Declarant." The section shall contain a brief history of the declarant with emphasis on its experience in condominium development.

B. The following information shall be stated with regard to persons immediately responsible for the development of the condominium: (i) name, (ii) length of time associated with the declarant, (iii) role in the development of the condominium, and (iv) experience in real estate development. If different from the persons immediately responsible for the development of the condominium, the principal officers of the declarant shall also be identified.

C. The section shall describe the type of legal entity of the declarant and explain if any other entities have any obligation to satisfy the financial obligations of the declarant.

D. If the declarant or its parent or predecessor organization has, during the preceding 10 years, been adjudicated as bankrupt or has undergone any proceeding for the relief of debtors, such fact or facts shall be stated. If any of the persons identified pursuant to subsection B of this section has, during the preceding three years, been adjudicated a bankrupt or undergone any proceeding for the relief of debtors, such fact or facts shall be stated.

E. The section shall indicate any final action taken against the declarant, its principals, or the condominium by an administrative agency, civil court, or criminal court where the action reflected adversely upon the performance of the declarant as a developer of real estate projects. The section shall also indicate any current or past proceedings brought against the declarant by any condominium unit owners' association or by its executive organ or any managing agent on behalf of such association or that has been certified as a class action on behalf of some or all of the unit owners. For the purposes of the previous sentence with

respect to past proceedings, if the ultimate disposition of those proceedings was one that reflected adversely upon the performance of the declarant, that disposition shall be disclosed. If the ultimate disposition was resolved favorably towards the declarant, its principals, or the condominium, the final action does not need to be disclosed. The board has the sole discretion to require additional disclosure of any proceedings where it finds such disclosure necessary to assure full and fair disclosure.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-260. Narrative Sections; Terms of the Offering.

A. The public offering statement shall contain a section captioned "Terms of the Offering." The section shall discuss the expenses to be borne by a purchaser in acquiring a condominium unit and present information regarding the settlement of purchase contracts as provided in subsections B through H of this section.

B. The section shall indicate the offering prices for condominium units or a price range for condominium units, if either is established.

C. The section shall set forth the significant terms of any financing offered by or through the declarant to purchasers. Such discussion shall include the substance of the following statement:

"Financing is subject to additional terms and conditions stated in the loan commitment or instruments."

D. The section shall discuss in detail any costs collected by or paid to the declarant, association, or master association that are not normal for residential real estate transactions including, without limitation, any contribution to the initial or working capital of the unit owners' association, including any master association, to be paid by a purchaser.

E. The section shall discuss any penalties or forfeitures to be incurred by a purchaser upon default in performance of a purchase contract that are not normal for residential real estate transactions. Penalties or forfeitures to be discussed include, without limitation, the declarant's right to retain sums deposited in connection with a purchase contract in the event of a refusal by a lending institution to provide financing to a purchaser who has made proper application for same.

F. The section shall discuss the right of the declarant to cancel a purchase contract upon failure of the declarant to obtain purchase contracts on a given number or percentage of condominium units being offered or upon failure of the declarant to meet other conditions precedent to obtaining necessary financing.

G. The section shall discuss the process for cancellation of a purchase contract by a purchaser

in accordance with subdivision 2 of § [55-79.88](#) of the Code of Virginia. The section shall include a statement as to whether deposits will be held in an escrow fund or if a bond or letter of credit will be filed with the board in lieu of escrowing deposits, all in accordance with § [55-79.95](#) of the Code of Virginia.

H. The section shall set forth any restrictions in the purchase contract that limit the unit owner's right to bring legal action against the declarant or the association. The section shall set forth the paragraph or section and page number of the purchase contract where such provision is located. Nothing in this statement shall be deemed to authorize such limits where those limits are otherwise prohibited by law.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-270. Narrative Sections; Encumbrances.

A. The public offering statement shall contain a section captioned "Encumbrances" that shall include the significant terms of any encumbrances, easements, liens, and matters of title affecting the condominium other than those contained in the condominium instruments and disclosed elsewhere in the public offering statement, as provided in subsections B through J of this section.

B. Except to the extent that such encumbrances are required to be satisfied or released by subsection A of § [55-79.46](#) of the Code of Virginia, or a similar law, the section shall describe every mortgage, deed of trust, other perfected lien, or choate mechanics' or materialmen's lien affecting all or any portion of the condominium other than those placed on condominium units by their purchasers or owners. Such description shall (i) identify the lender secured or the lienholder, (ii) state the nature and original amount of the obligation secured, (iii) identify the party having primary responsibility for performance of the obligation secured, and (iv) indicate the practical effect upon unit owners of failure of the party to perform the obligation.

C. Normal easements for utilities, municipal rights-of-way, and emergency access shall be described only as such, without reference to ownership, location, or other details.

D. Easements reserved to the declarant to facilitate conversion, expansion, or sales shall be briefly described.

E. Easements reserved to the declarant or to the unit owners' association or to either entity's representatives or agents for access to units shall be briefly described. In the event that access to a unit may be had without notice to the unit owner, such fact shall be stated.

F. Easements across the condominium reserved to the owners or occupants of land located in the vicinity of the condominium, or across adjacent land benefitting the condominium including, without limitation, easements for the use of recreational areas shall be briefly

described.

G. Covenants, servitudes, or other devices that create an actual restriction on the right of any unit owner to use and enjoy the unit or any portion of the common elements other than limited common elements shall be briefly described.

H. Any matter of title that is not otherwise required to be disclosed by the provisions of this section and that has or may have a substantial adverse impact upon unit owners' interests in the condominium shall be described. Under normal circumstances, normal and customary utility easements, easements for encroachments, and easements running in favor of unit owners for ingress and egress across the common elements shall be deemed not to have a substantial adverse impact upon unit owners' interest in the condominium.

I. The section need not include any information required to be disclosed by [18VAC48-30-210 C](#), [18VAC48-30-220](#), or [18VAC48-30-280](#).

J. In addition to the description of easements required in this section, pertinent easements that can be located shall be shown on the condominium plats and plans.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-280. Narrative Sections; Restrictions on Transfer.

The public offering statement shall include a section captioned "Restrictions on Transfer." The section shall describe and explain any rights of first refusal, preemptive rights, limitations on leasing, or other restraints on free alienability created by the condominium instruments or the rules and regulations of the unit owners' association that affect the unit owners' right to resell, lease, or otherwise transfer an interest in the condominium unit.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-290. Narrative Sections; Unit Owners' Association.

A. The public offering statement shall contain a section captioned "Unit Owners' Association." The section shall discuss the manner in which the condominium is governed and administered and shall include the information required by subsections B through K of this section.

B. The section shall summarize the functions of the unit owners' association.

C. The section shall describe the organizational structure of the unit owners' association. Such description shall indicate (i) the existence of or provision for an executive organ, officers, and managing agent, if any; (ii) the relationships between such persons or bodies; (iii) the manner of election or appointment of such persons or bodies; and (iv) the assignment or delegation of responsibility for the performance of the functions of the unit owners' association.

D. The section shall describe the method of allocating votes among the unit owners.

E. The section shall describe any retention by the declarant of control over the unit owners' association, including the time period of declarant control. The section shall state that the association shall register with the Common Interest Community Board upon transition of declarant control by filing the required annual report in accordance with § [55-79.93:1](#) of the Code of Virginia.

F. The managing agent, if any, shall be identified. If a managing agent is to be employed in the future, the criteria, if any, for selection of the managing agent shall be briefly stated. The section shall indicate any relationship between the managing agent and the declarant or a member of the executive organ or an officer of the unit owners' association. The duration of any management agreement shall be stated.

G. Except to the extent otherwise disclosed in connection with discussion of a management agreement, the significant terms of any lease of recreational areas or similar contract or agreement affecting the use, maintenance, or access of all or any part of the condominium shall be stated. The section shall include a brief narrative statement of the effect of each such agreement upon a purchaser.

H. Rules and regulations of the unit owners' association and the authority to promulgate rules and regulations shall be discussed. Particular provisions of the rules and regulations need not be discussed except as required by other provisions of this chapter. The purchaser's attention shall be directed to the copy of rules and regulations, if any, attached to the public offering statement.

I. Any standing committees established or to be established to perform functions of the unit owners' association shall be discussed. Such committees include, without limitation, architectural control committees and committees having the authority to interpret condominium instruments, rules, and regulations or other operative provisions.

J. Unless required to be disclosed by [18VAC48-30-270 E](#), any power of the declarant or of the unit owners' association or its representatives or agents to enter units shall be discussed. To the extent each is applicable, the following facts shall be stated (i) a unit may be entered without notice to the unit owner, (ii) the declarant or the unit owners' association or its representatives or agents are empowered to take actions or perform work in a unit without the consent of the unit owner, and (iii) the unit owner may be required to bear the costs of actions so taken or work so performed.

K. The section shall state whether the condominium is part of a master or other association and briefly describe such relationship and the responsibilities of and obligations to the

master association, including any charges for which the unit owner or the unit owners' association may be responsible. The disclosures required by this subsection may be contained in this narrative section or another narrative section. The section shall also describe any other obligation of the association or unit owners arising out of any agreements, easements, deed restrictions, or proffers, including the obligation to pay fees or other charges.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-300. Narrative Sections; Display of Flag.

The public offering statement shall include a section captioned "Display of Flag." This section shall describe any restrictions, limitations, or prohibitions on the right of a unit owner to display the flag of the United States in accordance with § [55-79.75:2](#) of the Code of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-310. Narrative Sections; Surrounding Area.

The public offering statement shall contain a section captioned "Surrounding Area." The section shall briefly describe the zoning of the immediate neighborhood of the condominium and the current uses.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-320. Narrative Sections; Financial Matters.

A. The public offering statement shall contain a section captioned "Financial Matters." The section shall discuss the expenses incident to the ownership of a condominium unit, excluding certain taxes, in the manner provided in subsections B through I of this section.

B. The section shall distinguish, in general terms, the following categories of costs of operation, maintenance, repair, and replacement of various portions of the condominium: (i) common expenses apportioned among and assessed to all of the condominium units pursuant to subsection C of § [55-79.83](#) of the Code of Virginia or similar law or condominium instrument provision; (ii) common expenses, if any, apportioned among and assessed to less

than all of the condominium units pursuant to subsections A and B of § [55-79.83](#) of the Code of Virginia or similar law or condominium instrument provisions; and (iii) costs borne directly by individual unit owners. The section need not discuss taxes assessed against individual condominium units and payable directly by the unit owners.

C. A budget shall show projected common expenses for the first year of the condominium's operation or, if different, the latest year for which a budget is available. The projected budget shall be attached to the public offering statement as an exhibit and the section shall direct the purchaser's attention to such exhibit. The section shall describe the manner in which the projected budget is established. If the condominium is phased, the budget shall project future years until all phases are projected to be developed and all common elements that must be built have been completed. The budget shall include an initial working capital budget showing sources and uses of initial working capital and a reserve table showing amounts to be collected to fund those reserves. The budget shall show regular individual assessments by unit type. The budget shall note that the figures are not guaranteed and may vary.

D. The section shall describe the manner in which regular common expenses are apportioned among and assessed to the condominium units. The section shall include the substance of the following statement, if applicable:

"A unit owner cannot obtain a reduction of the regular common expenses assessed against the unit by refraining from use of any of the common elements."

E. The section shall describe budget provisions for reserves for capital expenditures in accordance with § [55-79.83:1](#) of the Code of Virginia and for contingencies, if any. If there are no reserves, the section shall so state.

F. The section shall describe provisions for additional assessments to be levied in accordance with subsection E of § [55-79.83](#) of the Code of Virginia in the event that budgeted assessments provide insufficient funds for operation of the unit owners' association. The section shall also describe the provisions for an assessment against an individual unit owner.

G. The section shall discuss any common expenses actually planned to be specially assessed pursuant to subsections A and B of § [55-79.83](#) of the Code of Virginia or similar law or condominium instrument provisions.

H. The section shall indicate any fee, rent, or other charge to be payable by unit owners other than through common expense assessments to any party for use of the common elements or for use of recreational or parking facilities in the vicinity of the condominium. As an exception to the provisions of this subsection, the section need not discuss any fees provided for in subsection H of § [55-79.84](#) and § [55-79.85](#) of the Code of Virginia, or similar laws or condominium instrument provisions or any costs for certificates for resale.

I. The section shall discuss the effect of failure of a unit owner to pay the assessments levied against the condominium unit. Such discussion shall indicate provisions for charges or other remedies that may be imposed to be applied in the case of overdue assessments and for acceleration of unpaid assessments. The section shall indicate the existence of a lien for unpaid assessments and where applicable the bond or letter of credit conditioned on the

payment of assessments filed with the board in accordance with § [55-79.84:1](#) of the Code of Virginia. The section shall include, to the extent applicable, the substance of the following statement:

"The unit owners' association may obtain payment of overdue assessments by bringing legal action against the unit owner or by foreclosure of the lien resulting in a forced sale of the condominium unit."

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-330. Narrative Sections; Insurance.

A. The public offering statement shall contain a section captioned "Insurance." The section shall describe generally the insurance on the condominium to be maintained by the unit owners' association. The section shall state, with respect to such insurance, each of the following circumstances, to the extent applicable: (i) property damage coverage will not insure personal property belonging to unit owners; (ii) property damage coverage will not insure improvements to a unit that increase its value beyond the limits of coverage provided in the unit owners' association's policy, and (iii) liability coverage will not insure against liability arising from an accident or injury occurring within a unit or as a result of the act or negligence of a unit owner. The section shall include a statement whether the unit owner is obligated to obtain coverage for any or all of the coverages described. The section shall also include a statement that the unit owner should consult with an insurance professional to determine the appropriate coverage.

B. The section shall indicate any conditions imposed by the condominium instruments or the rules and regulations to which insurance obtained directly by unit owners will be subject. Such indication may be made by reference to pertinent provisions of the condominium instruments or the rules and regulations.

C. The section shall explain that the association is the only party that can make a claim under the master policy and is the sole decision-maker as to whether to make a claim, including a statement as to the circumstances under which a unit owner could be responsible for payment of the deductible.

D. The section shall state that the unit owners' association is required to obtain and maintain a blanket fidelity bond or employee dishonesty insurance policy in accordance with subsection B of § [55-79.81](#) of the Code of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-340. Narrative Sections; Taxes.

A. The public offering statement shall contain a section captioned "Taxes." The section shall describe all existing or pending taxes to be levied against condominium units individually including, without limitation, real property taxes, sewer connection charges, and other special assessments.

B. With respect to real property taxes, the section shall state the current tax rate or provide information for obtaining the current tax rate. The section shall also state a procedure or formula by means of which the taxes may be estimated.

C. With respect to other taxes, the section shall describe each tax in sufficient detail as to indicate the time at which the tax will be levied and the actual or estimated amount to be levied, or a procedure or formula by means of which the taxes may be estimated.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-350. Narrative Sections; Governmental Reviews.

The public offering statement shall contain a section captioned "Governmental Reviews." The section shall discuss governmental reviews applicable to the condominium property and the status of any governmental approvals required for the development of the condominium. In addition, the section shall discuss approval of the zoning application and site plan and issuance of building permits by appropriate governmental authorities. The section shall state the current zoning classification for the condominium property. The section shall also include a statement regarding any zoning, subdivision, or land use obligations or proffers that would be imposed on the unit owner or the association, but need not disclose any zoning, subdivision, or land use obligations or proffers that do not impose any obligation on the association.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-360. Narrative Sections; Warranties.

The public offering statement shall contain a section captioned "Warranties." The section shall describe any warranties provided by or through the declarant on the units or the common elements and a summary of the process for commencement of an action for breach

of warranty in accordance with subsection C of § [55-79.79](#) of the Code of Virginia. The section shall describe the structural defect warranty required by and described in subsection B of § [55-79.79](#) of the Code of Virginia. The section shall also include the substance of the following statement:

"Nothing contained in the warranty provided by the declarant shall limit the protection afforded by the statutory warranty."

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-370. Documents from Other Jurisdictions.

A. A substituted public offering statement shall only be permitted for a condominium located outside of Virginia.

B. The substituted public offering statement shall be prepared by deleting from the original disclosure document (i) references to any governmental agency of another jurisdiction to which application has been made or will be made for registration or related action; (ii) references to the action of such governmental agency relative to the condominium; (iii) statements of the legal effect in another jurisdiction of delivery, failure to deliver, acknowledgment of receipt, or related events involving the disclosure document; (iv) the effective date or dates in another jurisdiction of the disclosure document; and (v) all other information that is untrue, inaccurate, or misleading with respect to marketing, offers, or disposition of condominium units in Virginia.

C. The substituted public offering statement shall incorporate all information not otherwise included that is necessary to effect fully and accurately the disclosures required by subsection A of § [55-79.90](#) of the Code of Virginia and, if applicable, subsection A of § [55-79.94](#) of the Code of Virginia. The substituted disclosure document shall clearly explain any nomenclature that is different from the definitions provided in § [55-79.41](#) of the Code of Virginia.

D. The substituted public offering statement shall include as the first item of the summary of important considerations a statement that includes the following information: (i) the designation by which the original disclosure document is identified in the original jurisdiction, (ii) the governmental agency of such other jurisdiction where the original disclosure document is or will be filed, and (iii) the jurisdiction of such filing.

E. The provisions of subdivision 2 of § [55-79.88](#), § [55-79.90](#), and subsection A of § [55-79.94](#) of the Code of Virginia and [18VAC48-30-160](#), [18VAC48-30-170](#), and [18VAC48-30-180](#) shall apply to substituted public offering statements in the same manner and to the same extent that they apply to public offering statements.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-380. Condominium Securities.

A prospectus filed in compliance with the securities laws of a state or federal agency used in lieu of a public offering statement shall contain or have attached thereto copies of documents, other than the projected budget required to be attached to a public offering statement by subsection E of [18VAC48-30-180](#) . Such prospectus shall be deemed to satisfy all of the disclosure requirements of subsections C and D of [18VAC48-30-180](#) and [18VAC48-30-190](#) through [18VAC48-30-360](#) . In the case of a conversion condominium, the prospectus shall have attached thereto, in suitable form, the information required by [18VAC48-30-420](#) , subsections C and D of [18VAC48-30-430](#) , and [18VAC48-30-440](#) to be disclosed in public offering statements for conversion condominiums. The provisions of subdivision 2 of § [55-79.88](#) of the Code of Virginia shall apply to the delivery of the prospectus in the same manner and to the same extent that they apply to the delivery of a public offering statement.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-390. Board Oversight of Public Offering Statement.

The board at any time may require a declarant to alter or amend the public offering statement to assure full and fair disclosure to prospective purchasers and to ensure compliance with the Condominium Act and this chapter.

In accordance with subsection B of § [55-79.90](#) of the Code of Virginia, the board does not approve or recommend the condominium or disposition thereof. The board's issuance of an effective date for a public offering statement shall not be construed to (i) constitute approval of the condominium, (ii) represent that the board asserts that either all facts or material changes or both concerning the condominium have been fully or adequately disclosed, or (iii) indicate that the board has made judgment on the value or merits of the condominium.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-400. Public Offering Statement for Conversion Condominium; General Instructions.

Part V. Conversion Condominiums

The public offering statement for a conversion condominium shall conform in all respects to the requirements of [18VAC48-30-160](#) through [18VAC48-30-380](#) . In addition, the public offering statement for a conversion condominium shall (i) contain special disclosures in the narrative sections captioned "Description of the Condominium," "Terms of the Offering," and "Financial Matters"; and (ii) incorporate narrative sections captioned "Present Condition of the Condominium" and "Replacement Requirements." Provisions for such additional disclosure are set forth in [18VAC48-30-410](#) through [18VAC48-30-440](#) .

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-410. Description of Conversion Condominium.

In addition to the information required by [18VAC48-30-210](#) , the section captioned "Description of the Condominium" shall indicate that the condominium is a conversion condominium. The term conversion condominium shall be defined and the particular circumstances that bring the condominium within the definition shall be stated. The nature and inception date of prior occupancy of the property being converted shall be stated.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-420. Financial Matters, Conversion Condominium.

A. The provisions for capital reserves described in the section captioned "Financial Matters" shall conform with [18VAC48-30-320](#) and shall be supplemented by the information set forth in subsections B and C of this section.

B. The section shall state the aggregate replacement cost of all physical assets whose replacement costs will constitute regular common expenses and whose expected useful lives are 10 years or less. For the purposes of this subsection, an expected useful life that is stated as being within a range of years pursuant to subsection E of [18VAC48-30-440](#) shall be deemed to be 10 years or less, if the lower limit of such range is 10 years or less. The total common expense assessments per unit that would be necessary in order to accumulate an amount of capital reserves equal to such aggregate replacement cost shall be stated.

C. The section shall state the amount of capital reserves that will be accumulated by the unit owners' association during the period of declarant control together with any provisions of the condominium instruments specifying the rate at which reserves are to be accumulated

thereafter. If any part of the capital reserves will or may be obtained other than through regular common expense and limited common expense assessments, such fact shall be stated.

D. The actual expenditures made over a three-year period on operation, maintenance, repair, or other upkeep of the property prior to its conversion to condominium shall be set forth in tabular form as an exhibit immediately preceding or following the budget attached to the public offering statement pursuant to subsection C of [18VAC48-30-320](#), and shall be presented in a manner that is not misleading. Distinction shall be made between expenditures that would have constituted regular common expenses and limited common expenses, and expenditures that would have been borne by unit owners individually if the property had been converted to a condominium prior to the commencement of the three-year period. To the extent that it is impossible or impracticable to so distinguish the expenditures it shall be assumed that they would have constituted regular common expenses or limited common expenses.

Both types of expenditures shall be cumulatively broken down on a per unit basis in the same proportion that common expenses are or will actually be assessed against the condominium units. The three-year period to which this subsection refers shall be the most recent three-year period prior to application for registration during which the property was occupied and for which expenditure information is available. The expenditure information shall indicate the years for which expenditures are stated. If any portion of the property being converted to condominium was not occupied for the full three-year period, expenditure information shall be set forth only for the entire time period that portion of the property was occupied. The "Financial Matters" section shall direct the purchaser's attention to the expenditure information.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-430. Present Condition of Conversion Condominium.

A. The section captioned "Present Condition of the Condominium" shall contain a statement of the approximate dates of original construction or installation of all physical assets in the condominium. A single construction or installation date may be stated for all of the physical assets (i) in the condominium, (ii) within a distinctly identifiable portion of the condominium, or (iii) within a distinctly identifiable category of physical assets. A statement made pursuant to the preceding sentence shall include a separate reference to the construction or installation date of any physical asset within a stated group of physical assets that was constructed or installed significantly earlier than the construction or installation date indicated for the group generally. No statement shall be made that a physical asset or portion thereof has been repaired, altered, improved, or replaced subsequent to its construction or installation unless the approximate date, nature, and extent of such repair,

alteration, improvement, or replacement is also stated.

B. Subject to the exceptions provided in subsections D, E, and F of this section, the section captioned "Present Condition of the Condominium" shall contain a description of the present condition of all physical assets within the condominium. The description of present condition shall disclose all structural defects and incapacities of major utility installations to perform their intended functions as would be observable, detectable, or deducible by means of standard inspection and investigative techniques employed by architects or professional engineers, as the case may be.

C. The section shall indicate the dates of inspection by means of which the described present condition was determined; provided, however, that such inspections shall have been conducted not more than one year prior to the date of filing the application for registration. The section shall identify the party or parties by whom present condition was ascertained and shall indicate the relationship of such party or parties to the declarant.

D. A single statement of the present condition of a class of physical assets shall suffice to disclose the present condition of each physical asset within the class; provided, however, that, unless subsection F of this section applies, such statement shall include a separate reference to the present condition of any physical asset within the class that is significantly different from the present condition indicated for the class generally.

E. The description of present condition may include a statement that all structural components in the condominium or in a distinctly identifiable portion thereof are in sound condition except those for which structural defects are noted.

F. In a case in which there are numerous physical assets within a class of physical assets and inspection of each such physical asset is impracticable, the description of present condition of all the physical assets within the class may be based upon an inspection of a number of them selected at random, provided that the number selected is large enough to yield a reasonably reliable sample and that the total number of physical assets within the class and the number selected are disclosed.

G. The section shall include statements disclosing any environmental issues pertaining to the building and the surrounding area, to include but not be limited to:

1. The presence of any asbestos-containing material following an inspection of each building completed prior to July 1, 1978, as well as whether any response actions have been or will need to be taken as required by § [55-79.94](#) A 5 of the Code of Virginia;
2. Any known information on lead-based paint and lead-based paint hazards in each building constructed prior to 1978 pursuant to the Residential Lead-Based Paint Hazard Reduction Act of 1992 - Title X (42 USC § 4851 et seq.); and
3. Any obligations related to the declarant's participation in voluntary or nonvoluntary remediation activities.

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-440. Replacement Requirements in Conversion Condominium.

A. Subject to the exceptions provided in subsections B and H of this section, the section captioned "Replacement Requirements" shall state the expected useful lives of all physical assets in the condominium. The section shall state that expected useful lives run from the date of the inspection by means of which the expected useful lives were determined. Such inspection date shall be stated.

B. A single statement of the expected useful life of a class of physical assets shall suffice to disclose the expected useful life of each physical asset within the class; provided, however, that such statement shall include a separate reference to the expected useful life of any physical asset within such class that is significantly shorter than the expected useful life indicated for the class generally.

C. An expected useful life may be qualified. A qualified expected useful life is an expected useful life expressly conditioned upon a given use or level of maintenance or other factor affecting longevity. No use, level of maintenance, or other factor affecting longevity shall be stated as a qualification unless such use, level of maintenance, or factor affecting longevity is normal or reasonably anticipated for the physical asset involved. If appropriate, an expected useful life may be stated as being indefinite, subject to the stated qualification that the physical asset involved must be properly used and maintained. An expected useful life may be stated as being within a range of years, provided that the range is not so broad as to render the statement meaningless. In no event shall the number of years constituting the lower limit of such range be less than two-thirds of the number of years constituting the upper limit.

D. Subject to the exceptions provided in subsections E and H of this section, the section captioned "Replacement Requirements" shall state the replacement costs of all physical assets in the condominium including those whose expected useful lives are stated as being indefinite.

E. A statement of the replacement cost of a representative member of a class of physical assets shall suffice to disclose the replacement cost of each physical asset within the class; provided, however, that such statement shall include a separate reference to the replacement cost of any physical asset within the class that is significantly greater than the replacement cost indicated for the representative member of the class.

F. Distinction shall be made between replacement costs that will be common expenses and replacement costs that will be borne by unit owners individually. The latter type of replacement costs shall be broken down on a per unit basis. The purchaser's attention shall be directed to the "Financial Matters" section for an indication of the amount of the former type of replacement costs.

G. In any case in which the replacement cost of a physical asset may vary depending upon the

circumstances surrounding its replacement, the stated replacement cost shall reflect the circumstances under which replacement will most probably be undertaken.

H. A single expected useful life and an aggregate replacement cost may be stated for all of the structural components of a building or structure that have both (i) the same expected useful lives and (ii) replacement costs that will constitute regular common expenses. A statement made pursuant to the preceding sentence shall be accompanied by statements of the expected useful lives and replacement costs, stated on a per unit basis, of all of the structural components of the building or structure whose expected useful lives differ from the general expected useful life or whose replacement costs will be borne by unit owners individually.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-450. Notice to Tenants.

No notice to terminate tenancy of a unit provided for by subsection B of § [55-79.94](#) of the Code of Virginia shall be given prior to the registration of the condominium including such unit as to which the tenancy is to be terminated.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-460. Minimum Post-Registration Reporting Requirements.

Part VI. Post-Registration Provisions

A. Subsequent to the issuance of a registration for a condominium by the board, the declarant of a condominium shall:

1. File an annual report in accordance with § [55-79.93](#) of the Code of Virginia and this chapter.
2. File a copy of the formal notice to the tenants of a conversion condominium upon delivery or no later than 15 days after delivery to such tenants in accordance with subsection B of § [55-79.94](#).
3. Upon the occurrence of a material or nonmaterial change, file an amended public offering statement or substituted public offering statement in accordance with the provisions of [18VAC48-30-480](#) or [18VAC48-30-490](#), as applicable.
4. Notify the board of a change in the bond or letter of credit, as applicable, required by §§

[55-79.58:1](#) , [55-79.84:1](#) , and [55-79.95](#) of the Code of Virginia.

5. File a complete application for registration of unregistered additional units upon the expansion of the condominium or the formation of units out of additional land. Notwithstanding the preceding, nonresidential units created out of convertible space need not be registered. Documents on file with the board and not changed with the creation of additional units need not be refiled provided that the application indicates that such documents are unchanged.

6. Notify the board of transition of control of the unit owners' association.

7. Notify the board upon the transfer of special declarant rights to a successor declarant.

8. Submit appropriate documentation to the board once the registration is eligible for termination.

9. Submit to the board any other document or information that may include information or documents that have been amended or may not have existed previously that affects the accuracy, completeness, or representation of any information or document filed with the application for registration.

10. Submit to the board any document or information to make the registration file accurate and complete.

B. Notwithstanding the requirements of subsection A of this section, the board at any time may require a declarant to provide information or documents, or amendments thereof, to assure full and fair disclosure to prospective purchasers and to ensure compliance with the Condominium Act and this chapter.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-470. Amendment of Public Offering Statement.

Any amendment of the public offering statement or substituted public offering statement shall comply with this chapter.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-480. Nonmaterial Changes to the Public Offering Statement.

A. Changes to the public offering statement that are not material shall be filed with the board

but shall not be deemed an amendment of the public offering statement for the purposes of this chapter and shall not give rise to a renewed right of rescission in any purchase. Nonmaterial changes to the public offering statement include, but may not be limited to, the following:

1. Correction of spelling, grammar, omission, or other similar errors not affecting the substance of the public offering statement;
2. Changes in presentation or format;
3. Substitution of an executed, filed, or recorded copy of a document for the otherwise substantially identical unexecuted, unfiled, or unrecorded copy of the document that was previously submitted;
4. Inclusion of updated information such as identification or description of the current officers and directors of the declarant;
5. Disclosure of completion of improvements for improvements that were previously proposed or not complete;
6. Changes in real estate tax assessment or rate or modifications related to those changes;
7. Changes in utility charges or rates or modifications related to those changes;
8. Adoption of a new budget that does not result in a significant change in the common expense assessment or significantly impact the rights or obligations of the prospective purchasers;
9. Modifications related to changes in insurance company or financial institution, policy, or amount for bonds or letters of credit required pursuant to §§ [55-79.58:1](#) , [55-79.84:1](#) , and [55-79.95](#) of the Code of Virginia;
10. Changes in management agent or common interest community manager; and
11. Any change that is the result of orderly development of the condominium in accordance with the condominium instruments as described in the public offering statement.

B. Nonmaterial changes to the public offering statement shall be submitted with the effective date of the changes detailed. All changes shall be clearly represented in the documentation presented. The additions and deletions of text in the public offering statement and exhibits shall be identified by underlining and striking through text to be added and deleted, and any documents being added to or deleted from the contents of the public offering statement shall be clearly and accurately reflected in the table of contents utilizing underlines and strike-throughs for additions and deletions. In addition to the copies showing edits to the text, a clean copy of all new and amended documents shall be provided. In addition, the declarant shall include a statement with the submission of the declarant's plans, if any, to deliver the public offering statement to purchasers pursuant to subdivision 2 of § [55-79.88](#) of the Code of Virginia.

C. The board has the sole discretion for determining whether a change is nonmaterial. The declarant will be notified in writing within 15 days of receipt by the board if the submitted changes are determined to be material. Should a change be submitted as nonmaterial but determined to be a material change during review, the requirements contained in [18VAC48-30-470](#) and [18VAC48-30-490](#) shall be applicable.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-490. Filing of Amended Public Offering Statement.

A. The declarant shall promptly file with the board for review a copy of the amended public offering statement or substituted public offering statement together with a copy of a summary of proposed amendments that shall be distributed to purchasers during the board review period. The summary of proposed amendments shall enumerate the amendments to the public offering statement submitted for board review and include a statement that the amendments to the public offering statement have been filed with the board but have not yet been accepted. The form of the submission is at the discretion of the declarant provided, however, that (i) all amendments are clearly represented in the documentation presented, (ii) the additions and deletions of text in the public offering statement and exhibits shall be identified by underlining and striking through text to be added and deleted, and (iii) any documents being added to or deleted from the contents of the public offering statement shall be clearly and accurately reflected in the table of contents utilizing underlines and strike-throughs for additions and deletions. In addition to the copies showing edits to the text, a clean copy of all new and amended documents shall be provided.

B. The amended public offering statement submitted to the board for review shall include the effective date of the amendments.

C. The board shall issue a notice of filing within five business days following receipt of the amended public offering statement.

D. Within 30 days of the issuance of the notice of filing required by subsection C of this section, the board shall review the amended public offering statement and supporting materials to determine whether the amendment complies with this chapter. If the board's review determines that the amended public offering statement complies with this chapter, it shall notify the declarant in writing and confirm the new effective date of the public offering statement.

E. If the board's review determines that the amended public offering statement does not comply with this chapter, it shall immediately notify the declarant in writing that the review has determined the amended public offering statement is not in compliance and shall specify the particulars of such noncompliance. The declarant shall then have 20 days in which to correct the particulars of noncompliance identified by the board. The declarant may, prior to

the completion of the 20-day correction period, request an extension in writing of the 20-day correction period. Upon expiration of the 20-day correction period, if requested corrections have not been made or a request for extension properly received, the board may issue a temporary cease and desist order in accordance with § [55-79.100](#) (b) of the Code of Virginia to require the cessation of sales until such time as affirmative action as directed by the board is taken. Use of the noncompliant public offering statement may result in further action by the board pursuant to §§ [55-79.100](#) , [55-79.101](#) , and [55-79.103](#) of the Code of Virginia.

F. Notwithstanding an extension of the 30-day period for review agreed to in writing by the board and declarant, if the board does not perform the required review of the public offering statement in accordance with subsection D of this section, the amendment shall be deemed to comply with [18VAC48-30-160](#) through [18VAC48-30-380](#) , and the new effective date shall be the effective date of the amendment provided pursuant to subsection B of this section.

G. In each case in which an amended document is filed pursuant to this section and the manner of its amendment is not apparent on the face of the document, the declarant shall provide an indication of the manner and extent of amendment.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-500. Current Public Offering Statement.

A. Upon issuance of an effective date by the board, any purchasers who received a public offering statement and summary of proposed amendments during the board review period pursuant to subsection A of [18VAC48-30-490](#) shall be provided with the public offering statement as accepted by the board. A public offering statement remains current until such time as the occurrence of a material change requires amendment of the public offering statement pursuant to this chapter and a new effective date is issued by the board.

B. Upon issuance of an effective date by the board, a public offering statement remains current until such time as a new effective date is established pursuant to this chapter.

C. Notwithstanding the board's authority to issue a cease and desist order pursuant to § [55-79.100](#) of the Code of Virginia, the filing of an amended public offering statement shall not require the declarant to cease sales provided that the declarant provides to purchasers the summary of proposed amendments pursuant to subsection A of [18VAC48-30-490](#) pending the issuance of a new effective date by the board.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-510. Public Offering Statement Not Current; Notification of Purchasers.

A. A purchaser who has been delivered a public offering statement that is not current due to a material change and was not provided with the summary of proposed amendments containing the proposed changes to the amended public offering statement pursuant to subsection A of [18VAC48-30-490](#) pending the issuance of a new effective date by the board shall be notified of such fact by the declarant.

B. A purchaser who has been delivered a public offering statement and summary of proposed amendments pursuant to subsection A of [18VAC48-30-490](#) , but the amended public offering statement is determined to be noncompliant in accordance with subsection E of [18VAC48-30-490](#) shall be notified of such fact by the declarant.

1. The notification shall indicate that any contract for disposition of a condominium unit may be canceled by the purchaser pursuant to subdivision 2 of § [55-79.88](#) of the Code of Virginia.

2. The declarant shall file a copy of the notification with the board and provide proof that such notification has been delivered to all purchasers under contract.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-520. Provisions Applicable to Substituted Public Offering Statement and Prospectus.

A. The provisions of [18VAC48-30-470](#) through [18VAC48-30-510](#) shall apply to a substituted public offering statement in the same manner and to the same extent that they apply to public offering statements.

B. The provisions of [18VAC48-30-470](#) through [18VAC48-30-510](#) shall apply to a prospectus only to the extent that amendment of the information or documents attached to the prospectus pursuant to [18VAC48-30-380](#) is required or permitted. The body of the prospectus shall be amended only as provided in applicable securities law. The declarant shall immediately file with the board any amendments to the body of the prospectus and, upon receipt thereof, the board shall notify the declarant in writing and confirm the new effective date for use of the prospectus. A prospectus is current so long as it is effective under applicable securities law and the information and attached documents are current under the provisions of [18VAC48-30-490](#) . The declarant shall immediately notify the board if the prospectus ceases being effective. If no prospectus is effective and the declarant proposes to continue offering condominium units, the declarant shall file a public offering statement with the board pursuant to [18VAC48-30-490](#) .

C. The provisions of [18VAC48-30-510](#) shall apply to a prospectus in the same manner and to the same extent that they apply to a public offering statement.

D. In an annual report involving a prospectus, the declarant shall comply with all of the provisions of [18VAC48-30-540](#) applicable to public offering statements and, in addition, shall certify that an effective prospectus is available for delivery to purchasers and shall indicate the declarant's plans or expectations regarding the continuing effectiveness of the prospectus.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-530. Filing of Phase Amendment Application.

A. A phase amendment application shall be filed when adding land to or converting land in the condominium, provided that no such application need be filed for units previously registered. Such phase amendment application shall be accompanied by the fee provided for in [18VAC48-30-100](#) and shall be subject to all of the provisions of [18VAC48-30-90](#) through [18VAC48-30-150](#). Documents on file with the board that have not changed in connection with the additional units need not be refiled, provided that the phase amendment application indicates that such documents are unchanged.

B. The application shall include a new or amended bond or letter of credit required pursuant to § [55-79.84:1](#) of the Code of Virginia for the additional units.

C. The board shall review the phase amendment application and supporting materials to determine whether the amendment complies with this chapter. If the board's review determines the phase amendment application complies with this chapter, it shall issue an amended order of registration for the condominium and shall provide that any previous orders and designations of the form, content, and effective date of the public offering statement, substituted public offering statement, or prospectus to be used are superseded. If the board's review determines that the phase amendment application is not complete, the board shall correspond with the declarant to specify the particulars that must be completed to obtain compliance with this chapter.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-540. Annual Report by Declarant.

A. A declarant shall file an annual report on a form provided by the board to update the

material contained in the registration file at least 30 days prior to the anniversary date of the order registering the condominium. Prior to filing the annual report required by § [55-79.93](#) of the Code of Virginia, the declarant shall review the public offering statement then being delivered to purchasers. If such public offering statement is current, the declarant shall so certify in the annual report. If such public offering statement is not current, the declarant shall amend the public offering statement, and the annual report shall, in that event, include a filing in accordance with [18VAC48-30-490](#) .

B. The annual report shall contain, but may not be limited to, the following:

1. Current contact information for the declarant;
2. Current contact information for the declarant's attorney, if applicable;
3. Date of the public offering statement currently being delivered to purchasers;
4. Date the condominium instruments were recorded and locality wherein recorded;
5. Number of phases registered with the board, if applicable;
6. Number of phases recorded, if applicable;
7. Number of units recorded;
8. Number of units conveyed;
9. Status of completion of all common elements within the condominium;
10. Status of declarant control;
11. Whether the declarant is current in the payment of assessments; and
12. Current evidence from the surety or financial institution of any bond or letters of credit, or submittal of replacement bonds or letters of credit, required pursuant to §§ [55-79.58:1](#) , [55-79.84:1](#) , and [55-79.95](#) of the Code of Virginia. Such verification shall provide the following:
 - a. Principal of bond or letter of credit;
 - b. Beneficiary of bond or letter of credit;
 - c. Name of the surety or financial institution that issued the bond or letter of credit;
 - d. Bond or letter of credit number as assigned by the issuer;
 - e. The dollar amount; and
 - f. The expiration date or, if self-renewing, the date by which the bond or letter of credit shall be renewed.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-550. Board Review of Annual Report.

A. During review of the annual report, the board may make inquiries or request additional documentation to amplify or clarify the information provided.

B. If the board does not accept the annual report and the annual report filing is not completed within 60 days of a request by the board for additional information, the board may take further action pursuant to § [55-79.100](#), [55-79.101](#), or [55-79.103](#) of the Code of Virginia for failing to file an annual report as required by § [55-79.93](#) of the Code of Virginia.

C. If the board does not perform the required review of the annual report within 30 days of receipt by the board, the annual report shall be deemed to comply with § [55-79.93](#) of the Code of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-560. Transition of Control of Unit Owners' Association.

Upon transition of control of the association to the unit owners following the period of declarant control, the declarant shall, in addition to the requirements contained in subsection H of § [55-79.74](#) of the Code of Virginia, notify the board in writing of the date of such transition and provide the name and contact information for members of the board of directors of the unit owners' association or the association's common interest community manager.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015; [Volume 35, Issue 17](#), eff. May 15, 2019.

18VAC48-30-570. Return of Assessment Bond or Letter of Credit to Declarant.

A. The declarant of a condominium required to post a bond or letter of credit pursuant to § [55-79.84:1](#) of the Code of Virginia shall maintain such bond or letter of credit for all units registered with the board until the declarant owns less than 10% of the units in the condominium and is current in the payment of assessments. For condominiums containing less than 10 units, the bond or letter of credit shall be maintained until the declarant owns only one unit.

B. The declarant shall submit a written request to the board for the return of the bond or letter of credit. The written request shall attest that the declarant (i) owns less than 10% of

the units or for condominiums containing less than 10 units, that the declarant owns only one unit and (ii) is current in the payment of assessments. The written request shall provide contact information for the unit owners' association.

C. Upon receipt of the written request from the declarant, the board shall send a request to the unit owners' association to confirm the information supplied by the declarant. The person certifying the information on behalf of the unit owners' association must not be affiliated with the declarant. The managing agent may confirm the information supplied by the declarant.

D. The board shall return the bond or letter of credit to the declarant if (i) the unit owners' association confirms that the declarant is current in the payment of assessments and owns less than 10% of the units in the condominium or (ii) no response is received from the unit owners' association within 90 days. The 90-day time frame in clause (ii) of this subsection may be extended at the discretion of the board.

E. If the unit owners' association attests the declarant is not current in the payment of assessments, the board shall retain the bond or letter of credit until evidence is received satisfactory to the board that the declarant is current in the payment of assessments.

F. The board may ask for additional information from the unit owners' association or the declarant as needed to confirm compliance with § [55-79.84:1](#) of the Code of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-580. Return of Completion Bond or Letter of Credit to Declarant.

A bond on file with the board pursuant to § [55-79.58:1](#) of the Code of Virginia may be returned to the declarant upon written request. Such request shall include a copy of the recorded plat or plan showing completion or documentation acceptable to the board that the improvements to the common elements for which the bond was submitted is completed to the extent of the declarant's obligation.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-590. Return of Bond or Letter of Credit Upon Termination of Registration.

Upon issuance of an order of termination of the condominium registration pursuant to

[18VAC48-30-610](#) and if the bond or letter of credit on file with the board has not been returned to the declarant or the declarant's agent previously, it will be considered for return in accordance with [18VAC48-30-570](#) or [18VAC48-30-580](#) .

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-600. Maintenance of Bond or Letter of Credit.

A. The declarant shall report the extension, cancellation, amendment, expiration, termination, or any other change of any bond or letter of credit submitted in accordance with §§ [55-79.58:1](#) , [55-79.84:1](#) , and [55-79.95](#) of the Code of Virginia within five days of the change.

B. The board at any time may request verification from the declarant of the status of a bond or letter of credit on file with the board. Such verification shall comply with the provisions of subdivision B 12 of [18VAC48-30-540](#) .

C. Failure to report a change in the bond or letter of credit in accordance with this section shall result in further action by the board pursuant to Chapter 4.2 (§ [55-79.39](#) et seq.) of Title 55 of the Code of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-610. Termination of Condominium Registration.

A. The condominium registration shall be terminated upon receipt of documentation of one of the following:

1. In accordance with § [55-79.93](#) of the Code of Virginia, an annual report filed pursuant to [18VAC48-30-540](#) indicates that all units in the condominium have been disposed of and all periods for conversion or expansion have expired.
2. Written notification is received from the declarant attesting that all units have been disposed of and that all periods for conversion or expansion have expired and all common elements have been completed.
3. Written notification is received from the declarant requesting termination pursuant to § [55-79.72:1](#) of the Code of Virginia. Should the declarant later choose to offer condominium units in a condominium for which the registration has been terminated in accordance with this subsection, prior to offering a condominium unit, the declarant must submit a new

application for registration of the condominium, meet all requirements in effect at the time of application, and be issued an order of registration for the condominium by the board.

B. Upon receipt and review of documentation pursuant to subsection A of this section, the board shall issue an order of termination for the condominium registration. The board may request additional information as necessary during the review of the submitted documentation to ensure that the condominium registration is eligible for termination.

C. The board shall send a copy of the order of termination for the condominium registration to the association.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-620. Administrative Termination of Condominium Registration.

In accordance with subsection B of § [55-79.93:2](#) of the Code of Virginia, the board may administratively terminate the registration of a condominium. Prior to the administrative termination of the registration, the board shall send written notice of its intent to terminate the registration to all known parties associated with the condominium, including, but not limited to, the registered agent, officer or officers of the unit owners' association, declarant's and association's attorneys, and principal or principals of the declarant. Such written notice shall be given to the parties by mail or otherwise if acknowledged by them in writing.

The board shall issue an order of termination for the condominium registration if (i) a response is not received within 30 days after sending the written notice or (ii) the response received does not indicate termination of the registration is inappropriate in accordance with Chapter 4.2 (§ [55-79.39](#) et seq.) of Title 55 of the Code of Virginia and this chapter.

Nothing contained in this section shall prevent the board from taking further action as allowed by law including issuance of a temporary cease and desist order, issuance of a cease and desist order, revocation of registration, and bringing action in the appropriate circuit court to enjoin the acts or practices and to enforce compliance.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-630. Notification of Successor Declarant and Transfer of Special Declarant Rights.

A. In the event the special declarant rights of a condominium are transferred to a successor in

accordance with § [55-79.74:3](#) of the Code of Virginia, the successor declarant shall notify the board within 30 days. Before units may be offered for sale, the successor declarant shall submit the following to the board:

1. Completed application for the successor declarant;
2. Copy of the recorded document evidencing the transfer;
3. Copies of all condominium instruments that were amended to reflect the successor or transfer of special declarant rights;
4. A public offering statement amended in accordance with this chapter;
5. All bonds or letters of credit required pursuant to §§ [55-79.58:1](#) , [55-79.84:1](#) , and [55-79.95](#) of the Code of Virginia; and
6. Other documents that may be required to ensure compliance with Chapter 4.2 (§ [55-79.39](#) et seq.) of Title 55 of the Code of Virginia and this chapter.

B. Documents on file with the board that have not changed in connection with the transfer need not be refiled, provided that the application for successor declarant indicates that such documents are unchanged.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-640. Reporting of Other Changes to the Condominium Project.

Any other change made or known by the declarant that may affect the accuracy or completeness of the condominium registration file shall be promptly reported to the board. Such change may include but is not limited to the name of the declarant, name of the condominium project, or any other changes in information submitted in accordance with § [55-79.89](#) of the Code of Virginia. The board may request additional information as necessary to ensure compliance with Chapter 4.2 (§ [55-79.39](#) et seq.) of Title 55 of the Code of Virginia and this chapter.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

18VAC48-30-650. Grounds for Disciplinary Action.

Part VII. Board Authority and Standards of Conduct

The board may revoke a registration upon a finding that the registration is not in compliance with, or the declarant has violated, any provision of the regulations of the board or Chapter 4.2 (§ [55-79.39](#) et seq.) of Title 55 of the Code of Virginia. Additional action may include issuance of a temporary cease and desist order, issuance of a cease and desist order, revocation of registration, and bringing action in the appropriate circuit court to enjoin the acts or practices and to enforce compliance.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-660. Registration of Condominium Required.

No declarant or individual or entity acting on behalf of the declarant shall offer a condominium unit prior to the registration of the condominium including such unit.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-670. Condominium Advertising Standards.

A. No promise, assertion, representation, or statement of fact or opinion in connection with a condominium marketing activity shall be made that is false, inaccurate, or misleading by reason of inclusion of an untrue statement of a material fact or omission of a statement of a material fact relative to the actual or intended characteristics, circumstances, or features of the condominium or a condominium unit.

B. No promise, assertion, representation, or statement of fact or opinion made in connection with a condominium marketing activity shall indicate that an improvement will be built or placed on the condominium unless the improvement is a proposed improvement within the meaning of subsection C of [18VAC48-30-120](#).

C. No promise, assertion, representation, or statement of fact or opinion made in connection with a condominium marketing activity and relating to a condominium unit not registered shall, by its express terms, induce, solicit, or encourage a prospective purchaser to leave Virginia for the purpose of executing a contract for sale or lease of the condominium unit or performing some other act that would create or purport to create a legal or equitable interest in the condominium unit other than a security interest in or a nonbinding reservation of the condominium unit.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-680. Response to Inquiry and Provision of Records.

- A. The declarant must respond within 15 days to a request by the board or any of its agents regarding any complaint filed with the department. The board may extend such time frame upon a showing of extenuating circumstances prohibiting delivery within such 15-day period.
- B. Unless otherwise specified by the board, the declarant shall produce to the board or any of its agents within 15 days of the request any document, book, or record concerning any transaction in which the declarant was involved, or for which the declarant is required to maintain records for inspection and copying by the board or its agents. The board may extend such time frame upon a showing of extenuating circumstances prohibiting delivery within such 15-day period.
- C. A declarant shall not provide a false, misleading, or incomplete response to the board or any of its agents seeking information in the investigation of a complaint filed with the board.
- D. With the exception of the requirements of subsections A and B of this section, a declarant must respond to an inquiry by the board or its agent within 21 days.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#), eff. August 1, 2015.

18VAC48-30-690. Prohibited Acts.

The following acts are prohibited and any violation may result in action by the board, including but not limited to issuance of a temporary cease and desist order in accordance with § [55-79.100](#) (b) of the Code of Virginia:

1. Violating, inducing another to violate, or cooperating with others in violating any of the provisions of any of the regulations of the board, Chapter 23.3 (§ [54.1-2345](#) et seq.) of Title 54.1 of the Code of Virginia, or Chapter 4.1 (§ [55-79.1](#) et seq.) or Chapter 4.2 (§ [55-79.39](#) et seq.) of Title 55 of the Code of Virginia.
2. Obtaining or attempting to obtain a registration by false or fraudulent representation, or maintaining a registration by false or fraudulent representation.
3. Failing to comply with [18VAC48-30-80](#) in offering literature.
4. Failing to alter or amend the public offering statement as directed in accordance with [18VAC48-30-390](#) or [18VAC48-30-490](#).
5. Providing information to purchasers in a manner that willfully and intentionally fails to promote full and fair disclosure.

6. Failing to provide information or documents, or amendments thereof, in accordance with subsection B of [18VAC48-30-460](#) .
7. Failing to comply with the post-registration requirements of [18VAC48-30-460](#) , [18VAC48-30-470](#) , [18VAC48-30-480](#) , [18VAC48-30-490](#) , [18VAC48-30-500](#) , [18VAC48-30-510](#) , [18VAC48-30-520](#) , [18VAC48-30-530](#) , and [18VAC48-30-540](#) .
8. Failing to give notice to a purchaser in accordance with [18VAC48-30-510](#) .
9. Failing to give notice to the board of transition of control of unit owners' association in accordance with [18VAC48-30-560](#) .
10. Failing to transition control of the unit owners' association in accordance with § [55-79.74](#) of the Code of Virginia.
11. Failing to turn over books and records in accordance with subsection H of § [55-79.74](#) of the Code of Virginia.
12. Providing false information or misrepresenting an affiliation with an association in seeking return of a bond or letter of credit in accordance with [18VAC48-30-570](#) or [18VAC48-30-580](#) .
13. Filing false or misleading information in the course of terminating a registration in accordance with [18VAC48-30-610](#) or [18VAC48-30-620](#) .
14. Failing to comply with [18VAC48-30-630](#) and [18VAC48-30-640](#) .
15. Failing to comply with the advertising standards contained in [18VAC48-30-670](#) .

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 31, Issue 20](#) , eff. August 1, 2015.

Forms (18VAC48-30)

[Condominium Registration Application, A492-0517REG-v2 \(rev. 8/2015\)](#)

[Declarant Annual Report - Condominium, A492-0517ANRPT-v3 \(rev. 8/2015\)](#)

[Condominium Bond/Letter of Credit Verification Form, A492-0517BNDLOC-v1 \(rev. 9/2013\)](#)

[Exhibit H - Bond to Insure Payment of Assessments, A492-0517BOND-v2 \(rev. 11/2013\)](#)

[Condominium Registration Application - Exhibit H, Sample Form, A492-0517LOC-v2 \(eff. 11/2013\)](#)

1
2 **COMMON INTEREST COMMUNITY BOARD**

3 **Time-Share Regulations - Title 55 Recodification**

4
5 Part 1

6 General

7 **18VAC48-45-10. (Reserved.)**

8 Statutory Authority

9 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

10 Historical Notes

11 Reserved, Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

12
13 **18VAC48-45-20. Definitions.**

14 A. ~~Section 55-362~~ Section 55.1-2200 of the Code of Virginia provides definitions of the
15 following terms and phrases as used in this chapter:

"Affiliate"	"Offering" or "offer"
"Alternative purchase"	"Person"
"Association"	"Product"
"Board"	"Project"
"Board of directors"	"Public offering statement"
"Common elements"	"Purchaser"
"Contact information"	"Resale purchase contract"
"Contract" or "purchase contract"	"Resale time-share" <u>"Resale service"</u>
"Conversion time-share project"	"Resale service" <u>"Resale time-share"</u>
"Default"	"Resale transfer contract"
"Developer"	"Reseller"
"Developer control period"	"Reverter deed"
"Development right"	"Situs"

"Dispose" or "disposition"	"Time-share"
"Exchange company"	"Time-share estate"
"Exchange program"	"Time-share expense"
"Guest"	"Time-share instrument"
"Incidental benefit"	"Time-share owner" or "owner"
"Lead dealer"	"Time-share program" or "program"
"Managing agent"	"Time-share project"
"Managing entity"	"Time-share unit" or "unit"
"Material change"	"Time-share use"
	"Transfer"

16 B. The following words and terms when used in this chapter shall have the following
 17 meanings unless the context clearly indicates otherwise:

18 "Alternative disclosure statement" means a disclosure statement for an out-of-state time-
 19 share program or time-share project that is properly registered in the situs.

20 "Annual report" means a completed, board-prescribed form and required documentation
 21 submitted in compliance with ~~§ 55-394.1~~ § 55.1-2242 of the Code of Virginia.

22 "Application" means a completed, board-prescribed form submitted with the appropriate fee
 23 and other required documentation in compliance with the Virginia Real Estate Time-Share Act
 24 and this chapter.

25 "Blanket bond" means a blanket surety bond issued in accordance with the requirements
 26 of ~~§ 55-375~~ § 55.1-2220 of the Code of Virginia obtained and maintained by a developer in lieu
 27 of escrowing deposits accepted by a developer in connection with the purchase or reservation
 28 of a product.

29 "Blanket letter of credit" means a blanket irrevocable letter of credit issued in accordance
 30 with the requirements of ~~§ 55-375~~ § 55.1-2220 of the Code of Virginia obtained and maintained
 31 by a developer in lieu of escrowing deposits accepted by a developer in connection with the
 32 purchase or reservation of a product.

33 "Department" means the Department of Professional and Occupational Regulation.

34 "Electronic" means relating to technology having electrical, digital, magnetic, wireless,
 35 optical, electromagnetic, or similar capabilities.

36 "Firm" means a sole proprietorship, association, partnership, corporation, limited liability
37 company, limited liability partnership, or any other form of business organization recognized
38 under the laws of the Commonwealth of Virginia.

39 "Full and accurate disclosure" means the degree of disclosure necessary to ensure
40 reasonably complete and materially accurate representation of the time-share in order to protect
41 the interests of purchasers.

42 "Individual bond" means an individual surety bond issued in accordance with the
43 requirements of ~~§ 55-375~~ § 55.1-2220 of the Code of Virginia obtained and maintained by a
44 developer in lieu of escrowing a deposit accepted by a developer in connection with the
45 purchase or reservation of a product.

46 "Individual letter of credit" means an individual irrevocable letter of credit issued in
47 accordance with the requirements of ~~§ 55-375~~ § 55.1-2220 of the Code of Virginia obtained and
48 maintained by a developer in lieu of escrowing a deposit accepted by a developer in connection
49 with the purchase or reservation of a product.

50 "Registration file" means the application for registration, supporting materials, annual
51 reports, and amendments that constitute all information submitted and reviewed pertaining to a
52 particular time-share program, time-share project, alternative purchase, exchange company, or
53 time-share reseller registration. A document that has not been accepted for filing by the board is
54 not part of the registration file.

55 "Virginia Real Estate Time-Share Act" means ~~Chapter 21 (§ 55-360 et seq.) of Title~~
56 Chapter 22 (§ 55.1-2200 et seq.) of Title 55.1 of the Code of Virginia.

57

58 Statutory Authority

59 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

60 Historical Notes

61 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016; amended, Virginia
62 Register Volume 35, Issue 6, eff. December 14, 2018.

63

64 **18VAC48-45-30. Explanation of terms.**

65 Each reference in this chapter to a "developer," "purchaser," and "time-share owner" or to
66 the plural of those terms shall be deemed to refer, as appropriate, to the masculine and the
67 feminine, to the singular and the plural, and to natural persons and organizations. The term

68 "developer" shall refer to any successors to the persons referred to in ~~§ 55-362~~ § 55.1-2200 of
69 the Code of Virginia who come to stand in the same relation to the time-share as their
70 predecessors in that they assumed rights reserved for the benefit of a developer that (i) offers to
71 dispose of its interest in a time-share not previously disposed of or (ii) applies for registration of
72 the time-share program.

73
74 Statutory Authority

75 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

76 Historical Notes

77 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

78

79 **18VAC48-45-40. Time-share projects located outside of Virginia.**

80 A. In any case involving a time-share project located outside of Virginia in which the laws or
81 practices of the jurisdiction in which such time-share project is located prevent compliance with
82 a provision of this chapter, the board shall prescribe by order a substitute provision to be
83 applicable in such case that is as nearly equivalent to the original provision as is reasonable
84 under the circumstances.

85 B. The words "time-share instrument" and "public offering statement," when used in this
86 chapter with reference to a time-share located outside of Virginia, mean documents, portions of
87 documents, or combinations thereof, by whatever name denominated, that have a content and
88 function identical or substantially equivalent to the content and function of their Virginia
89 counterparts.

90 C. The word "recording" or "recordation" when used with reference to time-share
91 instruments of a time-share located outside of Virginia means a procedure that, in the
92 jurisdiction in which such time-share is located, causes the time-share instruments to become
93 legally effective.

94 D. This chapter shall apply to a contract for the disposition of a time-share located outside of
95 Virginia only to the extent permissible under the provisions of subsection C of ~~§ 55-361.1~~ §
96 55.1-2201 of the Code of Virginia.

97 E. The time-share shall be properly registered in the state or other jurisdiction where the
98 project is located.

99

100 Statutory Authority

101 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

102 Historical Notes

103 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

104

105 Part II

106 General Application Requirements

107 **18VAC48-45-50. Application procedures.**

108 A developer seeking registration of a time-share project or an alternative purchase, an
109 exchange company seeking registration of an exchange program, or a reseller seeking
110 registration in order to offer or provide resale services, all in accordance with the Virginia Real
111 Estate Time-Share Act, shall submit an application on the appropriate form provided by the
112 board, along with the appropriate fee specified in 18VAC48-45-70.

113 By submitting the application to the board, the applicant certifies that the applicant has read
114 and understands the applicable statutes and this chapter.

115 The receipt of an application and the deposit of fees by the board do not indicate approval or
116 acceptance of the application by the board.

117 The board may make further inquiries and investigations to confirm or amplify information
118 supplied. All applications shall be completed in accordance with the instructions contained in
119 this chapter and on the application. Applications will not be considered complete until all
120 required documents are received by the board.

121 Applications that are not complete within 12 months after receipt of the application in the
122 board's office will be purged, and a new application and fee must be submitted in order to be
123 reconsidered for registration.

124

125 Statutory Authority

126 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

127 Historical Notes

128 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

129

130 18VAC48-45-60. Review of application for registration, generally.

131 A. Upon the review of the application for registration, if the requirements of this chapter have
132 not been met, the board shall notify the applicant.

133 B. The board may refuse initial registration due to an applicant's failure to comply with entry
134 requirements or for any of the reasons for which the board may discipline a regulant.

135 C. At such time as the board affirmatively determines that the requirements of this chapter
136 have been met, the board shall issue the applicable registration.

137 D. Notwithstanding the provisions of 18VAC48-45-130 for a time-share project registration,
138 applicants who do not meet the requirements of this chapter may be approved following
139 consideration by the board in accordance with the Administrative Process Act (§ 2.2-4000 et
140 seq. of the Code of Virginia).

141

142 Statutory Authority

143 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

144 Historical Notes

145 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

146

147 18VAC48-45-70. Fees.

148 A. All fees are nonrefundable and shall not be prorated. The date on which the fee is
149 received by the board or its agent will determine whether the fee is timely. Checks or money
150 orders shall be made payable to the Treasurer of Virginia.

151 B. Fees are as follows:

Time-share project registration application	\$1,500
Time-share project phase amendment filing	\$250
Time-share project registration annual report	\$500
Alternative purchase registration application	\$100
Alternative purchase registration annual report	\$100
Exchange program registration application	\$1,000

Exchange program registration annual report	\$250
Time-share reseller registration application	\$250
Time-share reseller registration renewal	\$250
Time-share reseller registration reinstatement (includes a \$100 reinstatement fee in addition to the \$250 renewal fee)	\$350

152

153 Statutory Authority

154 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

155 Historical Notes

156 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

157

158 Part III

159 Marketing and Advertising

160 **18VAC48-45-80. Time-share marketing activities.**

161 A. Time-share marketing activities shall include every contact by or on behalf of the
 162 developer for the purpose of promoting disposition of a time-share or alternative purchase. Such
 163 contacts may be personal, by telephone, by mail, by electronic means including social media, or
 164 by advertisement. A promise, assertion, representation, or statement of fact or opinion made in
 165 connection with a time-share marketing activity may be oral, written, electronic, or graphic.

166 B. No time-share marketing activity shall be deemed an offer unless, by its express terms, it
 167 induces, solicits, or encourages a prospective purchaser to (i) execute a contract of sale of the
 168 time-share or alternative purchase or (ii) perform some other act that would create or purport to
 169 create a legal or equitable interest in the time-share until the board has issued an order of
 170 registration.

171

172 Statutory Authority

173 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

174 Historical Notes

175 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

DRAFT AGENDA
 Materials contained in this agenda are proposed topics for discussion and are not to be construed as regulation or official Board position.

176

177 18VAC48-45-90. Offering of gifts or prizes.

178 A. Any offering that includes a gift or prize shall include the disclosures contained in ~~§ 55-~~
179 ~~374.4~~ § 55.1-2218 of the Code of Virginia. Such disclosures shall be made with the same
180 prominence as the offer.

181 B. The board may at any time require a developer to alter or amend any offering that
182 includes a gift or prize in order to ensure compliance with this section.

183

184 Statutory Authority

185 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

186 Historical Notes

187 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

188

189 Part IV

190 Application for Time-Share Project Registration

191 18VAC48-45-100. Registration of time-share project and program.

192 In accordance with ~~§ 55-390~~ § 55.1-2238 of the Code of Virginia, a developer offering or
193 disposing of an interest in a time-share program must register the time-share project and its
194 program with the board. For the purposes of this chapter as it relates to registration, the
195 registration of a time-share project shall include the simultaneous registration of the time-share
196 program.

197

198 Statutory Authority

199 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

200 Historical Notes

201 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

202

203 18VAC48-45-110. Prerequisites for registration of a time-share project.

204 The following provisions are prerequisites for registration and are supplementary to the
205 provisions of ~~§ 55-391.4~~ § 55.1-2239 of the Code of Virginia.

- 206 1. The developer shall own or have the right to acquire an estate in the land constituting
207 or to constitute the time-share project that is of at least as great a degree and duration
208 as the estate to be conveyed in the time-shares.
209 2. The time-share instrument must be adequate to bring a time-share project into
210 existence upon recordation. This subdivision does not apply to a time-share instrument
211 that may be recorded after the time-share project has been created.
212 3. The time-share instrument must include a statement detailing that the developer
213 reserves or does not reserve the right to add or delete any alternative purchase.
214 4. The current and planned time-share advertising activities of the developer shall
215 comply with § 18.2-216 of the Code of Virginia and this chapter.
216 5. If the developer is a firm, it shall be organized as a business entity under the laws of
217 the Commonwealth of Virginia or otherwise authorized to transact business in Virginia.
218 Firms shall register any trade or fictitious names with the State Corporation Commission
219 or the clerk of court in the jurisdiction where the business is to be conducted in
220 accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia before submitting an
221 application to the board.

222

223 Statutory Authority

224 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

225 Historical Notes

226 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

227

228 **18VAC48-45-120. Review of application for registration of a time-share project.**

229 A. Upon receipt of an application for registration of a time-share project, the board shall
230 issue the notice of filing required by subsection A of ~~§ 55-393.1~~ 55.1-2241 of the Code of
231 Virginia.

232 B. Upon the review of the application for registration, if the requirements of ~~§ 55-391.1~~ §
233 55.1-2239 of the Code of Virginia and this chapter have not been met, the board shall notify the
234 applicant as required by subsection C of ~~§ 55-393.1~~ § 55.1-2241 of the Code of Virginia.

235 C. If the requirements for registration are not met within the application review period or a
236 valid extension thereof, the board shall, upon the expiration of such period, enter an order

237 rejecting the registration as required by subsection C of ~~§ 55-393.4~~ § 55.1-2241 of the Code of
238 Virginia. The order rejecting the registration shall become effective 20 days after issuance.

239 D. An applicant may submit a written request for an informal conference in accordance with
240 § 2.2-4019 of the Code of Virginia at any time between receipt of a notification pursuant to
241 subsection B of this section and the effective date of the order of rejection entered pursuant to
242 subsection C of this section. A request for such proceeding shall be deemed a consent to delay
243 within the meaning of subsection A of ~~§ 55-393.4~~ § 55.1-2241 of the Code of Virginia.

244 E. The board shall receive and act upon corrections to the application for registration at any
245 time prior to the effective date of an order rejecting the registration. If the board determines after
246 review of the corrections that the requirements for registration have not been met, the board
247 may proceed with an informal conference in accordance with § 2.2-4019 of the Code of Virginia
248 in order to allow reconsideration of whether the requirements for registration are met. If the
249 board does not opt to proceed with an informal conference, the applicant may submit a written
250 request for an informal conference in accordance with § 2.2-4019 of the Code of Virginia in
251 order to reconsider whether the requirements for registration are met. If the board does not
252 proceed with an informal conference and no request for an informal conference is received from
253 the applicant, an amended order of rejection stating the factual basis for the rejection shall be
254 issued. A new 20-day period for the order of rejection to become effective shall commence.

255 F. At such time as the board affirmatively determines that the requirements of ~~§ 55-391.4~~ §
256 55.1-2239 of the Code of Virginia have been met, the board shall enter an order registering the
257 time-share and shall designate the form, content, and effective date of the public offering
258 statement.

259

260 Statutory Authority

261 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

262 Historical Notes

263 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

264

265 **18VAC48-45-130. Minimum application requirements for registration of a time-share**
266 **project.**

267 A. The documents and information contained in ~~§§ 55-367, 55-368, 55-369, 55-371, 55-374,~~
268 ~~and 55-391.4~~ §§ 55.1-2208, 55.1-2209, 55.1-2210, 55.1-2214, 55.1-2217, and 55.1-2239 of the

269 Code of Virginia, as applicable, shall be included in the application for registration of a time-
270 share project.

271 B. The application for registration of a time-share project shall include the fee specified in
272 18VAC48-45-70.

273 C. The following documents shall be included in the application for registration of a time-
274 share project as exhibits. All exhibits shall be labeled as indicated and submitted in a format
275 acceptable to the board.

276 1. Exhibit A: A copy of the certificate of incorporation or certificate of authority to transact
277 business in Virginia issued by the Virginia State Corporation Commission, or any other
278 entity formation documents, together with any trade or fictitious name certificate.

279 2. Exhibit B: A certificate of recordation or other acceptable documents from the city or
280 county where the time-share is located.

281 3. Exhibit C: A copy of the title opinion, the title policy, or a statement of the condition of
282 the title to the time-share project including encumbrances as of a specified date within
283 30 days of the date of application by a title company or licensed attorney who is not a
284 salaried employee, officer, or director of the developer or owner, in accordance with
285 subdivision A 5 of ~~§ 55-391.4~~ § 55.1-2239 of the Code of Virginia. If the developer is not
286 the record owner of the land, a copy of any contract the developer has executed to
287 purchase the land, any option the developer holds for the purchase of the land, or any
288 lease under which the developer holds the land.

289 4. Exhibit D: Proof that the applicant or developer owns, or has the right to acquire an
290 estate in the land constituting or to constitute the time-share project, which is of at least
291 as great a degree and duration as the estate to be conveyed in the time-share.

292 5. Exhibit E: A statement of the zoning, subdivision, or land use obligations or proffers
293 and other governmental regulations affecting the use of the time-share, including the site
294 plans and building permits and their status, any existing tax, and existing or proposed
295 special taxes or assessments that affect the time-share.

296 6. Exhibit F: A copy of the time-share instrument, including all applicable amendments
297 and exhibits, that will be delivered to a purchaser to evidence the purchaser's interest in
298 the time-share and of the contracts and other agreements that a purchaser will be
299 required to agree to or sign.

300 7. Exhibit G: A narrative description of the promotional plan for the disposition of the
301 time-shares.

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8. Exhibit H: A copy of the proposed public offering statement that complies with ~~§ 55-374~~ § 55.1-2217 of the Code of Virginia and this chapter. Pursuant to subsection G of ~~§ 55-374~~ § 55.1-2217, a similar disclosure statement required by other situs laws governing time-sharing may be submitted for a time-share located outside of the Commonwealth.

9. Exhibit I: A copy of the buyer's acknowledgment. Pursuant to ~~§ 55-376.5~~ § 55.1-2226 of the Code of Virginia, the purchaser shall be given this document prior to signing a purchase contract, and the document shall contain the information required by subsection B of ~~§ 55-376.5~~ § 55.1-2226.

10. Exhibit J: The signed original of (i) any bond or letter of credit obtained pursuant to ~~§ 55-375~~ § 55.1-2220 of the Code of Virginia in lieu of escrowing deposits and (ii) any bond or letter of credit required by subsection B of ~~§ 55-386~~ § 55.1-2234 of the Code of Virginia, as applicable.

11. Exhibit K: 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.

12. Exhibit L: 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. The list must include each individual's residential address or other address valid for receipt of service, principal occupation for the past five years, and title.

13. Exhibit M: A statement whether any of the individuals or entities named in Exhibit L are or have been involved as defendants in any indictment, conviction, judgment, decree, or order of any court or administrative agency against the developer or managing entity for violation of a federal, state, local, or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements, or any similar or related activity.

14. Exhibit N: A statement whether, during the preceding five years, any of the individuals or entities named in Exhibit L have been adjudicated bankrupt or have undergone any proceeding for the relief of debtors.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion and are not to be construed as regulation or official Board position.

334 15. Exhibit O: If the developer has reserved the right to add to or delete from the time-
335 share program any incidental benefit or alternative purchase, a description of the
336 incidental benefit or alternative purchase shall be provided pursuant to subdivision A 13
337 of ~~§ 55-391.4~~ § 55.1-2239 of the Code of Virginia.

338 16. Exhibit P: Conversion time-share projects must attach a copy of the notice required
339 by subsection D of ~~§ 55-374~~ § 55.1-2217 of the Code of Virginia and a certified
340 statement that such notice shall be mailed or delivered to each of the tenants in the
341 building or buildings for which the registration is sought at the time of the registration of
342 the conversion project.

343

344 Statutory Authority

345 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

346 Historical Notes

347 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016; amended, Virginia
348 Register Volume 35, Issue 6, eff. December 14, 2018.

349

350 Part V

351 Public Offering Statement

352 **18VAC48-45-140. Public offering statement requirements, generally.**

353 In addition to the provisions of ~~§ 55-374~~ § 55.1-2217 of the Code of Virginia, the following
354 will be considered, as applicable, during review of the public offering statement:

355 1. The public offering statement shall provide full and accurate disclosure in accordance
356 with 18VAC48-45-150.

357 2. The public offering statement shall pertain to the time-share project in which the time-
358 shares being offered are located.

359 3. The public offering statement shall be clear, organized, and legible.

360 4. Except for brief excerpts, the public offering statement may refer to, but should not
361 incorporate verbatim, portions of the time-share instruments, the Virginia Real Estate
362 Time-Share Act, or this chapter. This does not preclude compliance with 18VAC48-45-
363 170.

364

365 Statutory Authority

366 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

367 Historical Notes

368 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

369

370 **18VAC48-45-150. Full and accurate disclosure.**

371 A. The provisions of ~~§ 55-374~~ § 55.1-2217 of the Code of Virginia and this chapter shall be
372 strictly construed to promote full and accurate disclosure in the public offering statement. In
373 addition, the following will be considered, as applicable, during review to assure full and
374 accurate disclosure:

375 1. The information shall be presented in a manner that is clear and understandable to a
376 reasonably informed consumer, while maintaining consistency with the requirements of
377 this chapter and the Virginia Real Estate Time-Share Act.

378 2. No information shall be incorporated by reference to an outside source that is not
379 reasonably available to a prospective purchaser.

380 3. If required information is not known or not reasonably available, such fact shall be
381 stated and explained in the public offering statement.

382 B. The board has the sole discretion to require additional information or amendment of
383 existing information as it finds necessary to ensure full and accurate disclosure.

384

385 Statutory Authority

386 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

387 Historical Notes

388 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

389

390 **18VAC48-45-160. Contents of public offering statement.**

391 A. A cover, if used, must be blank or bear identification information only.

392 B. The developer may include as part of the public offering statement a receipt page printed
393 in such a way that the developer may obtain verification that a prospective purchaser has
394 received the public offering statement. The receipt page shall include the effective date of the
395 public offering statement as well as a place for the date of delivery and signature lines for the

396 prospective purchaser. The authorized receipt page in proper form, duly executed, shall be
397 evidence that the public offering statement was delivered.

398 C. The first page of the public offering statement shall be substantially as follows.

399 **PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S**
400 **PROTECTION**

PUBLIC OFFERING STATEMENT

NAME OF
TIME-SHARE
PROJECT: _____

LOCATION OF
TIME-SHARE
PROJECT: _____

NAME OF
DEVELOPER: _____

ADDRESS OF
DEVELOPER: _____

EFFECTIVE
DATE OF
PUBLIC
OFFERING
STATEMENT: _____

REVISED: _____

401 **THE PURCHASER OF A TIME-SHARE MAY CANCEL THE CONTRACT UNTIL**
402 **MIDNIGHT OF THE SEVENTH CALENDAR DAY FOLLOWING THE EXECUTION OF SUCH**
403 **CONTRACT. THE PURCHASER SHOULD READ THIS DOCUMENT FOR THE**
404 **PURCHASER'S OWN PROTECTION.**

405 **Purchasing a time-share carries with it certain rights, responsibilities, and benefits,**
406 **including certain financial obligations, rights, and restrictions concerning the use and**
407 **maintenance of units and common elements. The purchaser will be bound by the**
408 **provisions of the time-share instruments and should review the Public Offering**
409 **Statement, the time-share instruments, and other exhibits carefully prior to purchase.**

410 This Public Offering Statement presents information regarding time-share(s) being offered
411 for sale by the developer. The Virginia Real Estate Time-Share Act (~~§ 55-360 et seq. of the~~
412 ~~Code of Virginia~~) (§ 55.1-2200 et seq. of the Code of Virginia) requires that a Public Offering
413 Statement be given to every Purchaser in order to provide full and accurate disclosure of the
414 characteristics of and material circumstances affecting the time-share project and the
415 characteristics of the time-share(s) being offered. The Public Offering Statement is not intended,
416 however, to be all-inclusive. The Purchaser should consult other sources for details not covered
417 by the Public Offering Statement.

418 The Public Offering Statement summarizes information and documents furnished by the
419 developer to the Virginia Common Interest Community Board. The Board has carefully reviewed
420 the Public Offering Statement but does not guarantee the accuracy or completeness of the
421 Public Offering Statement. In the event of any inconsistency between the Public Offering
422 Statement and the material it is intended to summarize, the material shall control.

423 If the Purchaser elects to cancel the contract within the seven-day cancellation period, all
424 payments made in connection with the purchase contract shall be refunded to the Purchaser
425 within 45 days. If the Purchaser elects to cancel the contract, the Purchaser shall do so either
426 by (i) hand-delivering the notice to the developer at its principal office or at the project or (ii)
427 mailing the notice by certified United States mail, return receipt requested, to the developer or
428 its agent designated in the contract.

429 Allegations of violation of any law or regulation contained in the Virginia Real Estate Time-
430 Share Act or the Time-Share Regulations (18VAC48-45) should be reported to the Common
431 Interest Community Board, Perimeter Center, Suite 400, 9960 Mayland Drive, Richmond,
432 Virginia 23233.

433 D. A summary of important considerations shall immediately follow the first page for the
434 purpose of reinforcing the disclosure of significant information. The summary shall be titled as
435 such and shall be introduced by the following statement: "The following are important matters to
436 be considered in acquiring a time-share. They are highlights only. The Public Offering
437 Statement should be examined in its entirety to obtain detailed information." Appropriate
438 modifications shall be made to reflect facts and circumstances that may vary. The summary
439 shall consist of, but not be limited to, the following, as applicable:

- 440 1. A brief description of the time-share project and the time-share program.
- 441 2. A statement regarding all incidental benefits or alternative purchases that may be
442 offered by the developer.

- 443 3. A brief description of all amenities located within or outside of the time-share project
444 and available to time-share owners by virtue of ownership in the time-share project. If
445 such amenities are not common elements of the time-share project, identify who owns
446 the amenities and whether time-share owners are required to pay to access and use.
- 447 4. A statement describing any exchange program that may be offered to the purchaser.
- 448 5. A statement describing (i) the purchaser's responsibility to make principal and interest
449 payment in connection with the purchase of the time-share as well as to pay
450 maintenance fees or assessments, special assessments, user fees, insurance
451 premiums, and real estate taxes and (ii) that a time-share owner cannot reduce the
452 amount of any owner obligation for any reason.
- 453 6. A statement regarding the consequences for failure to pay maintenance fees or any
454 special assessment when due. The statement may reference the enforcement
455 mechanisms available to the developer, and if applicable the time-share association, by
456 describing (i) any declaration of an owner being an "Owner Not in Good Standing"; (ii)
457 any civil action taken for the collection of a debt; (iii) means for pursuing foreclosure or
458 obtaining a lien against the time-share unit; and (iv) denial of access to the time-share
459 project and participation in the time-share program.
- 460 7. A statement indicating whether the developer or managing agent has indictments,
461 convictions, judgments, decrees, or order of any court or administrative agency for
462 matters related to fraud or consumer protection violations that may be required to be
463 disclosed by subdivisions A 1 c and A 1 d of ~~§ 55-374~~ § 55.1-2217 of the Code of
464 Virginia.
- 465 8. A statement indicating the period of time the developer will retain control of the
466 association for time-share estate projects.
- 467 9. A statement disclosing any management agreement with a managing agent to
468 perform certain duties for the time-share project.
- 469 10. A statement indicating whether the developer may expand the time-share project.
- 470 11. A statement indicating whether the right of the time-share owner to resell or transfer
471 the time-share is subject to restrictions.
- 472 12. A statement indicating the time-share units are restricted to lodging only.
- 473 13. A statement indicating that the time-share owner may not alter the interior or exterior
474 of the time-share unit.

475 14. A statement regarding the obligation of the developer or association to obtain certain
476 insurance benefiting the time-share owner.

477 15. A statement regarding a time-share estate and time-share owner's obligation to pay
478 real estate taxes.

479 16. A statement regarding whether or not the developer reserves the right to add or
480 delete any alternative purchase.

481 E. The content after the summary of important considerations shall include the narrative
482 sections in 18VAC48-45-170 through 18VAC48-45-310. Supplementary sections may be
483 included as necessary.

484 F. Clear and legible copies of the following documents shall be included as either
485 supplements or exhibits to the public offering statement:

486 1. Project time-share instrument;

487 2. Association articles of incorporation;

488 3. Bylaws;

489 4. Association annual report or projected budget for time-share estate programs;

490 5. Rules and regulations of the time-share owners' association, if available;

491 6. Any management contract, if applicable;

492 7. Exchange company disclosure document and narrative statement required pursuant
493 to subsection B of ~~§ 55-374~~ § 55.1-2217 of the Code of Virginia, if applicable; and

494 8. Other documents obligating the association or time-share owner to perform duties or
495 obligations or pay charges or fees, if applicable.

496 G. Other information and documentation may be included as necessary to ensure full and
497 accurate disclosure. The board may also require additional information as necessary to ensure
498 full and accurate disclosure.

499

500 Statutory Authority

501 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

502 Historical Notes

503 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

504

505 18VAC48-45-170. Narrative sections; time-share concept.

506 The public offering statement shall contain a section captioned "The Time-Share Concept."

507 The section shall consist of a brief discussion of the form of time-share ownership being offered.

508

509 Statutory Authority

510 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

511 Historical Notes

512 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

513

514 18VAC48-45-180. Narrative sections; creation of time-share project.

515 The public offering statement shall contain a section captioned "Creation of the Time-Share

516 Project." The section shall briefly explain the manner in which the time-share project was or will

517 be created, the locality wherein the time-share instrument will be or has been recorded, and the

518 procedure for its amendment.

519

520 Statutory Authority

521 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

522 Historical Notes

523 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

524

525 18VAC48-45-190. Narrative sections; description of time-share project.

526 A. The public offering statement shall contain a section captioned "Description of the Time-

527 Share Project." The section shall provide a general description of the time-share project

528 registered with the board and the units and common elements promised available to

529 purchasers. This section shall also provide the developer's estimated schedule of

530 commencement and completion of all promised and incomplete units and common elements.

531 B. The section shall state whether the developer has reserved the right to add and delete

532 from the time-share program a time-share project or any incidental benefit or alternative

533 purchase.

534 C. The section shall refer the purchaser to the reverter deed for an explanation if the
535 developer utilized the possibility of a reverter.

536 D. The section shall indicate all provisions that have been made for public utilities in the
537 time-share project, including but not limited to water, electricity, telephone, and sewerage
538 facilities.

539
540 Statutory Authority

541 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

542 Historical Notes

543 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

544

545 **18VAC48-45-200. Narrative sections; individual time-shares.**

546 A. The public offering statement shall contain a section captioned "Individual Time-Shares."
547 The section shall indicate (i) the form of time-share ownership being offered; (ii) the types,
548 duration, and number of units and time-shares in the project registered with the board; (iii)
549 identification of units that are subject to the time-share program; and (iv) the estimated number
550 of units that may become subject to the time-share program.

551 B. This section shall explain the extent to which financial arrangements, if any, have been
552 provided for completion of any incomplete but promised time-share unit or common element
553 being offered for sale. The section shall contain a statement of the developer's obligation to
554 complete any promised time-share unit or common element being offered for sale comprising
555 the time-share project that have not begun or begun but not yet completed.

556 C. The section shall explain the extent to which a time-share unit may become subject to a
557 tax or other lien arising out of claims against other owners of the same unit.

558

559 Statutory Authority

560 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

561 Historical Notes

562 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

563

564 **18VAC48-45-210. Narrative sections; developer.**

565 The public offering statement shall contain a section captioned "The Developer." The section
566 shall disclose the following information concerning the developer:

- 567 1. The name and principal address of the developer.
- 568 2. The name, principal occupation, and address of every director, partner, limited liability
569 company manager, or trustee of the developer.
- 570 3. The name and address of each person owning or controlling an interest of at least
571 20% in the time-share project.
- 572 4. The particulars of any indictment, conviction, judgment, decree, or order of any court
573 or administrative agency against the developer or managing entity for violation of a
574 federal, state, local, or foreign country law or regulation in connection with activities
575 relating to time-share sales, land sales, land investments, security sales, construction or
576 sale of homes or improvements, or any similar or related activity.
- 577 5. The nature of each unsatisfied judgment, if any, against the developer or the
578 managing entity; the status of each pending suit involving the sale or management of
579 real estate to which the developer, the managing entity, or any general partner,
580 executive officer, director, limited liability company manager, or majority stockholder
581 thereof, is a defending party; and the status of each pending suit, if any, of significance
582 to any time-share project registered with the board.
- 583 6. The name and address of the developer's agent for service of any notice permitted by
584 this chapter.
- 585 7. The section shall describe the type of legal entity of the developer and explain if other
586 entities have any obligation to satisfy the financial obligations of the developer.
- 587 8. For a time-share use program, a statement as to whether a developer's net worth is
588 more than or less than \$250,000. If the developer's net worth is less than \$250,000, a
589 current audited balance sheet shall be provided with the public offering statement. If the
590 developer's net worth exceeds \$250,000, a statement by the developer that its equity in
591 the time-share program exceeds \$250,000.

592

593 Statutory Authority

594 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

595 Historical Notes

596 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

597

598 **18VAC48-45-220. Narrative sections; terms of offering.**

599 A. The public offering statement shall contain a section captioned "Terms of the Offering."

600 The section shall discuss the expenses to be borne by a purchaser in acquiring a time-share

601 and present information regarding the settlement of purchase contracts as provided in

602 subsections B through H of this section.

603 B. The section shall indicate any initial or special fees due from the purchaser at settlement
604 including a description of the purpose of such fees.

605 C. The section shall set forth a general description of any financing offered by or available
606 through the developer to purchasers.

607 D. The section shall describe (i) services that the developer provides or expenses it pays
608 and that it expects may become at any subsequent time a time-share expense of the owners
609 and (ii) the projected time-share expense liability attributable to each of those services or
610 expenses for each time-share.

611 E. The section shall discuss all penalties or forfeitures to be incurred by a purchaser upon
612 default in performance of a purchase contract.

613 F. The section shall discuss the process for cancellation of a purchase contract by a
614 purchaser in accordance with ~~§ 55-376~~ § 55.1-2221 of the Code of Virginia. The section shall
615 include a statement that the purchaser has a nonwaivable right of cancellation and refer such
616 purchaser to that portion of the contract in which the right of cancellation may be found.

617 G. The section shall describe the terms of the deposit escrow requirements, including a
618 statement, if applicable, that the developer has filed a surety bond or letter of credit with the
619 board in lieu of escrowing deposits, in accordance with ~~§ 55-375~~ § 55.1-2220 of the Code of
620 Virginia. The section shall also state that deposits may be removed from escrow and no longer
621 protected by a surety bond or letter of credit after the expiration of the cancellation period.

622 H. The section shall set forth all restrictions in the purchase contract that limit the time-share
623 owner's right to bring legal action against the developer or the association. The section shall set
624 forth the paragraph or section and page number of the purchase contract where such provision
625 is located. Nothing in this statement shall be deemed to authorize such limits where those limits
626 are otherwise prohibited by law.

627

628 Statutory Authority

629 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

630 Historical Notes

631 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016; amended, Virginia

632 Register Volume 35, Issue 6, eff. December 14, 2018.

633

634 **18VAC48-45-230. Narrative sections; encumbrances.**

635 The public offering statement shall contain a section captioned "Encumbrances" that shall
636 describe all liens, defects, or encumbrances affecting the time-share project and in particular the
637 time-share offered to the purchaser.

638

639 Statutory Authority

640 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

641 Historical Notes

642 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

643

644 **18VAC48-45-240. Narrative sections; exchange program.**

645 If any prospective purchaser is offered the opportunity to subscribe to or participate in any
646 exchange program, the public offering statement shall contain a section captioned "Exchange
647 Program" that shall include the following:

648 1. A statement of whether membership or participation in the program is voluntary or
649 mandatory; and

650 2. A statement that the purchaser's contract with the exchange company is a contract
651 separate and distinct from the purchaser's contract with the developer and whether there
652 is a fee associated with membership or participation in the exchange program.

653

654 Statutory Authority

655 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

656 Historical Notes

657 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

658

659 **18VAC48-45-250. Narrative sections; financial matters.**

660 A. The public offering statement shall contain a section captioned "Financial Matters." The
661 section shall discuss the expenses incident to the ownership of a time-share.

662 B. The section shall distinguish, in general terms, the following categories of costs of
663 operation, maintenance, repair, and replacement of various portions of the time-share as
664 follows: (i) time-share expenses; (ii) time-share estate occupancy expenses as defined in ~~§ 55-~~
665 ~~369~~ § 55.1-2200 of the Code of Virginia; and (iii) all other costs that may be borne directly by
666 individual time-share owners.

667 C. A budget shall show projected common expenses in each of the categories in subsection
668 B of this section for the first year of the time-share's operation or, if different, the latest year for
669 which a budget is available. The projected budget shall be attached to the public offering
670 statement as an exhibit and the section shall direct the purchaser's attention to such exhibit.
671 The section shall describe the manner in which the projected budget is established. If the time-
672 share is phased, the budget shall project future years until all phases are projected to be
673 developed and all common elements that must be built have been completed. The budget shall
674 include an initial working capital budget showing sources and uses of initial working capital and
675 a reserve table showing amounts to be collected to fund those reserves. The budget shall show
676 regular individual assessments by unit type. The budget shall note that the figures are not
677 guaranteed and may vary.

678 D. The section shall describe the manner in which (i) time-share expenses; (ii) time-share
679 estate occupancy expenses as defined in ~~§ 55-369~~ § 55.1-2200 of the Code of Virginia; and (iii)
680 all other costs that may be borne directly by individual time-share owners are apportioned
681 among and assessed to the time-share units. The section shall include the substance of the
682 following statement, if applicable: "A time-share owner cannot obtain a reduction of the (i) time-
683 share expenses; (ii) time-share estate occupancy expenses as defined in ~~§ 55-369~~ § 55.1-2200
684 of the Code of Virginia; and (iii) any other costs that may be borne directly by individual time-
685 share owners assessed against the unit by refraining from use of any of the common elements."

686 E. The section shall describe budget provisions for reserves for capital expenditures, if any.
687 If there are no reserves, the section shall so state.

688 F. The section shall discuss (i) time-share expenses; (ii) time-share estate occupancy
689 expenses as defined in ~~§ 55-369~~ § 55.1-2200 of the Code of Virginia; (iii) all other costs that

690 may be borne directly by individual time-share owners; and (iv) any right the developer or
691 association has to institute special assessments.

692 G. The section shall indicate any fee, rental, or other charge to be payable by unit owners
693 other than through assessments and maintenance fees to any party for use of the common
694 elements or for use of recreational or parking facilities in the vicinity of the time-share project.

695 H. The section shall discuss the effect of failure of a time-share owner to pay the
696 assessments and maintenance fees levied against the time-share unit. Such discussion shall
697 indicate provisions for charges or other remedies that may be imposed to be applied in the case
698 of unpaid and past due assessments and for acceleration of unpaid assessments.

699

700 Statutory Authority

701 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

702 Historical Notes

703 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

704

705 **18VAC48-45-255. Narrative sections; governmental reviews.**

706 The public offering statement shall contain a section captioned "Governmental Reviews."
707 The section shall discuss governmental approvals required for the development of the time-
708 share project. In addition, the section shall discuss approval of the zoning application and site
709 plan and issuance of building permits by appropriate governmental authorities. The section shall
710 state the current zoning classification for the time-share project property. The section shall also
711 include a statement regarding zoning, subdivision, or land use obligations or proffers that would
712 be imposed on the time-share owner or the association, but need not disclose zoning,
713 subdivision, or land use obligations or proffers that do not impose any obligation on the
714 association.

715

716 Statutory Authority

717 §§ 54.1-2349 and ~~55-396~~ § 55.1-2247 of the Code of Virginia.

718 Historical Notes

719 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

720

721 18VAC48-45-260. Narrative sections; restrictions on transfer.

722 The public offering statement shall include a section captioned "Restrictions on Transfer."

723 The section shall describe and explain limitations on leasing or other restraints on free

724 alienability created by the time-share instruments or the rules and regulations of the time-share

725 owners' association that affect the time-share owners' right to resell, lease or otherwise transfer

726 an interest in the time-share.

727

728 Statutory Authority

729 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

730 Historical Notes

731 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

732

733 18VAC48-45-270. Narrative sections; time-share owners' association.

734 A. For time-share estate projects the public offering statement shall contain a section

735 captioned "Time-Share Owners' Association." The section shall discuss the arrangements for

736 the management and operation of the time-share estate program and for the maintenance,

737 repair, and furnishing of units and shall include the information required by subdivisions 1

738 through 15 of this subsection. The section shall describe or discuss the following:

739 1. The creation of the association.

740 2. The payment of costs and expenses of operating the time-share estate program and
741 owning and maintaining the time-share units.

742 3. Employment and termination of employment of the managing agent for the time-share
743 estate project.

744 4. Termination of leases and contracts for goods and services for the time-share estate
745 project that were entered into during the developer control period.

746 5. Preparation and dissemination of the annual report required by ~~§ 55-370.1~~ 55.1-2213
747 of the Code of Virginia to the time-share estate owners.

748 6. Adoption of standards and rules of conduct for the use, enjoyment, and occupancy of
749 units by the time-share estate owners.

- 750 7. Collection of regular assessments, fees or dues, and special assessments from time-
751 share estate owners to defray all time-share expenses.
- 752 8. Comprehensive general liability insurance for death, bodily injury, and property
753 damage arising out of, or in connection with, the use and enjoyment of the time-share
754 project by time-share estate owners, their guests and other users. The cost for such
755 insurance shall be a time-share expense.
- 756 9. Methods for providing compensation or alternate use periods or monetary
757 compensation to a time-share estate owner if his contracted-for unit cannot be made
758 available for the period to which the owner is entitled by schedule or by confirmed
759 reservation.
- 760 10. Procedures for imposing a monetary penalty or suspension of a time-share estate
761 owner's rights and privileges in the time-share estate program or time-share project for
762 failure to comply with provisions of the time-share instrument or the rules and regulations
763 of the association with respect to the use and enjoyment of the units and the time-share
764 project. Under these procedures a time-share estate owner must be given reasonable
765 notice and reasonable opportunity to be heard and explain the charges against him in
766 person or in writing to the board of directors of the association before a decision to
767 impose discipline is rendered.
- 768 11. Employment of attorneys, accountants, and other professional persons as necessary
769 to assist in the management of the time-share estate program and the time-share
770 project.
- 771 12. Developer control period, during which time period the developer, or a managing
772 agent selected by the developer, shall manage and control the time-share estate project
773 and the common elements and units, including decisions about the financial operation of
774 the association.
- 775 13. The managing agent, if any, shall be identified, and the section shall indicate any
776 relationship between the managing agent and the developer. The duration of any
777 management agreement shall be stated.
- 778 14. Except to the extent otherwise disclosed in connection with discussion of a
779 management agreement, the significant terms of any lease of recreational areas or
780 similar contract or agreement affecting the use, maintenance or access of all or any part
781 of the time-share project shall be stated. The section shall include a brief narrative
782 statement of the effect of each such agreement upon a purchaser.

783 15. Rules and regulations of the time-share estate association shall be discussed. The
784 purchaser's attention shall be directed to the copy of rules and regulations, if any,
785 attached to the public offering statement.

786 B. For time-share use projects, if an association is formed for management and operation of
787 the time-share use program and for the maintenance, repair, and furnishing of time-share use
788 units comprising the time-share, the public offering statement shall contain a section captioned
789 "Time-Share Owners' Association." This section shall contain the information required by
790 subdivisions A 1 through 15 of this section as applicable to the association for the time-share
791 use project.

792

793 Statutory Authority

794 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

795 Historical Notes

796 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

797

798 **18VAC48-45-280. Narrative sections; managing entity.**

799 The public offering statement shall include a section captioned "Managing Entity." This
800 section shall provide the name and address of the managing entity for the project. The section
801 shall also provide a description of the facilities, if any, provided by the developer to the
802 association in a time-share estate project for the management of the project.

803

804 Statutory Authority

805 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

806 Historical Notes

807 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

808

809 **18VAC48-45-290. Narrative sections; conversion time-share projects.**

810 A. The public offering statement of a conversion time-share project shall contain a section
811 captioned "Conversion Time-Share Projects." The section shall include the following:

- 812 1. A specific statement of the amount of any initial or special fee, if any, due from the
813 purchaser of a time-share on or before settlement of the purchase contract and the basis
814 of such fee occasioned by the fact that the project is a conversion time-share project.
815 2. Information on the actual expenditures, if available, made on all repairs, maintenance,
816 operation, or upkeep of the building or buildings within the last three years. This
817 information shall be set forth in a tabular manner within the proposed budget of the
818 project. If such building or buildings have not been occupied for a period of three years
819 then the information shall be set forth for the period during which such building or
820 buildings were occupied.
- 821 3. A description of any provisions made in the budget for reserves for capital
822 expenditures and an explanation of the basis for such reserves occasioned by the fact
823 that the project is a conversion time-share project, or, if no provision is made for such
824 reserves, a statement to that effect.
- 825 4. A statement of the present condition of all structural components and major utility
826 installations in the building, which statement shall include the approximate dates of
827 construction, installations, and major repairs as well as the expected useful life of each
828 such item, together with the estimated cost, in current dollars, of replacing each such
829 component.

830 B. In lieu of a narrative section pursuant to this section, the requirements of this section may
831 be satisfied in the form of an exhibit to the public offering statement.

832

833 Statutory Authority

834 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

835 Historical Notes

836 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

837

838 **18VAC48-45-300. Narrative sections; insurance.**

839 The public offering statement shall contain a section captioned "Insurance." The section
840 shall describe generally the insurance coverage provided by the developer or the association for
841 the benefit of time-share owners not otherwise described in the public offering statement. The
842 section shall state, with respect to such insurance, each of the following circumstances, to the
843 extent applicable: (i) property damage coverage will not insure personal property belonging to

844 unit owner; and (ii) liability coverage will not insure against liability arising from an accident or
845 injury occurring within a unit or as a result of the act or negligence of a time-share owner. The
846 section shall include a statement whether the time-share owner is obligated to obtain coverage
847 for any or all of the coverages described. The section shall include a statement indicating that
848 the time-share owner should consult with an insurance professional to determine appropriate
849 coverage.

850

851 Statutory Authority

852 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

853 Historical Notes

854 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

855

856 **18VAC48-45-310. Narrative sections; alternative purchase.**

857 The public offering statement shall contain a section entitled "Alternative Purchases." The
858 section shall state whether or not the developer has reserved the right to add to or delete from
859 the time-share program any incidental benefit or alternative purchase. The section shall state
860 that such alternative purchase has been or will be registered with the board.

861

862 Statutory Authority

863 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

864 Historical Notes

865 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

866

867 **18VAC48-45-320. Documents from other jurisdictions.**

868 A. A substituted public offering statement shall only be permitted for a time-share program
869 for which some portion of the time-share project associated with the program is located outside
870 of Virginia.

871 B. The substituted public offering statement shall be prepared by deleting from the original
872 disclosure document the following: (i) references to any governmental agency of another
873 jurisdiction to which application has been made or will be made for registration or related action;
874 (ii) references to the action of such governmental agency relative to the time-share project and

875 its time-share program; (iii) statements of the legal effect in another jurisdiction of delivery,
876 failure to deliver, acknowledgment of receipt or related events involving the disclosure
877 document; (iv) the effective date or dates in another jurisdiction of the disclosure document; and
878 (v) all other information that is untrue, inaccurate, or misleading with respect to marketing,
879 offers, or disposition of time-shares in Virginia.

880 C. The substituted public offering statement shall incorporate all information not otherwise
881 included that is necessary to effect fully and accurately the disclosures required by ~~§ 55-374~~ §
882 55.1-2217 of the Code of Virginia. The substituted disclosure document shall clearly explain any
883 nomenclature that is different from the definitions provided in ~~§ 55-362~~ § 55.1-2200 of the Code
884 of Virginia.

885 D. The substituted public offering statement shall include as the first item of the summary of
886 important considerations a statement that includes the following information: (i) the designation
887 by which the original disclosure document is identified in the original jurisdiction; (ii) the
888 governmental agency of such other jurisdiction where the original disclosure document is or will
889 be filed; and (iii) the jurisdiction of such filing.

890 E. The provisions of ~~§§ 55-374 and 55-376~~ §§ 55.1-2217 and 55.1-2221 of the Code of
891 Virginia and 18VAC48-45-140, 18VAC48-45-150, and 18VAC48-45-160, ~~and 18VAC48-45-170~~
892 shall apply to substituted public offering statements in the same manner and to the same extent
893 that they apply to public offering statements.

894 F. In the case of a time-share project located outside of the Commonwealth, pursuant to
895 subsection G of ~~§ 55-374~~ § 55.1-2217 of the Code of Virginia, disclosure statements required by
896 other situs laws governing time-sharing that are equivalent to the requirements of this chapter
897 may be accepted as alternative disclosure statements.

898

899 Statutory Authority

900 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

901 Historical Notes

902 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

903

Part VI

904

Time-Share Project Post-Registration Provisions

905 **18VAC48-45-330. Minimum post-registration reporting requirements for a time-share**
906 **project.**

907 A. Subsequent to the issuance of a registration for a time-share by the board, the developer
908 of a time-share shall do the following:

909 1. File an annual report in accordance with ~~§ 55-394.1~~ § 55.1-2242 of the Code of
910 Virginia and this chapter.

911 2. Upon the occurrence of a material change, file an amended public offering statement
912 in accordance with the provisions of subsection E of ~~§ 55-374~~ § 55.1-2217 and
913 subsection C of ~~§ 55-394.1~~ § 55.1-2242 of the Code of Virginia and this chapter. These
914 amendments shall be filed with the board within 20 business days after the occurrence
915 of the material change.

916 3. Upon the occurrence of any material change in the information contained in the
917 registration file, the developer shall immediately report such material changes to the
918 board in accordance with the provisions of subsection B of ~~§ 55-394.1~~ § 55.1-2239 of the
919 Code of Virginia.

920 4. Notify the board of a change in any bond or letter of credit, as applicable, filed with the
921 board in accordance with ~~§ 55-375~~ § 55.1-2220 of the Code of Virginia or required by
922 subsection B of ~~§ 55-386~~ § 55.1-2234 of the Code of Virginia.

923 5. File a completed application for registration of an unregistered phase or phases upon
924 the expansion of the time-share, along with the appropriate fee specified in 18VAC48-
925 45-70.

926 6. Notify the board of transition of control from the developer to the time-share estate
927 owners' association (time-share estate projects only).

928 7. Submit appropriate documentation to the board once the registration is eligible for
929 termination.

930 8. Submit to the board any other document or information, which may include
931 information or documents that have been amended or may not have existed previously,
932 that affects the accuracy, completeness, or representation of any information or
933 document filed with the application for registration.

934 9. Submit to the board any document or information to make the registration file accurate
935 and complete.

936 B. Notwithstanding the requirements of subsection A of this section, the board at any time
937 may require a developer to provide information or documents, or amendments thereof, in order
938 to assure full and accurate disclosure to prospective purchasers and to ensure compliance with
939 the Virginia Real Estate Time-Share Act and this chapter.

940

941 Statutory Authority

942 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

943 Historical Notes

944 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016; amended, Virginia
945 Register Volume 35, Issue 6, eff. December 14, 2018.

946

947 **18VAC48-45-340. Amendment of public offering statement.**

948 Any amendment of the public offering statement or substituted public offering statement
949 shall comply with this chapter.

950

951 Statutory Authority

952 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

953 Historical Notes

954 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

955

956 **18VAC48-45-350. Nonmaterial changes to the public offering statement.**

957 Changes to the public offering statement that are not material are not required to be filed
958 with the board, shall not be deemed an amendment of the public offering statement for the
959 purposes of this chapter, and shall not give rise to a renewed right of rescission in any
960 purchase. Nonmaterial changes to the public offering statement include the following:

961 1. Correction of spelling, grammar, omission, or other similar errors not affecting the
962 substance of the public offering statement;

963 2. Changes in presentation or format;

- 964 3. Substitution of an executed, filed, or recorded copy of a document for the otherwise
965 substantially identical unexecuted, unfiled, or unrecorded copy of the document that was
966 previously submitted;
- 967 4. Inclusion of updated information such as identification or description of the current
968 officers and directors of the developer;
- 969 5. Disclosure of completion of improvements for improvements that were previously
970 proposed or not complete;
- 971 6. Changes in real estate tax assessment or rate or modifications related to those
972 changes;
- 973 7. Changes in utility charges or rates or modifications related to those changes;
- 974 8. Addition or deletion of incidental benefits or alternative purchases provided the
975 developer reserved in the time-share instrument the right to add or delete incidental
976 benefits or alternative purchases;
- 977 9. Adoption of a new budget that does not result in a significant change in fees or
978 assessments or significantly impact the rights or obligations of the prospective
979 purchasers;
- 980 10. Modifications related to changes in insurance company or financial institution, policy,
981 or amount for bonds or letters of credit filed with the board in accordance with ~~§ 55-375~~ §
982 55.1-2220 of the Code of Virginia or required pursuant to ~~§ 55-386~~ § 55.1-2234 of the
983 Code of Virginia;
- 984 11. Changes in personnel of the managing agent; and
- 985 12. Any change that is the result of orderly development of the time-share in accordance
986 with the time-share instruments as described in the public offering statement.

987

988 Statutory Authority

989 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

990 Historical Notes

991 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016; amended, Virginia

992 Register Volume 35, Issue 6, eff. December 14, 2018.

993

994 **18VAC48-45-360. Filing of amended public offering statement.**

995 A. The developer shall promptly file with the board for review a copy of the amended public
996 offering statement together with a copy of a summary of proposed amendments that shall be
997 distributed to purchasers during the board review period. The summary of proposed
998 amendments shall enumerate the amendments to the public offering statement submitted for
999 board review and include a statement that the amendments to the public offering statement
1000 have been filed with the board but have not yet been accepted. The form of the submission is at
1001 the discretion of the developer provided that (i) all amendments are clearly represented in the
1002 documentation presented; (ii) the additions and deletions of text in the public offering statement
1003 and exhibits shall be identified by underlining and striking through text to be added and deleted;
1004 and (iii) documents being added to or deleted from the contents of the public offering statement
1005 shall be clearly and accurately reflected in the table of contents utilizing underlines and
1006 strikethroughs for additions and deletions. In addition to the copies showing edits to the text, a
1007 clean copy of all new and amended documents shall be provided.

1008 B. The amended public offering statement submitted to the board for review shall include the
1009 effective date of the amendments.

1010 C. Within 30 days of receipt of the amended public offering statement, the board shall
1011 review the amended public offering statement and supporting materials to determine whether
1012 the amendment complies with this chapter. If the board's review determines that the amended
1013 public offering statement complies with this chapter, it shall notify the developer in writing and
1014 confirm the new effective date of the public offering statement.

1015 D. If the board's review determines that the amended public offering statement does not
1016 comply with this chapter, it shall immediately notify the developer in writing that the review has
1017 determined the amended public offering statement is not in compliance and shall specify the
1018 particulars of such noncompliance. The developer shall then have 20 days in which to correct
1019 the particulars of noncompliance identified by the board. The developer may, prior to the
1020 completion of the 20-day correction period, request an extension in writing of the 20-day
1021 correction period. Upon expiration of the 20-day correction period, if requested corrections have
1022 not been made or a request for extension properly received, the board may issue a temporary
1023 cease and desist order in accordance with subdivision D 2 of ~~§ 55-396~~ § 55.1-2247 of the Code
1024 of Virginia to require the cessation of sales until such time as affirmative action as directed by
1025 the board is taken. Use of the noncompliant public offering statement may result in further action

1026 by the board pursuant to ~~§§ 55-396, 55-399.1, and 55-400~~ §§ 55.1-2247, 55.1-2251, and 55.1-
1027 2252 of the Code of Virginia.

1028 E. Notwithstanding an extension of the 30-day period for review agreed to in writing by the
1029 board and developer, if the board does not perform the required review of the public offering
1030 statement in accordance with subsection C of this section, the amendment shall be deemed to
1031 comply with 18VAC48-45-150 through 18VAC48-45-310, and the new effective date shall be the
1032 effective date of the amendment provided pursuant to subsection B of this section.

1033 F. In each case in which an amended document is filed pursuant to this section and the
1034 manner of its amendment is not apparent on the face of the document, the developer shall
1035 provide an indication of the manner and extent of amendment.

1036

1037 Statutory Authority

1038 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1039 Historical Notes

1040 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1041

1042 **18VAC48-45-370. Current public offering statement.**

1043 A. Upon issuance of an effective date by the board, all purchasers who received a public
1044 offering statement and summary of proposed amendments during the board review period
1045 pursuant to subsection A of 18VAC48-45-360 shall be provided with the public offering
1046 statement as accepted by the board. A public offering statement remains current until such time
1047 as the occurrence of a material change requires amendment of the public offering statement
1048 pursuant to this chapter and a new effective date is issued by the board.

1049 B. Upon issuance of an effective date by the board, a public offering statement remains
1050 current until such time as a new effective date is established pursuant to this chapter.

1051 C. Notwithstanding the board's authority to issue a cease and desist order pursuant to ~~§ 55-~~
1052 ~~396~~ 55.1-2247 of the Code of Virginia, the filing of an amended public offering statement shall
1053 not require the developer to cease sales provided that the developer provides to purchasers the
1054 summary of proposed amendments pursuant to subsection A of 18VAC48-45-360 pending the
1055 issuance of a new effective date by the board.

1056

1057 Statutory Authority

1058 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1059 Historical Notes

1060 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1061

1062 **18VAC48-45-380. Public offering statement not current; notification of purchasers.**

1063 A. A purchaser who has been delivered a public offering statement that is not current due to
1064 a material change and was not provided with the summary of proposed amendments containing
1065 the proposed changes to the amended public offering statement pursuant to subsection A of
1066 18VAC48-45-360 pending the issuance of a new effective date by the board shall be notified of
1067 such fact by the developer.

1068 B. A purchaser who has been delivered a public offering statement and summary of
1069 proposed amendments pursuant to subsection A of 18VAC48-45-360, but the amended public
1070 offering statement is determined to be non-compliant in accordance with subsection D of
1071 18VAC48-45-360, shall be notified of such fact by the developer.

1072 1. The notification shall indicate that any contract for disposition of a time-share may be
1073 canceled by the purchaser pursuant to subsection C of ~~§ 55-376~~ § 55.1-2221 of the
1074 Code of Virginia.

1075 2. The developer shall file a copy of the notification with the board and provide proof that
1076 such notification has been delivered to all purchasers under contract.

1077

1078 Statutory Authority

1079 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1080 Historical Notes

1081 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1082

1083 **18VAC48-45-390. Filing of phase amendment application.**

1084 A. A phase amendment application for a time-share project shall be filed when adding a
1085 phase or phases to the time-share project. Such phase amendment application shall be
1086 accompanied by the fee provided for in 18VAC48-45-70 and shall be subject to all of the
1087 provisions of 18VAC48-45-50 and 18VAC48-45-110, 18VAC48-45-120, and 18VAC48-45-130.
1088 Documents on file with the board that have not changed in connection with the additional phase

1089 or phases need not be refiled, provided that the phase amendment application indicates that
1090 such documents are unchanged.

1091 B. The application shall include a bond or letter of credit required pursuant to subsection B
1092 of ~~§ 55-386~~ § 55.1-2234 of the Code of Virginia if any of the time-share units and common
1093 elements contained in the submitted additional phase or phases have not been completed.

1094 C. The board shall review the phase amendment application and supporting materials to
1095 determine whether the amendment complies with this chapter. If the board's review determines
1096 the phase amendment application complies with this chapter, it shall issue an amended order of
1097 registration for the time-share project and shall provide that previous orders and designations of
1098 the form, content, and effective date of the public offering statement are superseded. If the
1099 board's review determines that the phase amendment application is not complete, the board
1100 shall correspond with the developer to specify the particulars that must be completed to obtain
1101 compliance with this chapter.

1102

1103 Statutory Authority

1104 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1105 Historical Notes

1106 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1107

1108 **18VAC48-45-400. Annual report for a time-share project registration required by**
1109 **developer.**

1110 A. A developer shall file an annual report for a time-share project registration on a form
1111 provided by the board to update the material contained in the registration file by June 30 of each
1112 year the registration is effective and shall be accompanied by the fee specified in 18VAC48-45-
1113 70. Prior to filing the annual report required by ~~§ 55-394.4~~ § 55.1-2242 of the Code of Virginia,
1114 the developer shall review the public offering statement then being delivered to purchasers. If
1115 such public offering statement is current, the developer shall so certify in the annual report. If
1116 such public offering statement is not current, the developer shall amend the public offering
1117 statement and the annual report shall, in that event, include a filing in accordance with
1118 18VAC48-45-360.

1119 B. The annual report shall contain the following:

1120 1. Current contact information for the developer;

- 1121** 2. Information concerning the current status of the time-share project;
- 1122** 3. Information concerning the current status of the time-share program, including (i) the
- 1123** type of time-shares being offered and sold; (ii) the total number of time-share interests
- 1124** available in the program; (iii) the total number of time-share interests sold; and (iv)
- 1125** information regarding any incomplete units and common elements;
- 1126** 4. If the project is a time-share estate project and the developer control period has not
- 1127** yet expired, a copy of the annual report that was prepared and distributed by the
- 1128** developer to the time-share owners required by ~~§ 55-370.4~~ § 55.1-2213 of the Code of
- 1129** Virginia must accompany the annual report;
- 1130** 5. Date of the public offering statement currently being delivered to purchasers; and
- 1131** 6. Current evidence from the surety or financial institution of bonds or letters of credit
- 1132** filed with the board in accordance with ~~§ 55-375~~ § 55.1-2220 of the Code of Virginia or
- 1133** required pursuant to subsection B of ~~§ 55-386~~ § 55.1-2234 of the Code of Virginia, or
- 1134** submittal of replacement bonds or letters of credit. Such verification shall provide the
- 1135** following:
- 1136** a. Principal of bond or letter of credit;
- 1137** b. Beneficiary of bond or letter of credit;
- 1138** c. Name of the surety or financial institution that issued the bond or letter of credit;
- 1139** d. Bond or letter of credit number as assigned by the issuer;
- 1140** e. The dollar amount;
- 1141** f. The expiration date or, if self-renewing, the date by which the bond or letter of
- 1142** credit shall be renewed; and
- 1143** g. For any blanket bond or blanket letter of credit, a statement of the total amount of
- 1144** deposits held by the developer as of May 31 of that calendar year.
- 1145**
- 1146** Statutory Authority
- 1147** §§ 54.1-2349 and ~~55-396~~ § 55.1-2247 of the Code of Virginia.
- 1148** Historical Notes
- 1149** Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016; amended, Virginia
- 1150** Register Volume 35, Issue 6, eff. December 14, 2018.

1151

1152 **18VAC48-45-410. Board review of annual report for a time-share project registration.**

1153 A. During review of the annual report, the board may make inquiries or request additional
1154 documentation to amplify or clarify the information provided.

1155 B. If the board does not accept the annual report and the annual report filing is not
1156 completed within 60 days of a request by the board for additional information, the board may
1157 take further action pursuant to ~~§§ 55-396, 55-399.1, and 55-400~~ §§ 55.1-2247, 55.1-2251, and
1158 55.1-2252 of the Code of Virginia for failing to file an annual report as required by ~~§ 55-394.1~~ §
1159 55.1-2242 of the Code of Virginia.

1160 C. If the board does not perform the required review of the annual report within 30 days of
1161 receipt by the board, the annual report shall be deemed to comply with ~~§ 55-394.1~~ § 55.1-2242
1162 of the Code of Virginia.

1163

1164 Statutory Authority

1165 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1166 Historical Notes

1167 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1168

1169 **18VAC48-45-420. Return of bond or letter of credit to ensure completion of promised**
1170 **units and common elements to developer.**

1171 A bond or letter of credit on file with the board pursuant to subsection B of ~~§ 55-386~~ § 55.1-
1172 2220 of the Code of Virginia may be returned to the developer upon written request. Such
1173 request shall include a statement from the developer that indicates the units and common
1174 elements for which the bond or letter of credit was submitted have been completed. If the
1175 submitted statement is not sufficient to confirm completion, the board may request additional
1176 documentation.

1177

1178 Statutory Authority

1179 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1180 Historical Notes

1181 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1182 18VAC48-45-430. Return of bond or letter of credit filed in lieu of escrowing deposits.

1183 A. An individual bond or individual letter of credit on file with the board in accordance with §
1184 ~~55-375~~ § 55.1-2220 of the Code of Virginia may be returned to the developer upon written
1185 request. Such request shall include a statement from the developer that indicates (i) the
1186 purchaser's cancellation period has expired, (ii) the purchaser's default under a purchase
1187 contract for the time-share estate entitling the developer to retain the deposit, or (iii) the
1188 purchaser's deposit was refunded.

1189 B. Upon issuance of an order of termination of the time-share project registration pursuant to
1190 18VAC48-45-450, a blanket bond or blanket letter of credit on file with the board in accordance
1191 with ~~§ 55-375~~ § 55.1-2220 of the Code of Virginia will be returned to the developer.

1192

1193 Statutory Authority

1194 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1195 Historical Notes

1196 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016; amended, Virginia
1197 Register Volume 35, Issue 6, eff. December 14, 2018.

1198

1199 18VAC48-45-440. Maintenance of bond or letter of credit.

1200 A. The developer shall report the extension, cancellation, amendment, expiration,
1201 termination, or any other change of any bond or letter of credit submitted in accordance with §
1202 ~~55-375~~ § 55.1-2220 and subsection B of ~~§ 55-386~~ § 55.1-2234 of the Code of Virginia within five
1203 days of the change.

1204 B. The board at any time may request verification from the developer of the status of a bond
1205 or letter of credit on file with the board. Such verification shall comply with the provisions of
1206 subdivision B 6 of 18VAC48-45-400.

1207 C. Failure to report a change in the bond or letter of credit in accordance with this section
1208 shall result in further action by the board pursuant to the Virginia Real Estate Time-Share Act.

1209

1210 Statutory Authority

1211 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1212 Historical Notes

1213 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016; amended, Virginia
1214 Register Volume 35, Issue 6, eff. December 14, 2018.

1215

1216 **18VAC48-45-450. Termination of time-share project registration.**

1217 A. The time-share project registration shall be terminated upon receipt of documentation of
1218 one of the following:

1219 1. In accordance with subsection A of ~~§ 55-394.2~~ § 55.1-2243 of the Code of Virginia, an
1220 annual report for a time-share estate program filed pursuant to ~~§ 55-394.1~~ § 55.1-2242
1221 of the Code of Virginia indicates that the developer has transferred title to the time-share
1222 owners' association and that no further development rights exist.

1223 2. In accordance with subsection B of ~~§ 55-394.2~~ § 55.1-2243 of the Code of Virginia,
1224 written notification is received from the developer attesting that no further development
1225 of the project is anticipated and that the developer has ceased sales of time-shares at
1226 the project.

1227 B. Upon receipt and review of documentation pursuant to subsection A of this section, the
1228 board shall issue an order of termination for the time-share registration. The board may request
1229 additional information as necessary during the review of the submitted documentation to ensure
1230 that the time-share registration is eligible for termination.

1231

1232 Statutory Authority

1233 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1234 Historical Notes

1235 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1236

1237 **18VAC48-45-460. Administrative termination of time-share project registration.**

1238 A. In accordance with subsection C of ~~§ 55-394.2~~ § 55.1-2243 of the Code of Virginia, the
1239 board may administratively terminate the registration of a time-share project. Prior to the
1240 administrative termination of the registration, the board shall send written notice of its intent to
1241 terminate the registration to all known parties associated with the time-share project, including,
1242 but not limited to, the registered agent, developer's attorney, and principals of the developer.
1243 Such written notice shall be given to the parties by mail or otherwise if acknowledged by them in
1244 writing.

1245 B. The board shall issue an order of termination for the time-share registration if (i) a
1246 response is not received within 30 days after sending the written notice, or (ii) the response
1247 received does not indicate termination of the registration is inappropriate in accordance with the
1248 Virginia Real Estate Time-Share Act and this chapter.

1249 C. Nothing contained in this section shall prevent the board from taking further action as
1250 allowed by law including issuance of a temporary cease and desist order, issuance of a cease
1251 and desist order, revocation of registration, and bringing action in the appropriate circuit court to
1252 enjoin the acts or practices and to enforce compliance.

1253

1254 Statutory Authority

1255 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1256 Historical Notes

1257 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1258

1259 **18VAC48-45-470. Reporting of other changes to the time-share project.**

1260 Any other change made or known by the developer that may affect the accuracy or
1261 completeness of the time-share registration file shall be reported promptly to the board. Such
1262 change may include but is not limited to the name of the developer, name of the time-share
1263 project, or any other changes in information submitted in accordance with ~~§ 55-391.4~~ § 55.1-
1264 2239 of the Code of Virginia. The board may request additional information as necessary to
1265 ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

1266

1267 Statutory Authority

1268 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1269 Historical Notes

1270 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1271

1272

Part VII

1273

Alternative Purchase Registration

1274 **18VAC48-45-480. Registration of alternative purchase required.**

1275 As required by ~~§ 55-394.5~~ § 55.1-2246 of the Code of Virginia, a time-share developer shall

1276 register an alternative purchase as defined by ~~§ 55-362~~ § 55.1-2200 of the Code of Virginia.

1277

1278 Statutory Authority

1279 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1280 Historical Notes

1281 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1282

1283 **18VAC48-45-490. Application for registration of an alternative purchase.**

1284 Application for registration of alternative purchase shall be filed with the board on an

1285 application form furnished by the board and shall contain all of the documents and information

1286 required by ~~§ 55-394.5~~ 55.1-2246 of the Code of Virginia.

1287

1288 Statutory Authority

1289 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1290 Historical Notes

1291 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1292

1293 **18VAC48-45-500. (Reserved.)**

1294 Statutory Authority

1295 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1296 Historical Notes

1297 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1298

1299 18VAC48-45-510. Review of application for registration of an alternative purchase.

1300 At such time as the board affirmatively determines that the requirements of this chapter
1301 have been met, the board shall register the alternative purchase. The registration period of the
1302 alternative purchase shall expire the last day of the month one year from the date of issuance.

1303

1304 Statutory Authority

1305 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1306 Historical Notes

1307 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1308

1309 18VAC48-45-520. Minimum alternative purchase post-registration reporting requirements.

1310 A. Subsequent to the issuance of a registration for an alternative purchase by the board, the
1311 developer offering the alternative purchase shall do the following:

1312 1. File the annual report required pursuant to 18VAC48-45-540.

1313 2. Upon the occurrence of any material change in the information contained in the
1314 registration file, the developer of a registered alternative purchase shall file the material
1315 change with the board within 30 days of the effective date of the material change.

1316 3. Submit appropriate documentation to the board once the registration is eligible for
1317 termination.

1318 4. Submit to the board any other document or information, which may include
1319 information or documents that have been amended or may not have existed previously,
1320 that affects the accuracy, completeness, or representation of any information or
1321 document filed with the application for registration.

1322 5. Submit to the board any document or information to make the registration file accurate
1323 and complete and to ensure compliance with the Virginia Real Estate Time-Share Act
1324 and this chapter.

1325 B. Notwithstanding the requirements of subsection A of this section, the board at any time
1326 may require the developer of a registered alternative purchase to provide information or
1327 documents, or amendments thereof, in order to assure full and accurate disclosure to

1328 prospective purchasers and to ensure compliance with the Virginia Real Estate Time-Share Act
1329 and this chapter.

1330

1331 Statutory Authority

1332 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1333 Historical Notes

1334 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1335

1336 **18VAC48-45-530. (Reserved.)**

1337 Statutory Authority

1338 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1339 Historical Notes

1340 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1341

1342 **18VAC48-45-540. Annual report required for alternative purchase registration.**

1343 A. Prior to the expiration of the registration, the developer shall file an annual report in a
1344 form approved by the board for the registered alternative purchase affiliated with such time-
1345 share project registration. Such alternative purchase annual report shall be accompanied by the
1346 fee specified in 18VAC48-45-70.

1347 B. The annual report shall contain, but may not be limited to, the following:

1348 1. Current contact information for the developer.

1349 2. Information concerning the current status of the alternative purchase.

1350 C. Once the annual report has been accepted by the board, the registration shall be
1351 extended for an additional one-year period from the date of the expiration of the registration. If
1352 the developer fails to complete the annual report filing within one year after the date of
1353 expiration, the registration shall not be extended and the developer must apply as a new
1354 applicant.

1355

1356 Statutory Authority

1357 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1358 Historical Notes

1359 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1360

1361 **18VAC48-45-550. (Reserved.)**

1362 Statutory Authority

1363 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1364 Historical Notes

1365 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1366

1367 **18VAC48-45-560. Termination of registration for an alternative purchase.**

1368 A. The alternative purchase registration shall be terminated upon receipt of written
1369 notification from the developer attesting that the developer has ceased sales and requests
1370 termination of the alternative purchase. Should the developer later choose to offer alternative
1371 purchases for which the registration has been terminated in accordance with this subsection,
1372 prior to offering an alternative purchase, the developer must submit a new application for
1373 registration of the alternative purchase, meet all requirements in effect at the time of application,
1374 and obtain an alternative purchase registration from the board.

1375 B. Upon receipt and review of the notification pursuant to subsection A of this section, the
1376 board shall terminate the alternative purchase registration. The board may request additional
1377 information as necessary during the review of the submitted notification to ensure that the
1378 alternative purchase registration is eligible for termination.

1379 C. An alternative purchase registration shall be automatically terminated for failure to file an
1380 acceptable annual report within one year after the expiration of the registration.

1381

1382 Statutory Authority

1383 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1384 Historical Notes

1385 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1386

1387 **18VAC48-45-570. Reporting of other changes to the alternative purchase.**

1388 In accordance with subsection B of ~~§ 55-394.5~~ § 55.1-2246 of the Code of Virginia, any
1389 material change made or known by the developer that may affect the accuracy or completeness

1390 of the alternative purchase registration file shall be filed with the board within 30 days of the
1391 effective date of the change. The board may request additional information as necessary to
1392 ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

1393
1394 Statutory Authority

1395 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1396 Historical Notes

1397 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1398

1399 Part VIII

1400 Exchange Program Registration

1401 **18VAC48-45-580. Registration of exchange program required.**

1402 As required by ~~§ 55-374.2~~ § 55.1-2219 of the Code of Virginia, an exchange company that
1403 offers an exchange program in the Commonwealth shall register the exchange program with the
1404 board.

1405

1406 Statutory Authority

1407 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1408 Historical Notes

1409 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1410

1411 **18VAC48-45-590. Minimum requirements for registration of an exchange program.**

1412 An application for registration of an exchange program shall include the following:

1413 1. An application submitted in accordance with 18VAC48-45-50;

1414 2. Current contact information for the exchange company;

1415 3. A disclosure document that complies with ~~§ 55-374.2~~ 55.1-2219 of the Code of
1416 Virginia; and

1417 4. A report independently audited by a certified public accountant or accounting firm in
1418 accordance with the standards of the Accounting Standards Board of the American
1419 Institute of Certified Public Accountants. The report shall provide the following for the
1420 preceding calendar year:

- 1421 a. The number of owners enrolled in the exchange program. Such numbers shall
1422 disclose the relationship between the exchange company and owners as being either
1423 fee paying or gratuitous in nature;
1424 b. The number of time-share properties, accommodations or facilities eligible to
1425 participate in the exchange program;
1426 c. The percentage of confirmed exchanges, which shall be the number of exchanges
1427 confirmed by the exchange company divided by the number of exchanges properly
1428 applied for, together with a complete and accurate statement of the criteria used to
1429 determine whether an exchange request was properly applied for;
1430 d. The number of time-shares for which the exchange company has an outstanding
1431 obligation to provide an exchange to an owner who relinquished a time-share during
1432 the year in exchange for a time-share in any future year; and
1433 e. The number of exchanges confirmed by the exchange company during the year.

1434

1435 Statutory Authority

1436 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1437 Historical Notes

1438 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1439

1440 **18VAC48-45-600. Minimum exchange program post-registration reporting requirements.**

1441 A. Subsequent to the issuance of a registration for an exchange program by the board, the
1442 exchange company shall:

1443 1. File an annual report in accordance with subsection E of ~~§ 55-374.2~~ § 55.1-2219 of
1444 the Code of Virginia and this chapter.

1445 2. Upon the occurrence of a material change to the disclosure document, the exchange
1446 company shall file an amended disclosure document in accordance with the provisions
1447 of ~~§ 55-374.2~~ § 55.1-2219 of the Code of Virginia and this chapter. These amendments
1448 shall be filed with the board within 20 business days after the occurrence of the material
1449 change.

1450 3. Upon the occurrence of any material change in the information contained in the
1451 registration file, the exchange company shall immediately report such material changes
1452 to the board.

1453 4. Submit appropriate documentation to the board once the registration is eligible for
1454 termination.

1455 5. Submit to the board any other document or information, which may include
1456 information or documents that have been amended or may not have existed previously,
1457 that affects the accuracy, completeness, or representation of any information or
1458 document filed with the application for registration.

1459 6. Submit to the board any document or information to make the registration file accurate
1460 and complete to ensure compliance with the Virginia Real Estate Time-Share Act and
1461 this chapter.

1462 B. Notwithstanding the requirements of subsection A of this section, the board at any time
1463 may require an exchange company to provide information or documents, or amendments
1464 thereof, in order to assure full and accurate disclosure to prospective purchasers and to ensure
1465 compliance with the Virginia Real Estate Time-Share Act and this chapter.

1466
1467 Statutory Authority

1468 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1469 Historical Notes

1470 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1471

1472 **18VAC48-45-610. Annual report required for an exchange program registration.**

1473 A. An exchange company shall file an annual report to update the material contained in the
1474 exchange program registration file by July 1 of each year the registration is effective and shall
1475 be accompanied by the fee specified in 18VAC48-45-70.

1476 B. The annual report shall contain, but may not be limited to, the following:

1477 1. Current contact information for the exchange company;

1478 2. Information concerning the current status of the exchange program; and

1479 3. A report that contains the information in subdivision 4 of 18VAC48-45-590 and
1480 submitted in compliance with subdivision A 17 of ~~§ 55-374.2~~ § 55.1-2219 of the Code of
1481 Virginia.

1482

1483 Statutory Authority

1484 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1485 Historical Notes

1486 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1487

1488 **18VAC48-45-620. Board review of annual report for exchange program registration.**

1489 A. During review of the annual report, the board may make inquiries or request additional
1490 documentation to amplify or clarify the information provided.

1491 B. If the board does not accept the annual report and the annual report filing is not
1492 completed within 60 days of a request by the board for additional information, the board may
1493 take further action pursuant to ~~§§ 55-396, 55-399.1, and 55-400~~ §§ 55.1-2247, 55.1-2251, and
1494 55.1-2252 of the Code of Virginia for failing to file an annual report as required by subsection E
1495 of ~~§ 55-374.2~~ § 55.1-2219 of the Code of Virginia.

1496 C. If the board does not perform the required review of the annual report within 30 days of
1497 receipt by the board, the annual report shall be deemed to comply with subsection E of ~~§ 55-~~
1498 ~~374.2~~ § 55.1-2219 of the Code of Virginia.

1499

1500 Statutory Authority

1501 §§ 54.1-2349 and ~~55-396~~ § 55.1-2247 of the Code of Virginia.

1502 Historical Notes

1503 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1504

1505 **18VAC48-45-630. Termination of an exchange program registration.**

1506 A. The exchange program registration shall be terminated upon receipt of written notification
1507 from the exchange company indicating that the exchange program is no longer being offered in
1508 the Commonwealth. Should the exchange company later choose to offer the exchange program
1509 for which the registration has been terminated in accordance with this subsection, prior to
1510 offering the exchange program, the exchange company must submit a new application for
1511 registration of the exchange program, meet all requirements in effect at the time of application,
1512 and be issued an order of registration for the exchange program by the board.

1513 B. Upon receipt and review of the notification pursuant to subsection A of this section, the
1514 board shall issue an order of termination for the exchange program registration. The board may

1515 request additional information as necessary during the review of the submitted notification to
1516 ensure that the exchange program registration is eligible for termination.

1517
1518 Statutory Authority

1519 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1520 Historical Notes

1521 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1522

1523 **18VAC48-45-640. Reporting of other changes to an exchange program.**

1524 Any other change made or known by the exchange company that may affect the accuracy or
1525 completeness of the exchange program registration file shall be promptly reported to the board.

1526 The board may request additional information as necessary to ensure compliance with the
1527 Virginia Real Estate Time-Share Act and this chapter.

1528

1529 Statutory Authority

1530 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1531 Historical Notes

1532 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1533

1534 Part IX

1535 Time-Share Reseller Registration

1536 **18VAC48-45-650. Registration of time-share reseller required.**

1537 In accordance with ~~§ 55-394.3~~ § 55.1-2245 of the Code of Virginia, a reseller shall not offer
1538 or provide any resale service without holding a current time-share reseller registration issued by
1539 the board.

1540

1541 Statutory Authority

1542 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1543 Historical Notes

1544 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1545

1546 **18VAC48-45-660. Exemptions from time-share reseller registration.**

1547 Time-share reseller registration shall not apply to the following:

1548 1. A person that solely or with affiliates engages in a resale service with respect to an
1549 aggregate of no more than 12 resale time-shares per calendar year;

1550 2. A person that owns or acquires more than 12 resale time-shares and subsequently
1551 transfers all such resale time-shares to a single purchaser in a single transaction;

1552 3. The owner, owner's agents, and employees of a regularly published newspaper,
1553 magazine, or other periodical publication of general circulation; broadcast station;
1554 website; or billboard, to the extent their activities are limited to solicitation and publication
1555 of advertisements and the transmission of responses to the persons who place the
1556 advertisements. Any person that would otherwise be exempt from this chapter pursuant
1557 to this section shall not be exempt if the person (i) solicits the placement of the
1558 advertisement by representing that the advertisement will generate cash, a certain price,
1559 or a similar type of representation for the time-share owner's resale time-share, (ii)
1560 makes a recommendation as to the sales price for which to advertise the resale time-
1561 share, (iii) makes representations to the person placing the advertisement regarding the
1562 success rate for selling resale time-shares advertised with such person, or (iv) makes
1563 misrepresentations as described in this chapter;

1564 4. Sale by a developer or a party acting on its behalf of a resale time-share under a
1565 current registration of the time-share program in which the resale time-share is included;

1566 5. Sale by an association, managing entity, or a party acting on its behalf of a resale
1567 time-share owned by the association provided the sale is in compliance with subsection
1568 C of ~~§ 55-380.4~~ § 55.1-2228; or

1569 6. Attorneys, title agents, title companies, or escrow companies providing closing
1570 services in connection with the transfer of a resale time-share.

1571

1572 Statutory Authority

1573 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1574 Historical Notes

1575 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1576

1577 **18VAC48-45-670. Requirements for registration as a time-share reseller.**

1578 A. Individuals or firms that provide any time-share resale services shall submit an application
1579 on a form prescribed by the board and shall meet the requirements of this section, including:

1580 1. The information contained in ~~§ 55-394.3~~ § 55.1-2244 of the Code of Virginia.

1581 2. The application fee specified in 18VAC48-45-70.

1582 3. All contact information applicable to the time-share reseller and the lead dealer.

1583 B. Any individual or firm offering resale services as defined in ~~§ 55-362~~ § 55.1-2200 of the
1584 Code of Virginia shall be registered with the board. All names under which the time-share
1585 reseller conducts business shall be disclosed on the application. The name under which the firm
1586 conducts business and holds itself out to the public (i.e., the trade or fictitious name) shall also
1587 be disclosed on the application. Firms shall be organized as business entities under the laws of
1588 the Commonwealth of Virginia or otherwise authorized to transact business in Virginia. Firms
1589 shall register any trade or fictitious names with the State Corporation Commission or the clerk of
1590 court in the jurisdiction where the business is to be conducted in accordance with §§ 59.1-69
1591 through 59.1-76 of the Code of Virginia before submitting an application to the board.

1592 C. The applicant for a time-share reseller registration shall disclose the firm's mailing
1593 address and the firm's physical address. A post office box is only acceptable as a mailing
1594 address when a physical address is also provided.

1595 D. In accordance with § 54.1-204 of the Code of Virginia, each applicant for a time-share
1596 reseller registration shall disclose the following information about the firm, the lead dealer, and
1597 any of the principals of the firm, if applicable:

1598 1. All felony convictions.

1599 2. All misdemeanor convictions in any jurisdiction that occurred within three years before
1600 the date of application.

1601 3. Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred
1602 adjudication shall be considered a conviction for the purposes of this section. The record
1603 of conviction certified or authenticated in such form as to be admissible in evidence
1604 under the laws of the jurisdiction where convicted shall be admissible as prima facie
1605 evidence of such guilt.

1606 E. The applicant for time-share reseller registration shall be in compliance with the
1607 standards of conduct set forth in Part X (18VAC48-45-720 et seq.) of this chapter at the time of

1608 application, while the application is under review by the board, and at all times when the
1609 registration is in effect.

1610 F. The applicant for time-share reseller registration, the lead dealer, and all principals of the
1611 firm shall be in good standing in Virginia and in every jurisdiction and with every board or
1612 administrative body where licensed, certified, or registered, and the board, in its discretion, may
1613 deny registration to any applicant who has been subject to, or whose lead dealer or principals
1614 have been subject to, any form of adverse disciplinary action, including reprimand, revocation,
1615 suspension or denial, imposition of a monetary penalty, required to complete remedial
1616 education, or any other corrective action, in any jurisdiction or by any board or administrative
1617 body or surrendered a license, certificate, or registration in connection with any disciplinary
1618 action in any jurisdiction prior to obtaining registration in Virginia.

1619 G. The applicant for time-share reseller registration shall provide all relevant information
1620 about the firm, the lead dealer, and of the principals of the firm for the seven years prior to
1621 application on outstanding judgments, past-due tax assessments, defaults on bonds, or pending
1622 or past bankruptcies and specifically shall provide all relevant financial information related to
1623 providing resale services as defined in ~~§ 55-362~~ § 55.1-2200 of the Code of Virginia.

1624 H. The application for time-share reseller registration shall include the exhibits required
1625 pursuant to 18VAC48-45-680.

1626

1627 Statutory Authority

1628 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1629 Historical Notes

1630 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016; amended, Virginia
1631 Register Volume 35, Issue 6, eff. December 14, 2018.

1632

1633 **18VAC48-45-680. Exhibits required for registration as a time-share reseller.**

1634 A. The following documents shall be included as exhibits to the application for registration.
1635 All exhibits shall be labeled as indicated and submitted in a format acceptable to the board.

1636 1. Exhibit A: A copy of the certificate of incorporation or certificate of authority to transact
1637 business in Virginia issued by the Virginia State Corporation Commission, or any other
1638 entity formation documents, together with any trade or fictitious name certificate.

1639 2. Exhibit B: A copy of the resale purchase contract.

1640 3. Exhibit C: A copy of the resale transfer contract.

1641 4. Exhibit D: A copy of disclosures required by ~~§ 55-380.4~~ § 55.1-2228 of the Code of
1642 Virginia.

1643 5. Exhibit E: A narrative description of the marketing or advertising plan.

1644 B. The board has the sole discretion to require additional information or amendment of
1645 existing information as the board finds necessary to ensure full and accurate disclosure and
1646 compliance with the provisions of ~~§ 55-380.4~~ § 55.1-2228 of the Code of Virginia and to ensure
1647 compliance with the provisions of ~~§ 55-394.3~~ § 55.1-2244 of the Code of Virginia.

1648

1649 Statutory Authority

1650 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1651 Historical Notes

1652 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016; amended, Virginia
1653 Register Volume 35, Issue 6, eff. December 14, 2018.

1654

1655 **18VAC48-45-690. Renewal and reinstatement of a time-share reseller registration.**

1656 A. A time-share reseller registration issued under this chapter shall expire one year from the
1657 last day of the month in which it was issued. The fee specified in 18VAC48-45-70 shall be
1658 required for renewal.

1659 B. Prior to the expiration date shown on the registration, a registration shall be renewed
1660 upon payment of the fees specified in 18VAC48-45-70.

1661 C. The board will send a renewal notice to the regulant at the last known address of record.
1662 Failure to receive this notice shall not relieve the regulant of the obligation to renew. If the
1663 regulant fails to receive the renewal notice, a copy of the registration may be submitted with the
1664 required fees as an application for renewal. By submitting a renewal fee, the regulant is
1665 certifying continued compliance with this chapter, as applicable, and certifying that all
1666 documents required for registration pursuant to 18VAC48-45-680 on file with the board reflect
1667 the most current version used by the reseller.

1668 D. If the requirements for renewal of a registration as specified in this chapter are not
1669 completed more than 30 days and within six months after the registration expiration date, the
1670 reinstatement fee specified in ~~18VAC48-50-70~~ 18VAC48-45-70 shall be required.

1671 E. A registration may be reinstated for up to six months following the expiration date. After
1672 six months, the registration may not be reinstated under any circumstances, and the firm or
1673 individual must meet all current entry requirements and apply as a new applicant.

1674 F. The board may deny renewal or reinstatement of registration for the same reasons as it
1675 may refuse initial registration or discipline a registrant.

1676 G. The date the renewal application and fee are received in the office of the board shall
1677 determine whether a registration shall be renewed without reinstatement, or shall be subject to
1678 reinstatement application procedures.

1679 H. A registration that is reinstated shall be regarded as having been continuously registered
1680 without interruption. Therefore, the registration holder shall remain under the disciplinary
1681 authority of the board during the entire period and shall be accountable for its activities during
1682 the period. Nothing in this chapter shall divest the board of its authority to discipline a
1683 registration holder for a violation of the law or regulation during the period of time for which the
1684 regulant was registered.

1685 I. Applicants for renewal shall continue to meet all of the qualifications for registration set
1686 forth in 18VAC48-45-680.

1687

1688 Statutory Authority

1689 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1690 Historical Notes

1691 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016; amended, Virginia
1692 Register Volume 35, Issue 6, eff. December 14, 2018.

1693

1694 **18VAC48-45-700. Maintenance of time-share reseller registration.**

1695 Any material changes made or known by the time-share reseller that may affect the
1696 accuracy or completeness of the time-share reseller registration file shall be promptly reported
1697 to the board. The board may request additional information as necessary to ensure compliance
1698 with the Virginia Real Estate Time-Share Act and this chapter.

1699

1700 Statutory Authority

1701 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1702 Historical Notes

1703 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1704

1705 **18VAC48-45-710. Recordkeeping for a time-share reseller registration.**

1706 A time-share reseller registered by the board shall comply with the recordkeeping provisions

1707 of ~~§ 55-394.4~~ § 55.1-2245 of the Code of Virginia.

1708

1709 Statutory Authority

1710 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1711 Historical Notes

1712 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1713

1714 Part X

1715 Board Authority and Standards of Conduct

1716 **18VAC48-45-720. Grounds for disciplinary action.**

1717 The board may revoke a registration that is not in compliance with any provision of the
1718 regulations of the board or the Virginia Real Estate Time-Share Act. Additional action may
1719 include issuance of a temporary cease and desist order, issuance of a cease and desist order,
1720 and bringing action in the appropriate circuit court to enjoin the acts or practices and to enforce
1721 compliance.

1722

1723 Statutory Authority

1724 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1725 Historical Notes

1726 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1727

1728 **18VAC48-45-730. Registration required.**

1729 A. No developer or agent of a developer shall offer a time-share prior to the registration of
1730 the time-share program and time-share project.

1731 B. No developer or agent of a developer shall offer an alternative purchase prior to the
1732 registration of the alternative purchase by the developer.

1733 C. No exchange company or agent of an exchange company shall offer an exchange
1734 program prior to the registration of the exchange program by the exchange company.

1735 D. No time-share reseller or agent of a time-share reseller shall offer any resale services
1736 prior to the registration of the time-share reseller.

1737
1738 Statutory Authority

1739 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1740 Historical Notes

1741 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1742

1743 **18VAC48-45-740. Time-share advertising standards.**

1744 A. No promise, assertion, representation, or statement of fact or opinion in connection with a
1745 time-share marketing activity shall be made that is false, inaccurate or misleading by reason of
1746 inclusion of an untrue statement of a material fact or omission of a statement of a material fact
1747 relative to the actual or intended characteristics, circumstances, or features of a time-share
1748 program or a time-share project.

1749 B. No promise, assertion, representation, or statement of fact or opinion made in connection
1750 with a time-share marketing activity shall indicate that a unit or common element will be built or
1751 placed on the time-share unless proposed within the meaning of subsection A of 18VAC48-45-
1752 200.

1753 C. No promise, assertion, representation, or statement of fact or opinion made in connection
1754 with a time-share marketing activity and relating to a time-share project not registered shall, by
1755 its express terms, induce, solicit, or encourage a contract for sale or performing some other act
1756 that would create or purport to create a legal or equitable interest in the time-share, other than a
1757 security interest in or a nonbinding reservation of the time-share, when to do so would
1758 circumvent the provisions of the Virginia Real Estate Time-Share Act.

1759
1760 Statutory Authority

1761 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1762 Historical Notes

1763 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1764

1765 **18VAC48-45-750. Board oversight of public offering statement and exchange program**
1766 **disclosure document.**

1767 A. The board at any time may require a developer to alter or amend the public offering
1768 statement for a time-share or an exchange program disclosure document to assure full and
1769 accurate disclosure to prospective purchasers and to ensure compliance with the Virginia Real
1770 Estate Time-Share Act and this chapter.

1771 B. The board does not approve or recommend the time-share or exchange program, or
1772 disposition thereof. The board's issuance of an effective date for a public offering statement or
1773 acceptance of an exchange program disclosure document shall not be construed to (i)
1774 constitute approval of the time-share or exchange program; (ii) represent that the board asserts
1775 that either all facts or material changes or both concerning the time-share or exchange program
1776 have been fully and accurately disclosed; or (iii) indicate that the board has made judgment on
1777 the value or merits of the time-share or exchange program.

1778

1779 Statutory Authority

1780 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1781 Historical Notes

1782 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1783

1784 **18VAC48-45-760. Response to inquiry and provision of records.**

1785 A. The developer, exchange company, or reseller must respond within 15 days to a request
1786 by the board or any of its agents regarding any complaint filed with the department. The board
1787 may extend such timeframe upon a showing of extenuating circumstances prohibiting delivery
1788 within such 15-day period.

1789 B. Unless otherwise specified by the board, the developer, exchange company, or reseller
1790 shall produce to the board or any of its agents within 15 days of the request any document,
1791 book, or record concerning any transaction in which the developer, exchange company, or
1792 reseller was involved, or for which the developer, exchange company, or reseller is required to
1793 maintain records, for inspection and copying by the board or its agents. The board may extend
1794 such timeframe upon a showing of extenuating circumstances prohibiting delivery within such
1795 15-day period.

1796 C. A developer, exchange company, or reseller shall not provide a false, misleading, or
1797 incomplete response to the board or any agent of the board seeking information in the
1798 investigation of a complaint filed with the board.

1799 D. With the exception of the requirements of subsections A and B of this section, a
1800 developer, exchange company, or reseller must respond to an inquiry by the board or its agent
1801 within 21 days.

1802

1803 Statutory Authority

1804 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1805 Historical Notes

1806 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016.

1807

1808 **18VAC48-45-770. Prohibited acts.**

1809 The following acts are prohibited and any violation may result in action by the board,
1810 including issuance of a temporary cease and desist order in accordance with subdivision D 2
1811 of ~~§ 55-396~~ § 55.1-2247 of the Code of Virginia:

1812 1. Violating, inducing another to violate, or cooperating with others in violating any of the
1813 provisions of any regulation of the board or the Virginia Real Estate Time-Share Act or
1814 engaging in any act enumerated in §§ 54.1-102 and 54.1-111 of the Code of Virginia.

1815 2. Obtaining or attempting to obtain a registration by false or fraudulent representation,
1816 or maintaining, renewing, or reinstating a registration by false or fraudulent
1817 representation.

1818 3. Failing to alter or amend the public offering statement or disclosure document as
1819 required in accordance with the provisions of this chapter.

1820 4. Providing information to purchasers in a manner that willfully and intentionally fails to
1821 promote full and accurate disclosure.

1822 5. Making any misrepresentation or making a false promise that might influence,
1823 persuade, or induce.

1824 6. Failing to provide information or documents, or amendments thereof, in accordance
1825 with this chapter.

1826 7. Failing to comply with the post-registration requirements of this chapter.

- 1827 8. Filing false or misleading information in the course of terminating a registration in
1828 accordance with 18VAC48-45-450, 18VAC48-45-460, 18VAC48-45-560, or 18VAC48-
1829 45-630.
- 1830 9. Failing to comply with the advertising standards contained in Part III (18VAC48-45-80
1831 et seq.) of this chapter.
- 1832 10. Allowing a registration issued by the board to be used by another.
- 1833 11. A regulant having been convicted, found guilty, or disciplined in any jurisdiction of
1834 any offense or violation described in subdivisions C 13 and C 14 of 18VAC48-45-130,
1835 subdivisions 4 and 5 of 18VAC48-45-210, and subsections D, F, and G of 18VAC48-45-
1836 670.
- 1837 12. Failing to inform the board in writing within 30 days that the regulant was convicted,
1838 found guilty, or disciplined in any jurisdiction of any offense or violation described in
1839 subsections D, F, and G of 18VAC48-45-670.
- 1840 13. Failing to report a change as required by 18VAC48-45-470.
- 1841 14. Failing to satisfy any judgments or restitution orders entered by a court or arbiter of
1842 competent jurisdiction.
- 1843 15. Misrepresenting or misusing the intended purpose of a power of attorney or similar
1844 document to the detriment of any grantor of such power of attorney.
- 1845 16. Engaging in dishonest or fraudulent conduct in providing resale services, including
1846 the following:
- 1847 a. The intentional and unjustified failure to comply with the terms of the resale
1848 purchase contract or resale transfer contract.
- 1849 b. Engaging in dishonest or fraudulent conduct in providing resale services.
- 1850 c. Failing to comply with the recordkeeping requirements of ~~§ 55-394.4~~ § 55.1-2245
1851 of the Code of Virginia.
- 1852 d. Failing to disclose information in writing concerning the marketing, sale, or transfer
1853 of resale time-shares required by this chapter prior to accepting any consideration or
1854 with the expectation of receiving consideration from any time-share owner, seller, or
1855 buyer.
- 1856 e. Making false or misleading statements concerning offers to buy or rent; the value,
1857 pricing, timing, or availability of resale time-shares; or numbers of sellers, renters, or
1858 buyers when engaged in time-share resale activities.

- 1859 f. Misrepresenting the likelihood of selling a resale time-share interest.
- 1860 g. Misrepresenting the method by or source from which the reseller or lead dealer
- 1861 obtained the contact information of any time-share owner.
- 1862 h. Misrepresenting price or value increases or decreases, assessments, special
- 1863 assessments, maintenance fees, or taxes or guaranteeing sales or rentals in order to
- 1864 obtain money or property.
- 1865 i. Making false or misleading statements concerning the identity of the reseller or any
- 1866 of its affiliates or the time-share resale entity's or any of its affiliate's experience,
- 1867 performance, guarantees, services, fees, or commissions, availability of refunds,
- 1868 length of time in business, or endorsements by or affiliations with developers,
- 1869 management companies, or any other third party.
- 1870 j. Misrepresenting whether or not the reseller or its affiliates, employees, or agents
- 1871 hold, in any state or jurisdiction, a current real estate sales or broker's license or
- 1872 other government-required license.
- 1873 k. Misrepresenting how funds will be utilized in any time-share resale activity
- 1874 conducted by the reseller.
- 1875 l. Misrepresenting that the reseller or its affiliates, employees, or agents have
- 1876 specialized education, professional affiliations, expertise, licenses, certifications, or
- 1877 other specialized knowledge or qualifications.
- 1878 m. Making false or misleading statements concerning the conditions under which a
- 1879 time-share owner, seller, or buyer may exchange or occupy the resale time-share
- 1880 interest.
- 1881 n. Representing that any gift, prize, membership, or other benefit or service will be
- 1882 provided to any time-share owner, seller, or buyer without providing such gift, prize,
- 1883 membership, or other benefit or service in the manner represented.
- 1884 o. Misrepresenting the nature of any resale time-share interest or the related time-
- 1885 share plan.
- 1886 p. Misrepresenting the amount of the proceeds, or failing to pay the proceeds, of any
- 1887 rental or sale of a resale time-share interest as offered by a potential renter or buyer
- 1888 to the time-share owner who made such resale time-share interest available for
- 1889 rental or sale through the reseller.

1890 q. Failing to transfer any resale time-share interests as represented and required by
1891 this chapter or to provide written evidence to the time-share owner of the recording
1892 or transfer of such time-share owner's resale time-share interest as required by this
1893 chapter.

1894 r. Failing to pay any annual assessments, special assessments, personal property or
1895 real estate taxes, or other fees relating to an owner's resale time-share interest as
1896 represented or required by this chapter.

1897

1898 Statutory Authority

1899 §§ 54.1-2349 and ~~55-396~~ 55.1-2247 of the Code of Virginia.

1900 Historical Notes

1901 Derived from Virginia Register Volume 32, Issue 10, eff. March 1, 2016; amended, Virginia

1902 Register Volume 35, Issue 6, eff. December 14, 2018.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion and are not to be construed as regulation or official Board position.

Virginia Administrative Code
Title 18. Professional and Occupational Licensing
Agency 48. Common Interest Community Board
Chapter 45. Time-Share Regulations

18VAC48-45-10. (Reserved.)

Part 1. General

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Reserved, [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-20. Definitions.

A. Section [55-362](#) of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Affiliate"	"Offering" or "offer"
"Alternative purchase"	"Person"
"Association"	"Product"
"Board"	"Project"
"Board of directors"	"Public offering statement"
"Common elements"	"Purchaser"
"Contact information"	"Resale purchase contract"
"Contract" or "purchase contract"	"Resale time-share"
"Conversion time-share project"	"Resale service"
"Default"	"Resale transfer contract"
"Developer"	"Reseller"
"Developer control period"	"Reverter deed"
"Development right"	"Situs"
"Dispose" or "disposition"	"Time-share"
"Exchange company"	"Time-share estate"
"Exchange program"	"Time-share expense"
"Guest"	"Time-share instrument"
"Incidental benefit"	"Time-share owner" or "owner"

"Lead dealer"	"Time-share program" or "program"
"Managing agent"	"Time-share project"
"Managing entity"	"Time-share unit" or "unit"
"Material change"	"Time-share use"
	"Transfer"

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Alternative disclosure statement" means a disclosure statement for an out-of-state time-share program or time-share project that is properly registered in the situs.

"Annual report" means a completed, board-prescribed form and required documentation submitted in compliance with § [55-394.1](#) of the Code of Virginia.

"Application" means a completed, board-prescribed form submitted with the appropriate fee and other required documentation in compliance with the Virginia Real Estate Time-Share Act and this chapter.

"Blanket bond" means a blanket surety bond issued in accordance with the requirements of § [55-375](#) of the Code of Virginia obtained and maintained by a developer in lieu of escrowing deposits accepted by a developer in connection with the purchase or reservation of a product.

"Blanket letter of credit" means a blanket irrevocable letter of credit issued in accordance with the requirements of § [55-375](#) of the Code of Virginia obtained and maintained by a developer in lieu of escrowing deposits accepted by a developer in connection with the purchase or reservation of a product.

"Department" means the Department of Professional and Occupational Regulation.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Firm" means a sole proprietorship, association, partnership, corporation, limited liability company, limited liability partnership, or any other form of business organization recognized under the laws of the Commonwealth of Virginia.

"Full and accurate disclosure" means the degree of disclosure necessary to ensure reasonably complete and materially accurate representation of the time-share in order to protect the interests of purchasers.

"Individual bond" means an individual surety bond issued in accordance with the requirements of § [55-375](#) of the Code of Virginia obtained and maintained by a developer in lieu of escrowing a deposit accepted by a developer in connection with the purchase or reservation of a product.

"Individual letter of credit" means an individual irrevocable letter of credit issued in accordance with the requirements of § [55-375](#) of the Code of Virginia obtained and

maintained by a developer in lieu of escrowing a deposit accepted by a developer in connection with the purchase or reservation of a product.

"Registration file" means the application for registration, supporting materials, annual reports, and amendments that constitute all information submitted and reviewed pertaining to a particular time-share program, time-share project, alternative purchase, exchange company, or time-share reseller registration. A document that has not been accepted for filing by the board is not part of the registration file.

"Virginia Real Estate Time-Share Act" means Chapter 21 (§ [55-360](#) et seq.) of Title 55 of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018.

18VAC48-45-30. Explanation of Terms.

Each reference in this chapter to a "developer," "purchaser," and "time-share owner" or to the plural of those terms shall be deemed to refer, as appropriate, to the masculine and the feminine, to the singular and the plural, and to natural persons and organizations. The term "developer" shall refer to any successors to the persons referred to in § [55-362](#) of the Code of Virginia who come to stand in the same relation to the time-share as their predecessors in that they assumed rights reserved for the benefit of a developer that (i) offers to dispose of its interest in a time-share not previously disposed of or (ii) applies for registration of the time-share program.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-40. Time-Share Projects Located Outside of Virginia.

A. In any case involving a time-share project located outside of Virginia in which the laws or practices of the jurisdiction in which such time-share project is located prevent compliance with a provision of this chapter, the board shall prescribe by order a substitute provision to be applicable in such case that is as nearly equivalent to the original provision as is reasonable under the circumstances.

B. The words "time-share instrument" and "public offering statement," when used in this chapter with reference to a time-share located outside of Virginia, mean documents, portions of documents, or combinations thereof, by whatever name denominated, that have a content

and function identical or substantially equivalent to the content and function of their Virginia counterparts.

C. The word "recording" or "recordation" when used with reference to time-share instruments of a time-share located outside of Virginia means a procedure that, in the jurisdiction in which such time-share is located, causes the time-share instruments to become legally effective.

D. This chapter shall apply to a contract for the disposition of a time-share located outside of Virginia only to the extent permissible under the provisions of subsection C of § [55-361.1](#) of the Code of Virginia.

E. The time-share shall be properly registered in the state or other jurisdiction where the project is located.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-50. Application Procedures.

Part II. General Application Requirements

A developer seeking registration of a time-share project or an alternative purchase, an exchange company seeking registration of an exchange program, or a reseller seeking registration in order to offer or provide resale services, all in accordance with the Virginia Real Estate Time-Share Act, shall submit an application on the appropriate form provided by the board, along with the appropriate fee specified in [18VAC48-45-70](#).

By submitting the application to the board, the applicant certifies that the applicant has read and understands the applicable statutes and this chapter.

The receipt of an application and the deposit of fees by the board do not indicate approval or acceptance of the application by the board.

The board may make further inquiries and investigations to confirm or amplify information supplied. All applications shall be completed in accordance with the instructions contained in this chapter and on the application. Applications will not be considered complete until all required documents are received by the board.

Applications that are not complete within 12 months after receipt of the application in the board's office will be purged, and a new application and fee must be submitted in order to be reconsidered for registration.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-60. Review of Application for Registration, Generally.

A. Upon the review of the application for registration, if the requirements of this chapter have not been met, the board shall notify the applicant.

B. The board may refuse initial registration due to an applicant's failure to comply with entry requirements or for any of the reasons for which the board may discipline a regulant.

C. At such time as the board affirmatively determines that the requirements of this chapter have been met, the board shall issue the applicable registration.

D. Notwithstanding the provisions of [18VAC48-45-130](#) for a time-share project registration, applicants who do not meet the requirements of this chapter may be approved following consideration by the board in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq. of the Code of Virginia).

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-70. Fees.

A. All fees are nonrefundable and shall not be prorated. The date on which the fee is received by the board or its agent will determine whether the fee is timely. Checks or money orders shall be made payable to the Treasurer of Virginia.

B. Fees are as follows:

Time-share project registration application	\$1,500
Time-share project phase amendment filing	\$250
Time-share project registration annual report	\$500
Alternative purchase registration application	\$100
Alternative purchase registration annual report	\$100
Exchange program registration application	\$1,000
Exchange program registration annual report	\$250
Time-share reseller registration application	\$250
Time-share reseller registration renewal	\$250
Time-share reseller registration reinstatement (includes a \$100 reinstatement fee in addition to the	\$350

\$250 renewal fee)

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-80. Time-Share Marketing Activities.

Part III. Marketing and Advertising

A. Time-share marketing activities shall include every contact by or on behalf of the developer for the purpose of promoting disposition of a time-share or alternative purchase. Such contacts may be personal, by telephone, by mail, by electronic means including social media, or by advertisement. A promise, assertion, representation, or statement of fact or opinion made in connection with a time-share marketing activity may be oral, written, electronic, or graphic.

B. No time-share marketing activity shall be deemed an offer unless, by its express terms, it induces, solicits, or encourages a prospective purchaser to (i) execute a contract of sale of the time-share or alternative purchase or (ii) perform some other act that would create or purport to create a legal or equitable interest in the time-share until the board has issued an order of registration.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-90. Offering of Gifts or Prizes.

A. Any offering that includes a gift or prize shall include the disclosures contained in § [55-374.1](#) of the Code of Virginia. Such disclosures shall be made with the same prominence as the offer.

B. The board may at any time require a developer to alter or amend any offering that includes a gift or prize in order to ensure compliance with this section.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-100. Registration of Time-Share Project and Program.

Part IV. Application for Time-Share Project Registration

In accordance with § [55-390](#) of the Code of Virginia, a developer offering or disposing of an interest in a time-share program must register the time-share project and its program with the board. For the purposes of this chapter as it relates to registration, the registration of a time-share project shall include the simultaneous registration of the time-share program.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-110. Prerequisites for Registration of a Time-Share Project.

The following provisions are prerequisites for registration and are supplementary to the provisions of § [55-391.1](#) of the Code of Virginia.

1. The developer shall own or have the right to acquire an estate in the land constituting or to constitute the time-share project that is of at least as great a degree and duration as the estate to be conveyed in the time-shares.
2. The time-share instrument must be adequate to bring a time-share project into existence upon recordation. This subdivision does not apply to a time-share instrument that may be recorded after the time-share project has been created.
3. The time-share instrument must include a statement detailing that the developer reserves or does not reserve the right to add or delete any alternative purchase.
4. The current and planned time-share advertising activities of the developer shall comply with § [18.2-216](#) of the Code of Virginia and this chapter.
5. If the developer is a firm, it shall be organized as a business entity under the laws of the Commonwealth of Virginia or otherwise authorized to transact business in Virginia. Firms shall register any trade or fictitious names with the State Corporation Commission or the clerk of court in the jurisdiction where the business is to be conducted in accordance with §§ [59.1-69](#) through [59.1-76](#) of the Code of Virginia before submitting an application to the board.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-120. Review of Application for Registration of a Time-Share Project.

A. Upon receipt of an application for registration of a time-share project, the board shall issue the notice of filing required by subsection A of § [55-393.1](#) of the Code of Virginia.

B. Upon the review of the application for registration, if the requirements of § [55-391.1](#) of the Code of Virginia and this chapter have not been met, the board shall notify the applicant as required by subsection C of § [55-393.1](#) of the Code of Virginia.

C. If the requirements for registration are not met within the application review period or a valid extension thereof, the board shall, upon the expiration of such period, enter an order rejecting the registration as required by subsection C of § [55-393.1](#) of the Code of Virginia. The order rejecting the registration shall become effective 20 days after issuance.

D. An applicant may submit a written request for an informal conference in accordance with § [2.2-4019](#) of the Code of Virginia at any time between receipt of a notification pursuant to subsection B of this section and the effective date of the order of rejection entered pursuant to subsection C of this section. A request for such proceeding shall be deemed a consent to delay within the meaning of subsection A of § [55-393.1](#) of the Code of Virginia.

E. The board shall receive and act upon corrections to the application for registration at any time prior to the effective date of an order rejecting the registration. If the board determines after review of the corrections that the requirements for registration have not been met, the board may proceed with an informal conference in accordance with § [2.2-4019](#) of the Code of Virginia in order to allow reconsideration of whether the requirements for registration are met. If the board does not opt to proceed with an informal conference, the applicant may submit a written request for an informal conference in accordance with § [2.2-4019](#) of the Code of Virginia in order to reconsider whether the requirements for registration are met. If the board does not proceed with an informal conference and no request for an informal conference is received from the applicant, an amended order of rejection stating the factual basis for the rejection shall be issued. A new 20-day period for the order of rejection to become effective shall commence.

F. At such time as the board affirmatively determines that the requirements of § [55-391.1](#) of the Code of Virginia have been met, the board shall enter an order registering the time-share and shall designate the form, content, and effective date of the public offering statement.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-130. Minimum Application Requirements for Registration of a Time-Share Project.

A. The documents and information contained in §§ [55-367](#), [55-368](#), [55-369](#), [55-371](#), [55-374](#), and [55-391.1](#) of the Code of Virginia, as applicable, shall be included in the application for registration of a time-share project.

B. The application for registration of a time-share project shall include the fee specified in [18VAC48-45-70](#).

C. The following documents shall be included in the application for registration of a time-share project as exhibits. All exhibits shall be labeled as indicated and submitted in a format acceptable to the board.

1. Exhibit A: A copy of the certificate of incorporation or certificate of authority to transact business in Virginia issued by the Virginia State Corporation Commission, or any other entity formation documents, together with any trade or fictitious name certificate.

2. Exhibit B: A certificate of recordation or other acceptable documents from the city or county where the time-share is located.

3. Exhibit C: A copy of the title opinion, the title policy, or a statement of the condition of the title to the time-share project including encumbrances as of a specified date within 30 days of the date of application by a title company or licensed attorney who is not a salaried employee, officer, or director of the developer or owner, in accordance with subdivision A 5 of § [55-391.1](#) of the Code of Virginia. If the developer is not the record owner of the land, a copy of any contract the developer has executed to purchase the land, any option the developer holds for the purchase of the land, or any lease under which the developer holds the land.

4. Exhibit D: Proof that the applicant or developer owns or has the right to acquire an estate in the land constituting or to constitute the time-share project, which is of at least as great a degree and duration as the estate to be conveyed in the time-share.

5. Exhibit E: A statement of the zoning, subdivision, or land use obligations or proffers and other governmental regulations affecting the use of the time-share, including the site plans and building permits and their status, any existing tax, and existing or proposed special taxes or assessments that affect the time-share.

6. Exhibit F: A copy of the time-share instrument, including all applicable amendments and exhibits, that will be delivered to a purchaser to evidence the purchaser's interest in the time-share and of the contracts and other agreements that a purchaser will be required to agree to or sign.

7. Exhibit G: A narrative description of the promotional plan for the disposition of the time-shares.

8. Exhibit H: A copy of the proposed public offering statement that complies with § [55-374](#) of the Code of Virginia and this chapter. Pursuant to subsection G of § [55-374](#), a similar disclosure statement required by other situs laws governing time-sharing may be submitted for a time-share located outside of the Commonwealth.

9. Exhibit I: A copy of the buyer's acknowledgment. Pursuant to § [55-376.5](#) of the Code of Virginia, the purchaser shall be given this document prior to signing a purchase contract, and the document shall contain the information required by subsection B of § [55-376.5](#).

10. Exhibit J: The signed original of (i) any bond or letter of credit obtained pursuant to § [55-375](#) of the Code of Virginia in lieu of escrowing deposits and (ii) any bond or letter of credit required by subsection B of § [55-386](#) of the Code of Virginia, as applicable.

11. Exhibit K: 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.

12. Exhibit L: 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. The list must include each individual's residential address or other address valid for receipt of service, principal occupation for the past five years, and title.

13. Exhibit M: A statement whether any of the individuals or entities named in Exhibit L are or have been involved as defendants in any indictment, conviction, judgment, decree, or order of any court or administrative agency against the developer or managing entity for violation of a federal, state, local, or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements, or any similar or related activity.

14. Exhibit N: A statement whether, during the preceding five years, any of the individuals or entities named in Exhibit L have been adjudicated bankrupt or have undergone any proceeding for the relief of debtors.

15. Exhibit O: If the developer has reserved the right to add to or delete from the time-share program any incidental benefit or alternative purchase, a description of the incidental benefit or alternative purchase shall be provided pursuant to subdivision A 13 of § [55-391.1](#) of the Code of Virginia.

16. Exhibit P: Conversion time-share projects must attach a copy of the notice required by subsection D of § [55-374](#) of the Code of Virginia and a certified statement that such notice shall be mailed or delivered to each of the tenants in the building or buildings for which the registration is sought at the time of the registration of the conversion project.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018.

18VAC48-45-140. Public Offering Statement Requirements, Generally.

Part V. Public Offering Statement

In addition to the provisions of § [55-374](#) of the Code of Virginia, the following will be considered, as applicable, during review of the public offering statement:

1. The public offering statement shall provide full and accurate disclosure in accordance with [18VAC48-45-150](#) .
2. The public offering statement shall pertain to the time-share project in which the time-shares being offered are located.
3. The public offering statement shall be clear, organized, and legible.
4. Except for brief excerpts, the public offering statement may refer to, but should not incorporate verbatim, portions of the time-share instruments, the Virginia Real Estate Time-Share Act, or this chapter. This does not preclude compliance with [18VAC48-45-170](#) .

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-150. Full and Accurate Disclosure.

A. The provisions of § [55-374](#) of the Code of Virginia and this chapter shall be strictly construed to promote full and accurate disclosure in the public offering statement. In addition, the following will be considered, as applicable, during review to assure full and accurate disclosure:

1. The information shall be presented in a manner that is clear and understandable to a reasonably informed consumer, while maintaining consistency with the requirements of this chapter and the Virginia Real Estate Time-Share Act.
2. No information shall be incorporated by reference to an outside source that is not reasonably available to a prospective purchaser.
3. If required information is not known or not reasonably available, such fact shall be stated and explained in the public offering statement.

B. The board has the sole discretion to require additional information or amendment of existing information as it finds necessary to ensure full and accurate disclosure.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-160. Contents of Public Offering Statement.

- A. A cover, if used, must be blank or bear identification information only.
- B. The developer may include as part of the public offering statement a receipt page printed

in such a way that the developer may obtain verification that a prospective purchaser has received the public offering statement. The receipt page shall include the effective date of the public offering statement as well as a place for the date of delivery and signature lines for the prospective purchaser. The authorized receipt page in proper form, duly executed, shall be evidence that the public offering statement was delivered.

C. The first page of the public offering statement shall be substantially as follows.

**PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S PROTECTION
PUBLIC OFFERING STATEMENT**

NAME OF TIME-SHARE PROJECT:

LOCATION OF TIME-SHARE PROJECT:

NAME OF DEVELOPER:

ADDRESS OF DEVELOPER:

EFFECTIVE DATE OF PUBLIC OFFERING
STATEMENT:

REVISED:

THE PURCHASER OF A TIME-SHARE MAY CANCEL THE CONTRACT UNTIL MIDNIGHT OF THE SEVENTH CALENDAR DAY FOLLOWING THE EXECUTION OF SUCH CONTRACT. THE PURCHASER SHOULD READ THIS DOCUMENT FOR THE PURCHASER'S OWN PROTECTION.

Purchasing a time-share carries with it certain rights, responsibilities, and benefits, including certain financial obligations, rights, and restrictions concerning the use and maintenance of units and common elements. The purchaser will be bound by the provisions of the time-share instruments and should review the Public Offering Statement, the time-share instruments, and other exhibits carefully prior to purchase.

This Public Offering Statement presents information regarding time-share(s) being offered for sale by the developer. The Virginia Real Estate Time-Share Act (§ [55-360](#) et seq. of the Code of Virginia) requires that a Public Offering Statement be given to every Purchaser in order to provide full and accurate disclosure of the characteristics of and material circumstances affecting the time-share project and the characteristics of the time-share(s) being offered. The Public Offering Statement is not intended, however, to be all-inclusive. The Purchaser should consult other sources for details not covered by the Public Offering Statement.

The Public Offering Statement summarizes information and documents furnished by the developer to the Virginia Common Interest Community Board. The Board has carefully

reviewed the Public Offering Statement but does not guarantee the accuracy or completeness of the Public Offering Statement. In the event of any inconsistency between the Public Offering Statement and the material it is intended to summarize, the material shall control.

If the Purchaser elects to cancel the contract within the seven-day cancellation period, all payments made in connection with the purchase contract shall be refunded to the Purchaser within 45 days. If the Purchaser elects to cancel the contract, the Purchaser shall do so either by (i) hand-delivering the notice to the developer at its principal office or at the project or (ii) mailing the notice by certified United States mail, return receipt requested, to the developer or its agent designated in the contract.

Allegations of violation of any law or regulation contained in the Virginia Real Estate Time-Share Act or the Time-Share Regulations ([18VAC48-45](#)) should be reported to the Common Interest Community Board, Perimeter Center, Suite 400, 9960 Mayland Drive, Richmond, Virginia 23233.

D. A summary of important considerations shall immediately follow the first page for the purpose of reinforcing the disclosure of significant information. The summary shall be titled as such and shall be introduced by the following statement: "The following are important matters to be considered in acquiring a time-share. They are highlights only. The Public Offering Statement should be examined in its entirety to obtain detailed information." Appropriate modifications shall be made to reflect facts and circumstances that may vary. The summary shall consist of, but not be limited to, the following, as applicable:

1. A brief description of the time-share project and the time-share program.
2. A statement regarding all incidental benefits or alternative purchases that may be offered by the developer.
3. 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.
4. A statement describing any exchange program that may be offered to the purchaser.
5. A statement describing (i) the purchaser's responsibility to make principal and interest payment 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 (ii) that a time-share owner cannot reduce the amount of any owner obligation for any reason.
6. A statement regarding the consequences for failure to pay maintenance fees or any special assessment when due. The statement may reference the enforcement mechanisms available to the developer, and if applicable the time-share association, by describing (i) any declaration of an owner being an "Owner Not in Good Standing"; (ii) any civil action taken for the collection of a debt; (iii) means for pursuing foreclosure or obtaining a lien against the time-share unit; and (iv) denial of access to the time-share project and

participation in the time-share program.

7. A statement indicating whether the developer or managing agent has indictments, convictions, judgments, decrees, or order of any court or administrative agency for matters related to fraud or consumer protection violations that may be required to be disclosed by subdivisions A 1 c and A 1 d of § [55-374](#) of the Code of Virginia.

8. A statement indicating the period of time the developer will retain control of the association for time-share estate projects.

9. A statement disclosing any management agreement with a managing agent to perform certain duties for the time-share project.

10. A statement indicating whether the developer may expand the time-share project.

11. A statement indicating whether the right of the time-share owner to resell or transfer the time-share is subject to restrictions.

12. A statement indicating the time-share units are restricted to lodging only.

13. A statement indicating that the time-share owner may not alter the interior or exterior of the time-share unit.

14. A statement regarding the obligation of the developer or association to obtain certain insurance benefiting the time-share owner.

15. A statement regarding a time-share estate and time-share owner's obligation to pay real estate taxes.

16. A statement regarding whether or not the developer reserves the right to add or delete any alternative purchase.

E. The content after the summary of important considerations shall include the narrative sections in [18VAC48-45-170](#) through [18VAC48-45-310](#) . Supplementary sections may be included as necessary.

F. Clear and legible copies of the following documents shall be included as either supplements or exhibits to the public offering statement:

1. Project time-share instrument;
2. Association articles of incorporation;
3. Bylaws;
4. Association annual report or projected budget for time-share estate programs;
5. Rules and regulations of the time-share owners' association, if available;
6. Any management contract, if applicable;
7. Exchange company disclosure document and narrative statement required pursuant to subsection B of § [55-374](#) of the Code of Virginia, if applicable; and

8. Other documents obligating the association or time-share owner to perform duties or obligations or pay charges or fees, if applicable.

G. Other information and documentation may be included as necessary to ensure full and accurate disclosure. The board may also require additional information as necessary to ensure full and accurate disclosure.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-170. Narrative Sections; Time-Share Concept.

The public offering statement shall contain a section captioned "The Time-Share Concept." The section shall consist of a brief discussion of the form of time-share ownership being offered.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-180. Narrative Sections; Creation of Time-Share Project.

The public offering statement shall contain a section captioned "Creation of the Time-Share Project." The section shall briefly explain the manner in which the time-share project was or will be created, the locality wherein the time-share instrument will be or has been recorded, and the procedure for its amendment.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-190. Narrative Sections; Description of Time-Share Project.

A. The public offering statement shall contain a section captioned "Description of the Time-Share Project." The section shall provide a general description of the time-share project registered with the board and the units and common elements promised available to purchasers. This section shall also provide the developer's estimated schedule of commencement and completion of all promised and incomplete units and common elements.

B. The section shall state whether the developer has reserved the right to add and delete from

the time-share program a time-share project or any incidental benefit or alternative purchase.

C. The section shall refer the purchaser to the reverter deed for an explanation if the developer utilized the possibility of a reverter.

D. The section shall indicate all provisions that have been made for public utilities in the time-share project, including but not limited to water, electricity, telephone, and sewerage facilities.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-200. Narrative Sections; Individual Time-Shares.

A. The public offering statement shall contain a section captioned "Individual Time-Shares." The section shall indicate (i) the form of time-share ownership being offered; (ii) the types, duration, and number of units and time-shares in the project registered with the board; (iii) identification of units that are subject to the time-share program; and (iv) the estimated number of units that may become subject to the time-share program.

B. This section shall explain the extent to which financial arrangements, if any, have been provided for completion of any incomplete but promised time-share unit or common element being offered for sale. The section shall contain a statement of the developer's obligation to complete any promised time-share unit or common element being offered for sale comprising the time-share project that have not begun or begun but not yet completed.

C. The section shall explain the extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-210. Narrative Sections; Developer.

The public offering statement shall contain a section captioned "The Developer." The section shall disclose the following information concerning the developer:

1. The name and principal address of the developer.
2. The name, principal occupation, and address of every director, partner, limited liability company manager, or trustee of the developer.

3. The name and address of each person owning or controlling an interest of at least 20% in the time-share project.
4. The particulars of any indictment, conviction, judgment, decree, or order of any court or administrative agency against the developer or managing entity for violation of a federal, state, local, or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements, or any similar or related activity.
5. The nature of each unsatisfied judgment, if any, against the developer or the managing entity; the status of each pending suit involving the sale or management of real estate to which the developer, the managing entity, or any general partner, executive officer, director, limited liability company manager, or majority stockholder thereof, is a defending party; and the status of each pending suit, if any, of significance to any time-share project registered with the board.
6. The name and address of the developer's agent for service of any notice permitted by this chapter.
7. The section shall describe the type of legal entity of the developer and explain if other entities have any obligation to satisfy the financial obligations of the developer.
8. For a time-share use program, a statement as to whether a developer's net worth is more than or less than \$250,000. If the developer's net worth is less than \$250,000, a current audited balance sheet shall be provided with the public offering statement. If the developer's net worth exceeds \$250,000, a statement by the developer that its equity in the time-share program exceeds \$250,000.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-220. Narrative Sections; Terms of Offering.

- A. The public offering statement shall contain a section captioned "Terms of the Offering." The section shall discuss the expenses to be borne by a purchaser in acquiring a time-share and present information regarding the settlement of purchase contracts as provided in subsections B through H of this section.
- B. The section shall indicate any initial or special fees due from the purchaser at settlement including a description of the purpose of such fees.
- C. The section shall set forth a general description of any financing offered by or available through the developer to purchasers.
- D. The section shall describe (i) services that the developer provides or expenses it pays and that it expects may become at any subsequent time a time-share expense of the owners and

(ii) the projected time-share expense liability attributable to each of those services or expenses for each time-share.

E. The section shall discuss all penalties or forfeitures to be incurred by a purchaser upon default in performance of a purchase contract.

F. The section shall discuss the process for cancellation of a purchase contract by a purchaser in accordance with § [55-376](#) of the Code of Virginia. The section shall include a statement that the purchaser has a nonwaivable right of cancellation and refer such purchaser to that portion of the contract in which the right of cancellation may be found.

G. The section shall describe the terms of the deposit escrow requirements, including a statement, if applicable, that the developer has filed a surety bond or letter of credit with the board in lieu of escrowing deposits, in accordance with § [55-375](#) of the Code of Virginia. The section shall also state that deposits may be removed from escrow and no longer protected by a surety bond or letter of credit after the expiration of the cancellation period.

H. The section shall set forth all restrictions in the purchase contract that limit the time-share owner's right to bring legal action against the developer or the association. The section shall set forth the paragraph or section and page number of the purchase contract where such provision is located. Nothing in this statement shall be deemed to authorize such limits where those limits are otherwise prohibited by law.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018.

18VAC48-45-230. Narrative Sections; Encumbrances.

The public offering statement shall contain a section captioned "Encumbrances" that shall describe all liens, defects, or encumbrances affecting the time-share project and in particular the time-share offered to the purchaser.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-240. Narrative Sections; Exchange Program.

If any prospective purchaser is offered the opportunity to subscribe to or participate in any exchange program, the public offering statement shall contain a section captioned "Exchange Program" that shall include the following:

1. A statement of whether membership or participation in the program is voluntary or mandatory; and
2. A statement that the purchaser's contract with the exchange company is a contract separate and distinct from the purchaser's contract with the developer and whether there is a fee associated with membership or participation in the exchange program.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-250. Narrative Sections; Financial Matters.

- A. The public offering statement shall contain a section captioned "Financial Matters." The section shall discuss the expenses incident to the ownership of a time-share.
- B. The section shall distinguish, in general terms, the following categories of costs of operation, maintenance, repair, and replacement of various portions of the time-share as follows: (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.
- C. A budget shall show projected common expenses in each of the categories in subsection B of this section for the first year of the time-share's operation or, if different, the latest year for which a budget is available. The projected budget shall be attached to the public offering statement as an exhibit and the section shall direct the purchaser's attention to such exhibit. The section shall describe the manner in which the projected budget is established. If the time-share is phased, the budget shall project future years until all phases are projected to be developed and all common elements that must be built have been completed. The budget shall include an initial working capital budget showing sources and uses of initial working capital and a reserve table showing amounts to be collected to fund those reserves. The budget shall show regular individual assessments by unit type. The budget shall note that the figures are not guaranteed and may vary.
- D. The section shall describe the manner in which (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 are apportioned among and assessed to the time-share units. The section shall include the substance of the following statement, if applicable: "A time-share owner cannot obtain a reduction of the (i) time-share expenses; (ii) time-share estate occupancy expenses as defined in § [55-369](#) of the Code of Virginia; and (iii) any other costs that may be borne directly by individual time-share owners assessed against the unit by refraining from use of any of the common elements."
- E. The section shall describe budget provisions for reserves for capital expenditures, if any. If there are no reserves, the section shall so state.

F. The section shall discuss (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 right the developer or association has to institute special assessments.

G. The section shall indicate any fee, rental, or other charge to be payable by unit owners other than through assessments and maintenance fees to any party for use of the common elements or for use of recreational or parking facilities in the vicinity of the time-share project.

H. The section shall discuss the effect of failure of a time-share owner to pay the assessments and maintenance fees levied against the time-share unit. Such discussion shall indicate provisions for charges or other remedies that may be imposed to be applied in the case of unpaid and past due assessments and for acceleration of unpaid assessments.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-255. Narrative Sections; Governmental Reviews.

The public offering statement shall contain a section captioned "Governmental Reviews." The section shall discuss governmental approvals required for the development of the time-share project. In addition, the section shall discuss approval of the zoning application and site plan and issuance of building permits by appropriate governmental authorities. The section shall state the current zoning classification for the time-share project property. The section shall also include a statement regarding zoning, subdivision, or land use obligations or proffers that would be imposed on the time-share owner or the association, but need not disclose zoning, subdivision, or land use obligations or proffers that do not impose any obligation on the association.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-260. Narrative Sections; Restrictions on Transfer.

The public offering statement shall include a section captioned "Restrictions on Transfer." The section shall describe and explain limitations on leasing or other restraints on free alienability created by the time-share instruments or the rules and regulations of the time-share owners' association that affect the time-share owners' right to resell, lease or otherwise transfer an interest in the time-share.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-270. Narrative Sections; Time-Share Owners' Association.

A. For time-share estate projects the public offering statement shall contain a section captioned "Time-Share Owners' Association." The section shall discuss the arrangements for the management and operation of the time-share estate program and for the maintenance, repair, and furnishing of units and shall include the information required by subdivisions 1 through 15 of this subsection. The section shall describe or discuss the following:

1. The creation of the association.
2. The payment of costs and expenses of operating the time-share estate program and owning and maintaining the time-share units.
3. Employment and termination of employment of the managing agent for the time-share estate project.
4. Termination of leases and contracts for goods and services for the time-share estate project that were entered into during the developer control period.
5. Preparation and dissemination of the annual report required by § [55-370.1](#) of the Code of Virginia to the time-share estate owners.
6. Adoption of standards and rules of conduct for the use, enjoyment, and occupancy of units by the time-share estate owners.
7. Collection of regular assessments, fees or dues, and special assessments from time-share estate owners to defray all time-share expenses.
8. Comprehensive general liability insurance for death, bodily injury, and property damage arising out of, or in connection with, the use and enjoyment of the time-share project by time-share estate owners, their guests and other users. The cost for such insurance shall be a time-share expense.
9. Methods for providing compensation or alternate use periods or monetary compensation to a time-share estate owner if his contracted-for unit cannot be made available for the period to which the owner is entitled by schedule or by confirmed reservation.
10. Procedures for imposing a monetary penalty or suspension of a time-share estate owner's rights and privileges in the time-share estate program or time-share project for failure to comply with provisions of the time-share instrument or the rules and regulations of the association with respect to the use and enjoyment of the units and the time-share project. Under these procedures a time-share estate owner must be given reasonable notice and reasonable opportunity to be heard and explain the charges against him in person or in

writing to the board of directors of the association before a decision to impose discipline is rendered.

11. Employment of attorneys, accountants, and other professional persons as necessary to assist in the management of the time-share estate program and the time-share project.

12. Developer control period, during which time period the developer, or a managing agent selected by the developer, shall manage and control the time-share estate project and the common elements and units, including decisions about the financial operation of the association.

13. The managing agent, if any, shall be identified, and the section shall indicate any relationship between the managing agent and the developer. The duration of any management agreement shall be stated.

14. Except to the extent otherwise disclosed in connection with discussion of a management agreement, the significant terms of any lease of recreational areas or similar contract or agreement affecting the use, maintenance or access of all or any part of the time-share project shall be stated. The section shall include a brief narrative statement of the effect of each such agreement upon a purchaser.

15. Rules and regulations of the time-share estate association shall be discussed. The purchaser's attention shall be directed to the copy of rules and regulations, if any, attached to the public offering statement.

B. For time-share use projects, if an association is formed for management and operation of the time-share use program and for the maintenance, repair, and furnishing of time-share use units comprising the time-share, the public offering statement shall contain a section captioned "Time-Share Owners' Association." This section shall contain the information required by subdivisions A 1 through 15 of this section as applicable to the association for the time-share use project.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-280. Narrative Sections; Managing Entity.

The public offering statement shall include a section captioned "Managing Entity." This section shall provide the name and address of the managing entity for the project. The section shall also provide a description of the facilities, if any, provided by the developer to the association in a time-share estate project for the management of the project.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-290. Narrative Sections; Conversion Time-Share Projects.

A. The public offering statement of a conversion time-share project shall contain a section captioned "Conversion Time-Share Projects." The section shall include the following:

1. A specific statement of the amount of any initial or special fee, if any, due from the purchaser of a time-share on or before settlement of the purchase contract and the basis of such fee occasioned by the fact that the project is a conversion time-share project.
2. Information on the actual expenditures, if available, made on all repairs, maintenance, operation, or upkeep of the building or buildings within the last three years. This information shall be set forth in a tabular manner within the proposed budget of the project. If such building or buildings have not been occupied for a period of three years then the information shall be set forth for the period during which such building or buildings were occupied.
3. A description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves occasioned by the fact that the project is a conversion time-share project, or, if no provision is made for such reserves, a statement to that effect.
4. A statement of the present condition of all structural components and major utility installations in the building, which statement shall include the approximate dates of construction, installations, and major repairs as well as the expected useful life of each such item, together with the estimated cost, in current dollars, of replacing each such component.

B. In lieu of a narrative section pursuant to this section, the requirements of this section may be satisfied in the form of an exhibit to the public offering statement.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-300. Narrative Sections; Insurance.

The public offering statement shall contain a section captioned "Insurance." The section shall describe generally the insurance coverage provided by the developer or the association for the benefit of time-share owners not otherwise described in the public offering statement. The section shall state, with respect to such insurance, each of the following circumstances, to the extent applicable: (i) property damage coverage will not insure personal property belonging to unit owner; and (ii) liability coverage will not insure against liability arising from an accident or injury occurring within a unit or as a result of the act or negligence of a

time-share owner. The section shall include a statement whether the time-share owner is obligated to obtain coverage for any or all of the coverages described. The section shall include a statement indicating that the time-share owner should consult with an insurance professional to determine appropriate coverage.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-310. Narrative Sections; Alternative Purchase.

The public offering statement shall contain a section entitled "Alternative Purchases." The section shall state whether or not the developer has reserved the right to add to or delete from the time-share program any incidental benefit or alternative purchase. The section shall state that such alternative purchase has been or will be registered with the board.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-320. Documents from Other Jurisdictions.

A. A substituted public offering statement shall only be permitted for a time-share program for which some portion of the time-share project associated with the program is located outside of Virginia.

B. The substituted public offering statement shall be prepared by deleting from the original disclosure document the following: (i) references to any governmental agency of another jurisdiction to which application has been made or will be made for registration or related action; (ii) references to the action of such governmental agency relative to the time-share project and its time-share program; (iii) statements of the legal effect in another jurisdiction of delivery, failure to deliver, acknowledgment of receipt or related events involving the disclosure document; (iv) the effective date or dates in another jurisdiction of the disclosure document; and (v) all other information that is untrue, inaccurate, or misleading with respect to marketing, offers, or disposition of time-shares in Virginia.

C. The substituted public offering statement shall incorporate all information not otherwise included that is necessary to effect fully and accurately the disclosures required by § [55-374](#) of the Code of Virginia. The substituted disclosure document shall clearly explain any nomenclature that is different from the definitions provided in § [55-362](#) of the Code of Virginia.

D. The substituted public offering statement shall include as the first item of the summary of

important considerations a statement that includes the following information: (i) the designation by which the original disclosure document is identified in the original jurisdiction; (ii) the governmental agency of such other jurisdiction where the original disclosure document is or will be filed; and (iii) the jurisdiction of such filing.

E. The provisions of §§ [55-374](#) and [55-376](#) of the Code of Virginia and [18VAC48-45-150](#) , [18VAC48-45-160](#) , and [18VAC48-45-170](#) shall apply to substituted public offering statements in the same manner and to the same extent that they apply to public offering statements.

F. In the case of a time-share project located outside of the Commonwealth, pursuant to subsection G of § [55-374](#) of the Code of Virginia, disclosure statements required by other situs laws governing time-sharing that are equivalent to the requirements of this chapter may be accepted as alternative disclosure statements.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-330. Minimum Post-Registration Reporting Requirements for a Time-Share Project.

Part VI. Time-Share Project Post-Registration Provisions

A. Subsequent to the issuance of a registration for a time-share by the board, the developer of a time-share shall do the following:

1. File an annual report in accordance with § [55-394.1](#) of the Code of Virginia and this chapter.
2. Upon the occurrence of a material change, file an amended public offering statement in accordance with the provisions of subsection E of § [55-374](#) and subsection C of § [55-394.1](#) of the Code of Virginia and this chapter. These amendments shall be filed with the board within 20 business days after the occurrence of the material change.
3. Upon the occurrence of any material change in the information contained in the registration file, the developer shall immediately report such material changes to the board in accordance with the provisions of subsection B of § [55-391.1](#) of the Code of Virginia.
4. Notify the board of a change in any bond or letter of credit, as applicable, filed with the board in accordance with § [55-375](#) of the Code of Virginia or required by subsection B of § [55-386](#) of the Code of Virginia.
5. File a completed application for registration of an unregistered phase or phases upon the expansion of the time-share, along with the appropriate fee specified in [18VAC48-45-70](#) .
6. Notify the board of transition of control from the developer to the time-share estate owners' association (time-share estate projects only).

7. Submit appropriate documentation to the board once the registration is eligible for termination.

8. Submit to the board any other document or information, which may include information or documents that have been amended or may not have existed previously, that affects the accuracy, completeness, or representation of any information or document filed with the application for registration.

9. Submit to the board any document or information to make the registration file accurate and complete.

B. Notwithstanding the requirements of subsection A of this section, the board at any time may require a developer to provide information or documents, or amendments thereof, in order to assure full and accurate disclosure to prospective purchasers and to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018.

18VAC48-45-340. Amendment of Public Offering Statement.

Any amendment of the public offering statement or substituted public offering statement shall comply with this chapter.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-350. Nonmaterial Changes to the Public Offering Statement.

Changes to the public offering statement that are not material are not required to be filed with the board, shall not be deemed an amendment of the public offering statement for the purposes of this chapter, and shall not give rise to a renewed right of rescission in any purchase. Nonmaterial changes to the public offering statement include the following:

1. Correction of spelling, grammar, omission, or other similar errors not affecting the substance of the public offering statement;
2. Changes in presentation or format;
3. Substitution of an executed, filed, or recorded copy of a document for the otherwise substantially identical unexecuted, unfiled, or unrecorded copy of the document that was previously submitted;

4. Inclusion of updated information such as identification or description of the current officers and directors of the developer;
5. Disclosure of completion of improvements for improvements that were previously proposed or not complete;
6. Changes in real estate tax assessment or rate or modifications related to those changes;
7. Changes in utility charges or rates or modifications related to those changes;
8. Addition or deletion of incidental benefits or alternative purchases provided the developer reserved in the time-share instrument the right to add or delete incidental benefits or alternative purchases;
9. Adoption of a new budget that does not result in a significant change in fees or assessments or significantly impact the rights or obligations of the prospective purchasers;
10. Modifications related to changes in insurance company or financial institution, policy, or amount for bonds or letters of credit filed with the board in accordance with § [55-375](#) of the Code of Virginia or required pursuant to § [55-386](#) of the Code of Virginia;
11. Changes in personnel of the managing agent; and
12. Any change that is the result of orderly development of the time-share in accordance with the time-share instruments as described in the public offering statement.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018.

18VAC48-45-360. Filing of Amended Public Offering Statement.

A. The developer shall promptly file with the board for review a copy of the amended public offering statement together with a copy of a summary of proposed amendments that shall be distributed to purchasers during the board review period. The summary of proposed amendments shall enumerate the amendments to the public offering statement submitted for board review and include a statement that the amendments to the public offering statement have been filed with the board but have not yet been accepted. The form of the submission is at the discretion of the developer provided that (i) all amendments are clearly represented in the documentation presented; (ii) the additions and deletions of text in the public offering statement and exhibits shall be identified by underlining and striking through text to be added and deleted; and (iii) documents being added to or deleted from the contents of the public offering statement shall be clearly and accurately reflected in the table of contents utilizing underlines and strikethroughs for additions and deletions. In addition to the copies showing edits to the text, a clean copy of all new and amended documents shall be provided.

B. The amended public offering statement submitted to the board for review shall include the effective date of the amendments.

C. Within 30 days of receipt of the amended public offering statement, the board shall review the amended public offering statement and supporting materials to determine whether the amendment complies with this chapter. If the board's review determines that the amended public offering statement complies with this chapter, it shall notify the developer in writing and confirm the new effective date of the public offering statement.

D. If the board's review determines that the amended public offering statement does not comply with this chapter, it shall immediately notify the developer in writing that the review has determined the amended public offering statement is not in compliance and shall specify the particulars of such noncompliance. The developer shall then have 20 days in which to correct the particulars of noncompliance identified by the board. The developer may, prior to the completion of the 20-day correction period, request an extension in writing of the 20-day correction period. Upon expiration of the 20-day correction period, if requested corrections have not been made or a request for extension properly received, the board may issue a temporary cease and desist order in accordance with subdivision D 2 of § [55-396](#) of the Code of Virginia to require the cessation of sales until such time as affirmative action as directed by the board is taken. Use of the noncompliant public offering statement may result in further action by the board pursuant to §§ [55-396](#) , [55-399.1](#) , and [55-400](#) of the Code of Virginia.

E. Notwithstanding an extension of the 30-day period for review agreed to in writing by the board and developer, if the board does not perform the required review of the public offering statement in accordance with subsection C of this section, the amendment shall be deemed to comply with [18VAC48-45-150](#) through [18VAC48-45-310](#) , and the new effective date shall be the effective date of the amendment provided pursuant to subsection B of this section.

F. In each case in which an amended document is filed pursuant to this section and the manner of its amendment is not apparent on the face of the document, the developer shall provide an indication of the manner and extent of amendment.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-370. Current Public Offering Statement.

A. Upon issuance of an effective date by the board, all purchasers who received a public offering statement and summary of proposed amendments during the board review period pursuant to subsection A of [18VAC48-45-360](#) shall be provided with the public offering statement as accepted by the board. A public offering statement remains current until such time as the occurrence of a material change requires amendment of the public offering statement pursuant to this chapter and a new effective date is issued by the board.

B. Upon issuance of an effective date by the board, a public offering statement remains current until such time as a new effective date is established pursuant to this chapter.

C. Notwithstanding the board's authority to issue a cease and desist order pursuant to § [55-396](#) of the Code of Virginia, the filing of an amended public offering statement shall not require the developer to cease sales provided that the developer provides to purchasers the summary of proposed amendments pursuant to subsection A of [18VAC48-45-360](#) pending the issuance of a new effective date by the board.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-380. Public Offering Statement Not Current; Notification of Purchasers.

A. A purchaser who has been delivered a public offering statement that is not current due to a material change and was not provided with the summary of proposed amendments containing the proposed changes to the amended public offering statement pursuant to subsection A of [18VAC48-45-360](#) pending the issuance of a new effective date by the board shall be notified of such fact by the developer.

B. A purchaser who has been delivered a public offering statement and summary of proposed amendments pursuant to subsection A of [18VAC48-45-360](#), but the amended public offering statement is determined to be noncompliant in accordance with subsection D of [18VAC48-45-360](#), shall be notified of such fact by the developer.

1. The notification shall indicate that any contract for disposition of a time-share may be canceled by the purchaser pursuant to subsection C of § [55-376](#) of the Code of Virginia.

2. The developer shall file a copy of the notification with the board and provide proof that such notification has been delivered to all purchasers under contract.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-390. Filing of Phase Amendment Application.

A. A phase amendment application for a time-share project shall be filed when adding a phase or phases to the time-share project. Such phase amendment application shall be accompanied by the fee provided for in [18VAC48-45-70](#) and shall be subject to all of the provisions of [18VAC48-45-50](#) and [18VAC48-45-110](#), [18VAC48-45-120](#), and [18VAC48-45-](#)

[130](#) . Documents on file with the board that have not changed in connection with the additional phase or phases need not be refiled, provided that the phase amendment application indicates that such documents are unchanged.

B. The application shall include a bond or letter of credit required pursuant to subsection B of § [55-386](#) of the Code of Virginia if any of the time-share units and common elements contained in the submitted additional phase or phases have not been completed.

C. The board shall review the phase amendment application and supporting materials to determine whether the amendment complies with this chapter. If the board's review determines the phase amendment application complies with this chapter, it shall issue an amended order of registration for the time-share project and shall provide that previous orders and designations of the form, content, and effective date of the public offering statement are superseded. If the board's review determines that the phase amendment application is not complete, the board shall correspond with the developer to specify the particulars that must be completed to obtain compliance with this chapter.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-400. Annual Report for a Time-Share Project Registration Required by Developer.

A. A developer shall file an annual report for a time-share project registration on a form provided by the board to update the material contained in the registration file by June 30 of each year the registration is effective and shall be accompanied by the fee specified in [18VAC48-45-70](#) . Prior to filing the annual report required by § [55-394.1](#) of the Code of Virginia, the developer shall review the public offering statement then being delivered to purchasers. If such public offering statement is current, the developer shall so certify in the annual report. If such public offering statement is not current, the developer shall amend the public offering statement and the annual report shall, in that event, include a filing in accordance with [18VAC48-45-360](#) .

B. The annual report shall contain the following:

1. Current contact information for the developer;
2. Information concerning the current status of the time-share project;
3. Information concerning the current status of the time-share program, including (i) the type of time-shares being offered and sold; (ii) the total number of time-share interests available in the program; (iii) the total number of time-share interests sold; and (iv) information regarding any incomplete units and common elements;
4. If the project is a time-share estate project and the developer control period has not yet

expired, a copy of the annual report that was prepared and distributed by the developer to the time-share owners required by § [55-370.1](#) of the Code of Virginia must accompany the annual report;

5. Date of the public offering statement currently being delivered to purchasers; and

6. Current evidence from the surety or financial institution of bonds or letters of credit filed with the board in accordance with § [55-375](#) of the Code of Virginia or required pursuant to subsection B of § [55-386](#) of the Code of Virginia, or submittal of replacement bonds or letters of credit. Such verification shall provide the following:

- a. Principal of bond or letter of credit;
- b. Beneficiary of bond or letter of credit;
- c. Name of the surety or financial institution that issued the bond or letter of credit;
- d. Bond or letter of credit number as assigned by the issuer;
- e. The dollar amount;
- f. The expiration date or, if self-renewing, the date by which the bond or letter of credit shall be renewed; and
- g. For any blanket bond or blanket letter of credit, a statement of the total amount of deposits held by the developer as of May 31 of that calendar year.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018.

18VAC48-45-410. Board Review of Annual Report for a Time-Share Project Registration.

A. During review of the annual report, the board may make inquiries or request additional documentation to amplify or clarify the information provided.

B. If the board does not accept the annual report and the annual report filing is not completed within 60 days of a request by the board for additional information, the board may take further action pursuant to §§ [55-396](#), [55-399.1](#), and [55-400](#) of the Code of Virginia for failing to file an annual report as required by § [55-394.1](#) of the Code of Virginia.

C. If the board does not perform the required review of the annual report within 30 days of receipt by the board, the annual report shall be deemed to comply with § [55-394.1](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-420. Return of Bond or Letter of Credit to Ensure Completion of Promised Units and Common Elements to Developer.

A bond or letter of credit on file with the board pursuant to subsection B of § [55-386](#) of the Code of Virginia may be returned to the developer upon written request. Such request shall include a statement from the developer that indicates the units and common elements for which the bond or letter of credit was submitted have been completed. If the submitted statement is not sufficient to confirm completion, the board may request additional documentation.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-430. Return of Bond or Letter of Credit Filed in Lieu of Escrowing Deposits.

A. An individual bond or individual letter of credit on file with the board in accordance with § [55-375](#) of the Code of Virginia may be returned to the developer upon written request. Such request shall include a statement from the developer that indicates (i) the purchaser's cancellation period has expired, (ii) the purchaser's default under a purchase contract for the time-share estate entitling the developer to retain the deposit, or (iii) the purchaser's deposit was refunded.

B. Upon issuance of an order of termination of the time-share project registration pursuant to [18VAC48-45-450](#), a blanket bond or blanket letter of credit on file with the board in accordance with § [55-375](#) of the Code of Virginia will be returned to the developer.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018.

18VAC48-45-440. Maintenance of Bond or Letter of Credit.

A. The developer shall report the extension, cancellation, amendment, expiration, termination, or any other change of any bond or letter of credit submitted in accordance with § [55-375](#) and subsection B of § [55-386](#) of the Code of Virginia within five days of the change.

B. The board at any time may request verification from the developer of the status of a bond or letter of credit on file with the board. Such verification shall comply with the provisions of subdivision B 6 of [18VAC48-45-400](#) .

C. Failure to report a change in the bond or letter of credit in accordance with this section shall result in further action by the board pursuant to the Virginia Real Estate Time-Share Act.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#) , eff. December 14, 2018.

18VAC48-45-450. Termination of Time-Share Project Registration.

A. The time-share project registration shall be terminated upon receipt of documentation of one of the following:

1. In accordance with subsection A of § [55-394.2](#) of the Code of Virginia, an annual report for a time-share estate program filed pursuant to § [55-394.1](#) of the Code of Virginia indicates that the developer has transferred title to the time-share owners' association and that no further development rights exist.
2. In accordance with subsection B of § [55-394.2](#) of the Code of Virginia, written notification is received from the developer attesting that no further development of the project is anticipated and that the developer has ceased sales of time-shares at the project.

B. Upon receipt and review of documentation pursuant to subsection A of this section, the board shall issue an order of termination for the time-share registration. The board may request additional information as necessary during the review of the submitted documentation to ensure that the time-share registration is eligible for termination.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016.

18VAC48-45-460. Administrative Termination of Time-Share Project Registration.

A. In accordance with subsection C of § [55-394.2](#) of the Code of Virginia, the board may administratively terminate the registration of a time-share project. Prior to the administrative termination of the registration, the board shall send written notice of its intent to terminate the registration to all known parties associated with the time-share

project, including, but not limited to, the registered agent, developer's attorney, and principals of the developer. Such written notice shall be given to the parties by mail or otherwise if acknowledged by them in writing.

B. The board shall issue an order of termination for the time-share registration if (i) a response is not received within 30 days after sending the written notice, or (ii) the response received does not indicate termination of the registration is inappropriate in accordance with the Virginia Real Estate Time-Share Act and this chapter.

C. Nothing contained in this section shall prevent the board from taking further action as allowed by law including issuance of a temporary cease and desist order, issuance of a cease and desist order, revocation of registration, and bringing action in the appropriate circuit court to enjoin the acts or practices and to enforce compliance.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-470. Reporting of Other Changes to the Time-Share Project.

Any other change made or known by the developer that may affect the accuracy or completeness of the time-share registration file shall be reported promptly to the board. Such change may include but is not limited to the name of the developer, name of the time-share project, or any other changes in information submitted in accordance with § [55-391.1](#) of the Code of Virginia. The board may request additional information as necessary to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-480. Registration of Alternative Purchase Required.

Part VII. Alternative Purchase Registration

As required by § [55-394.5](#) of the Code of Virginia, a time-share developer shall register an alternative purchase as defined by § [55-362](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-490. Application for Registration of an Alternative Purchase.

Application for registration of alternative purchase shall be filed with the board on an application form furnished by the board and shall contain all of the documents and information required by § [55-394.5](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-500. (Reserved.)

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-510. Review of Application for Registration of an Alternative Purchase.

At such time as the board affirmatively determines that the requirements of this chapter have been met, the board shall register the alternative purchase. The registration period of the alternative purchase shall expire the last day of the month one year from the date of issuance.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-520. Minimum Alternative Purchase Post-Registration Reporting Requirements.

A. Subsequent to the issuance of a registration for an alternative purchase by the board, the developer offering the alternative purchase shall do the following:

1. File the annual report required pursuant to [18VAC48-45-540](#).
2. Upon the occurrence of any material change in the information contained in the registration file, the developer of a registered alternative purchase shall file the material change with the board within 30 days of the effective date of the material change.
3. Submit appropriate documentation to the board once the registration is eligible for

termination.

4. Submit to the board any other document or information, which may include information or documents that have been amended or may not have existed previously, that affects the accuracy, completeness, or representation of any information or document filed with the application for registration.

5. Submit to the board any document or information to make the registration file accurate and complete and to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

B. Notwithstanding the requirements of subsection A of this section, the board at any time may require the developer of a registered alternative purchase to provide information or documents, or amendments thereof, in order to assure full and accurate disclosure to prospective purchasers and to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-530. (Reserved.)

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-540. Annual Report Required for Alternative Purchase Registration.

A. Prior to the expiration of the registration, the developer shall file an annual report in a form approved by the board for the registered alternative purchase affiliated with such time-share project registration. Such alternative purchase annual report shall be accompanied by the fee specified in [18VAC48-45-70](#).

B. The annual report shall contain, but may not be limited to, the following:

1. Current contact information for the developer.
2. Information concerning the current status of the alternative purchase.

C. Once the annual report has been accepted by the board, the registration shall be extended for an additional one-year period from the date of the expiration of the registration. If the developer fails to complete the annual report filing within one year after the date of

expiration, the registration shall not be extended and the developer must apply as a new applicant.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-550. (Reserved.)

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-560. Termination of Registration for an Alternative Purchase.

A. The alternative purchase registration shall be terminated upon receipt of written notification from the developer attesting that the developer has ceased sales and requests termination of the alternative purchase. Should the developer later choose to offer alternative purchases for which the registration has been terminated in accordance with this subsection, prior to offering an alternative purchase, the developer must submit a new application for registration of the alternative purchase, meet all requirements in effect at the time of application, and obtain an alternative purchase registration from the board.

B. Upon receipt and review of the notification pursuant to subsection A of this section, the board shall terminate the alternative purchase registration. The board may request additional information as necessary during the review of the submitted notification to ensure that the alternative purchase registration is eligible for termination.

C. An alternative purchase registration shall be automatically terminated for failure to file an acceptable annual report within one year after the expiration of the registration.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-570. Reporting of Other Changes to the Alternative Purchase.

In accordance with subsection B of § 55.394.5 of the Code of Virginia, any material change made or known by the developer that may affect the accuracy or completeness of the alternative purchase registration file shall be filed with the board within 30 days of the effective date of the change. The board may request additional information as necessary to

ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-580. Registration of Exchange Program Required.

Part VIII. Exchange Program Registration

As required by § [55-374.2](#) of the Code of Virginia, an exchange company that offers an exchange program in the Commonwealth shall register the exchange program with the board.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-590. Minimum Requirements for Registration of an Exchange Program.

An application for registration of an exchange program shall include the following:

1. An application submitted in accordance with [18VAC48-45-50](#) ;
2. Current contact information for the exchange company;
3. A disclosure document that complies with § [55-374.2](#) of the Code of Virginia; and
4. A report independently audited by a certified public accountant or accounting firm in accordance with the standards of the Accounting Standards Board of the American Institute of Certified Public Accountants. The report shall provide the following for the preceding calendar year:
 - a. The number of owners enrolled in the exchange program. Such numbers shall disclose the relationship between the exchange company and owners as being either fee paying or gratuitous in nature;
 - b. The number of time-share properties, accommodations or facilities eligible to participate in the exchange program;
 - c. The percentage of confirmed exchanges, which shall be the number of exchanges confirmed by the exchange company divided by the number of exchanges properly applied for, together with a complete and accurate statement of the criteria used to determine whether an exchange request was properly applied for;
 - d. The number of time-shares for which the exchange company has an outstanding

obligation to provide an exchange to an owner who relinquished a time-share during the year in exchange for a time-share in any future year; and

e. The number of exchanges confirmed by the exchange company during the year.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-600. Minimum Exchange Program Post-Registration Reporting Requirements.

A. Subsequent to the issuance of a registration for an exchange program by the board, the exchange company shall:

1. File an annual report in accordance with subsection E of § [55-374.2](#) of the Code of Virginia and this chapter.
2. Upon the occurrence of a material change to the disclosure document, the exchange company shall file an amended disclosure document in accordance with the provisions of § [55-374.2](#) of the Code of Virginia and this chapter. These amendments shall be filed with the board within 20 business days after the occurrence of the material change.
3. Upon the occurrence of any material change in the information contained in the registration file, the exchange company shall immediately report such material changes to the board.
4. Submit appropriate documentation to the board once the registration is eligible for termination.
5. Submit to the board any other document or information, which may include information or documents that have been amended or may not have existed previously, that affects the accuracy, completeness, or representation of any information or document filed with the application for registration.
6. Submit to the board any document or information to make the registration file accurate and complete to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

B. Notwithstanding the requirements of subsection A of this section, the board at any time may require an exchange company to provide information or documents, or amendments thereof, in order to assure full and accurate disclosure to prospective purchasers and to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-610. Annual Report Required for an Exchange Program Registration.

A. An exchange company shall file an annual report to update the material contained in the exchange program registration file by July 1 of each year the registration is effective and shall be accompanied by the fee specified in [18VAC48-45-70](#).

B. The annual report shall contain, but may not be limited to, the following:

1. Current contact information for the exchange company;
2. Information concerning the current status of the exchange program; and
3. A report that contains the information in subdivision 4 of [18VAC48-45-590](#) and submitted in compliance with subdivision A 17 of § [55-374.2](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-620. Board Review of Annual Report for Exchange Program Registration.

A. During review of the annual report, the board may make inquiries or request additional documentation to amplify or clarify the information provided.

B. If the board does not accept the annual report and the annual report filing is not completed within 60 days of a request by the board for additional information, the board may take further action pursuant to §§ [55-396](#), [55-399.1](#), and [55-400](#) of the Code of Virginia for failing to file an annual report as required by subsection E of § [55-374.2](#) of the Code of Virginia.

C. If the board does not perform the required review of the annual report within 30 days of receipt by the board, the annual report shall be deemed to comply with subsection E of § [55-374.2](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-630. Termination of an Exchange Program Registration.

A. The exchange program registration shall be terminated upon receipt of written notification from the exchange company indicating that the exchange program is no longer being offered in the Commonwealth. Should the exchange company later choose to offer the exchange program for which the registration has been terminated in accordance with this subsection, prior to offering the exchange program, the exchange company must submit a new application for registration of the exchange program, meet all requirements in effect at the time of application, and be issued an order of registration for the exchange program by the board.

B. Upon receipt and review of the notification pursuant to subsection A of this section, the board shall issue an order of termination for the exchange program registration. The board may request additional information as necessary during the review of the submitted notification to ensure that the exchange program registration is eligible for termination.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-640. Reporting of Other Changes to an Exchange Program.

Any other change made or known by the exchange company that may affect the accuracy or completeness of the exchange program registration file shall be promptly reported to the board. The board may request additional information as necessary to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-650. Registration of Time-Share Reseller Required.

Part IX. Time-Share Reseller Registration

In accordance with § [55-394.3](#) of the Code of Virginia, a reseller shall not offer or provide any resale service without holding a current time-share reseller registration issued by the board.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-660. Exemptions from Time-Share Reseller Registration.

Time-share reseller registration shall not apply to the following:

1. A person that solely or with affiliates engages in a resale service with respect to an aggregate of no more than 12 resale time-shares per calendar year;
2. A person that owns or acquires more than 12 resale time-shares and subsequently transfers all such resale time-shares to a single purchaser in a single transaction;
3. The owner, owner's agents, and employees of a regularly published newspaper, magazine, or other periodical publication of general circulation; broadcast station; website; or billboard, to the extent their activities are limited to solicitation and publication of advertisements and the transmission of responses to the persons who place the advertisements. Any person that would otherwise be exempt from this chapter pursuant to this section shall not be exempt if the person (i) solicits the placement of the advertisement by representing that the advertisement will generate cash, a certain price, or a similar type of representation for the time-share owner's resale time-share, (ii) makes a recommendation as to the sales price for which to advertise the resale time-share, (iii) makes representations to the person placing the advertisement regarding the success rate for selling resale time-shares advertised with such person, or (iv) makes misrepresentations as described in this chapter;
4. Sale by a developer or a party acting on its behalf of a resale time-share under a current registration of the time-share program in which the resale time-share is included;
5. Sale by an association, managing entity, or a party acting on its behalf of a resale time-share owned by the association provided the sale is in compliance with subsection C of § [55-380.1](#); or
6. Attorneys, title agents, title companies, or escrow companies providing closing services in connection with the transfer of a resale time-share.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-670. Requirements for Registration As a Time-Share Reseller.

A. Individuals or firms that provide any time-share resale services shall submit an application on a form prescribed by the board and shall meet the requirements of this section, including:

1. The information contained in § [55-394.3](#) of the Code of Virginia.
2. The application fee specified in [18VAC48-45-70](#).
3. All contact information applicable to the time-share reseller and the lead dealer.

B. Any individual or firm offering resale services as defined in § [55-362](#) of the Code of Virginia shall be registered with the board. All names under which the time-share reseller

conducts business shall be disclosed on the application. The name under which the firm conducts business and holds itself out to the public (i.e., the trade or fictitious name) shall also be disclosed on the application. Firms shall be organized as business entities under the laws of the Commonwealth of Virginia or otherwise authorized to transact business in Virginia. Firms shall register any trade or fictitious names with the State Corporation Commission or the clerk of court in the jurisdiction where the business is to be conducted in accordance with §§ [59.1-69](#) through [59.1-76](#) of the Code of Virginia before submitting an application to the board.

C. The applicant for a time-share reseller registration shall disclose the firm's mailing address and the firm's physical address. A post office box is only acceptable as a mailing address when a physical address is also provided.

D. In accordance with § [54.1-204](#) of the Code of Virginia, each applicant for a time-share reseller registration shall disclose the following information about the firm, the lead dealer, and any of the principals of the firm, if applicable:

1. All felony convictions.
2. All misdemeanor convictions in any jurisdiction that occurred within three years before the date of application.
3. Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication shall be considered a conviction for the purposes of this section. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.

E. The applicant for time-share reseller registration shall be in compliance with the standards of conduct set forth in Part X ([18VAC48-45-720](#) et seq.) of this chapter at the time of application, while the application is under review by the board, and at all times when the registration is in effect.

F. The applicant for time-share reseller registration, the lead dealer, and all principals of the firm shall be in good standing in Virginia and in every jurisdiction and with every board or administrative body where licensed, certified, or registered, and the board, in its discretion, may deny registration to any applicant who has been subject to, or whose lead dealer or principals have been subject to, any form of adverse disciplinary action, including reprimand, revocation, suspension or denial, imposition of a monetary penalty, required to complete remedial education, or any other corrective action, in any jurisdiction or by any board or administrative body or surrendered a license, certificate, or registration in connection with any disciplinary action in any jurisdiction prior to obtaining registration in Virginia.

G. The applicant for time-share reseller registration shall provide all relevant information about the firm, the lead dealer, and of the principals of the firm for the seven years prior to application on outstanding judgments, past-due tax assessments, defaults on bonds, or pending or past bankruptcies and specifically shall provide all relevant financial information related to providing resale services as defined in § [55-362](#) of the Code of Virginia.

H. The application for time-share reseller registration shall include the exhibits required pursuant to [18VAC48-45-680](#) .

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#) , eff. December 14, 2018.

18VAC48-45-680. Exhibits Required for Registration As a Time-Share Reseller.

A. The following documents shall be included as exhibits to the application for registration. All exhibits shall be labeled as indicated and submitted in a format acceptable to the board.

1. Exhibit A: A copy of the certificate of incorporation or certificate of authority to transact business in Virginia issued by the Virginia State Corporation Commission, or any other entity formation documents, together with any trade or fictitious name certificate.
2. Exhibit B: A copy of the resale purchase contract.
3. Exhibit C: A copy of the resale transfer contract.
4. Exhibit D: A copy of disclosures required by § [55-380.1](#) of the Code of Virginia.
5. Exhibit E: A narrative description of the marketing or advertising plan.

B. The board has the sole discretion to require additional information or amendment of existing information as the board finds necessary to ensure full and accurate disclosure and compliance with the provisions of § [55-380.1](#) of the Code of Virginia and to ensure compliance with the provisions of § [55-394.3](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#) , eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#) , eff. December 14, 2018.

18VAC48-45-690. Renewal and Reinstatement of a Time-Share Reseller Registration.

A. A time-share reseller registration issued under this chapter shall expire one year from the last day of the month in which it was issued. The fee specified in [18VAC48-45-70](#) shall be required for renewal.

B. Prior to the expiration date shown on the registration, a registration shall be renewed upon payment of the fees specified in [18VAC48-45-70](#) .

C. The board will send a renewal notice to the regulant at the last known address of record. Failure to receive this notice shall not relieve the regulant of the obligation to renew. If the regulant fails to receive the renewal notice, a copy of the registration may be submitted with the required fees as an application for renewal. By submitting a renewal fee, the regulant is certifying continued compliance with this chapter, as applicable, and certifying that all documents required for registration pursuant to [18VAC48-45-680](#) on file with the board reflect the most current version used by the reseller.

D. If the requirements for renewal of a registration as specified in this chapter are not completed more than 30 days and within six months after the registration expiration date, the reinstatement fee specified in [18VAC48-50-70](#) shall be required.

E. A registration may be reinstated for up to six months following the expiration date. After six months, the registration may not be reinstated under any circumstances, and the firm or individual must meet all current entry requirements and apply as a new applicant.

F. The board may deny renewal or reinstatement of registration for the same reasons as it may refuse initial registration or discipline a registrant.

G. The date the renewal application and fee are received in the office of the board shall determine whether a registration shall be renewed without reinstatement, or shall be subject to reinstatement application procedures.

H. A registration that is reinstated shall be regarded as having been continuously registered without interruption. Therefore, the registration holder shall remain under the disciplinary authority of the board during the entire period and shall be accountable for its activities during the period. Nothing in this chapter shall divest the board of its authority to discipline a registration holder for a violation of the law or regulation during the period of time for which the regulant was registered.

I. Applicants for renewal shall continue to meet all of the qualifications for registration set forth in [18VAC48-45-680](#).

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018.

18VAC48-45-700. Maintenance of Time-Share Reseller Registration.

Any material changes made or known by the time-share reseller that may affect the accuracy or completeness of the time-share reseller registration file shall be promptly reported to the board. The board may request additional information as necessary to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-710. Recordkeeping for a Time-Share Reseller Registration.

A time-share reseller registered by the board shall comply with the recordkeeping provisions of § [55-394.4](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-720. Grounds for Disciplinary Action.

Part X. Board Authority and Standards of Conduct

The board may revoke a registration that is not in compliance with any provision of the regulations of the board or the Virginia Real Estate Time-Share Act. Additional action may include issuance of a temporary cease and desist order, issuance of a cease and desist order, and bringing action in the appropriate circuit court to enjoin the acts or practices and to enforce compliance.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-730. Registration Required.

A. No developer or agent of a developer shall offer a time-share prior to the registration of the time-share program and time-share project.

B. No developer or agent of a developer shall offer an alternative purchase prior to the registration of the alternative purchase by the developer.

C. No exchange company or agent of an exchange company shall offer an exchange program prior to the registration of the exchange program by the exchange company.

D. No time-share reseller or agent of a time-share reseller shall offer any resale services prior to the registration of the time-share reseller.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-740. Time-Share Advertising Standards.

A. No promise, assertion, representation, or statement of fact or opinion in connection with a time-share marketing activity shall be made that is false, inaccurate or misleading by reason of inclusion of an untrue statement of a material fact or omission of a statement of a material fact relative to the actual or intended characteristics, circumstances, or features of a time-share program or a time-share project.

B. No promise, assertion, representation, or statement of fact or opinion made in connection with a time-share marketing activity shall indicate that a unit or common element will be built or placed on the time-share unless proposed within the meaning of subsection A of [18VAC48-45-200](#).

C. No promise, assertion, representation, or statement of fact or opinion made in connection with a time-share marketing activity and relating to a time-share project not registered shall, by its express terms, induce, solicit, or encourage a contract for sale or performing some other act that would create or purport to create a legal or equitable interest in the time-share, other than a security interest in or a nonbinding reservation of the time-share, when to do so would circumvent the provisions of the Virginia Real Estate Time-Share Act.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-750. Board Oversight of Public Offering Statement and Exchange Program Disclosure Document.

A. The board at any time may require a developer to alter or amend the public offering statement for a time-share or an exchange program disclosure document to assure full and accurate disclosure to prospective purchasers and to ensure compliance with the Virginia Real Estate Time-Share Act and this chapter.

B. The board does not approve or recommend the time-share or exchange program, or disposition thereof. The board's issuance of an effective date for a public offering statement or acceptance of an exchange program disclosure document shall not be construed to (i) constitute approval of the time-share or exchange program; (ii) represent that the board asserts that either all facts or material changes or both concerning the time-share or exchange program have been fully and accurately disclosed; or (iii) indicate that the board has made judgment on the value or merits of the time-share or exchange program.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-760. Response to Inquiry and Provision of Records.

A. The developer, exchange company, or reseller must respond within 15 days to a request by the board or any of its agents regarding any complaint filed with the department. The board may extend such timeframe upon a showing of extenuating circumstances prohibiting delivery within such 15-day period.

B. Unless otherwise specified by the board, the developer, exchange company, or reseller shall produce to the board or any of its agents within 15 days of the request any document, book, or record concerning any transaction in which the developer, exchange company, or reseller was involved, or for which the developer, exchange company, or reseller is required to maintain records, for inspection and copying by the board or its agents. The board may extend such timeframe upon a showing of extenuating circumstances prohibiting delivery within such 15-day period.

C. A developer, exchange company, or reseller shall not provide a false, misleading, or incomplete response to the board or any agent of the board seeking information in the investigation of a complaint filed with the board.

D. With the exception of the requirements of subsections A and B of this section, a developer, exchange company, or reseller must respond to an inquiry by the board or its agent within 21 days.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016.

18VAC48-45-770. Prohibited Acts.

The following acts are prohibited and any violation may result in action by the board, including issuance of a temporary cease and desist order in accordance with subdivision D 2 of § [55-396](#) of the Code of Virginia:

1. Violating, inducing another to violate, or cooperating with others in violating any of the provisions of any regulation of the board or the Virginia Real Estate Time-Share Act or engaging in any act enumerated in §§ [54.1-102](#) and [54.1-111](#) of the Code of Virginia.
2. Obtaining or attempting to obtain a registration by false or fraudulent representation, or maintaining, renewing, or reinstating a registration by false or fraudulent representation.
3. Failing to alter or amend the public offering statement or disclosure document as

required in accordance with the provisions of this chapter.

4. Providing information to purchasers in a manner that willfully and intentionally fails to promote full and accurate disclosure.
5. Making any misrepresentation or making a false promise that might influence, persuade, or induce.
6. Failing to provide information or documents, or amendments thereof, in accordance with this chapter.
7. Failing to comply with the post-registration requirements of this chapter.
8. Filing false or misleading information in the course of terminating a registration in accordance with [18VAC48-45-450](#) , [18VAC48-45-460](#) , [18VAC48-45-560](#) , or [18VAC48-45-630](#) .
9. Failing to comply with the advertising standards contained in Part III ([18VAC48-45-80](#) et seq.) of this chapter.
10. Allowing a registration issued by the board to be used by another.
11. A regulant having been convicted, found guilty, or disciplined in any jurisdiction of any offense or violation described in subdivisions C 13 and C 14 of [18VAC48-45-130](#) , subdivisions 4 and 5 of [18VAC48-45-210](#) , and subsections D, F, and G of [18VAC48-45-670](#) .
12. Failing to inform the board in writing within 30 days that the regulant was convicted, found guilty, or disciplined in any jurisdiction of any offense or violation described in subsections D, F, and G of [18VAC48-45-670](#) .
13. Failing to report a change as required by [18VAC48-45-470](#) .
14. Failing to satisfy any judgments or restitution orders entered by a court or arbiter of competent jurisdiction.
15. Misrepresenting or misusing the intended purpose of a power of attorney or similar document to the detriment of any grantor of such power of attorney.
16. Engaging in dishonest or fraudulent conduct in providing resale services, including the following:
 - a. The intentional and unjustified failure to comply with the terms of the resale purchase contract or resale transfer contract.
 - b. Engaging in dishonest or fraudulent conduct in providing resale services.
 - c. Failing to comply with the recordkeeping requirements of § [55-394.4](#) of the Code of Virginia.
 - d. Failing to disclose information in writing concerning the marketing, sale, or transfer of resale time-shares required by this chapter prior to accepting any consideration or with the expectation of receiving consideration from any time-share owner, seller, or

buyer.

e. Making false or misleading statements concerning offers to buy or rent; the value, pricing, timing, or availability of resale time-shares; or numbers of sellers, renters, or buyers when engaged in time-share resale activities.

f. Misrepresenting the likelihood of selling a resale time-share interest.

g. Misrepresenting the method by or source from which the reseller or lead dealer obtained the contact information of any time-share owner.

h. Misrepresenting price or value increases or decreases, assessments, special assessments, maintenance fees, or taxes or guaranteeing sales or rentals in order to obtain money or property.

i. Making false or misleading statements concerning the identity of the reseller or any of its affiliates or the time-share resale entity's or any of its affiliate's experience, performance, guarantees, services, fees, or commissions, availability of refunds, length of time in business, or endorsements by or affiliations with developers, management companies, or any other third party.

j. Misrepresenting whether or not the reseller or its affiliates, employees, or agents hold, in any state or jurisdiction, a current real estate sales or broker's license or other government-required license.

k. Misrepresenting how funds will be utilized in any time-share resale activity conducted by the reseller.

l. Misrepresenting that the reseller or its affiliates, employees, or agents have specialized education, professional affiliations, expertise, licenses, certifications, or other specialized knowledge or qualifications.

m. Making false or misleading statements concerning the conditions under which a time-share owner, seller, or buyer may exchange or occupy the resale time-share interest.

n. Representing that any gift, prize, membership, or other benefit or service will be provided to any time-share owner, seller, or buyer without providing such gift, prize, membership, or other benefit or service in the manner represented.

o. Misrepresenting the nature of any resale time-share interest or the related time-share plan.

p. Misrepresenting the amount of the proceeds, or failing to pay the proceeds, of any rental or sale of a resale time-share interest as offered by a potential renter or buyer to the time-share owner who made such resale time-share interest available for rental or sale through the reseller.

q. Failing to transfer any resale time-share interests as represented and required by this chapter or to provide written evidence to the time-share owner of the recording or

transfer of such time-share owner's resale time-share interest as required by this chapter.

r. Failing to pay any annual assessments, special assessments, personal property or real estate taxes, or other fees relating to an owner's resale time-share interest as represented or required by this chapter.

Statutory Authority

§§ [54.1-2349](#) and [55-396](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 32, Issue 10](#), eff. March 1, 2016; amended, Virginia Register [Volume 35, Issue 06](#), eff. December 14, 2018.

Forms (18VAC48-45)

[Time-Share Registration/Amendment Application A492-0515REG-v2 \(eff. 10/2018\)](#)

[Time-Share Annual Report A492-0515ANRPT-v4 \(eff. 10/2018\)](#)

[Time-Share Building Status Form A492-0515BLDST-v1 \(eff. 9/2013\)](#)

[Time-Share Bond/Letter of Credit Verification Form A492-0515BOND-v2 \(eff. 10/2018\)](#)

[Time-Share Exchange Company Annual Report A492-0516ANRPT-v1 \(eff. 9/2013\)](#)

[Time-Share Exchange Company Registration Application A492-0516REG-v1 \(eff. 9/2013\)](#)

[Alternative Purchase Annual Report A492-0524ANRPT-v1 \(eff. 10/2015\)](#)

[Alternative Purchase Registration Application A492-0524REG-v1 \(eff. 10/2015\)](#)

[Time-Share Reseller Lead Dealer Change Form A492-0525LDCHG-v1 \(eff. 1/2016\)](#)

[Time-Share Reseller Registration Application A492-0525REG-v2 \(eff. 10/2018\)](#)

1

COMMON INTEREST COMMUNITY BOARD

2

CIC Manager Regulations - Title 55 Recodification

3

18VAC48-50-60. Fee schedule.

4

Fee Type	Fee Amount		Recovery Fund Fee* (if applicable)	Total Amount Due (excluding annual assessment in 18VAC48-50-70) ¹	When Due
Initial Common Interest Community Manager Application	\$100	+	25	\$125	With application
Common Interest Community Manager Renewal	\$100			\$100	With renewal application
Common Interest Community Manager Reinstatement (includes a \$200 reinstatement fee in addition to the regular \$100 renewal fee)	\$300			\$300	With renewal application
Certified Principal or Supervisory Employee Initial Application	\$75			\$75	With application
Certified Principal or Supervisory Employee Renewal	\$75			\$75	With renewal application
Certified Principal or Supervisory Employee Reinstatement (includes a \$75 reinstatement fee in addition to the regular \$75 renewal fee)	\$150			\$150	With renewal application

¹ Reflects amendment effective July 1, 2019 to eliminate annual assessment payment requirement.

Training Program Provider Initial Application	\$100		\$100	With application
Training Program Provider Additional Program	\$50		\$50	With application

5 *In accordance with ~~§ 55-530.4~~ § 54.1-2354.5 of the Code of Virginia.

6 **18VAC48-50-80. Provisional licenses. (Repealed.)**

7 ~~Provisional licenses will be s subject to the annual assessment for each year that the~~
8 ~~provisional license is in effect. When the annual assessment due is less than \$1,000, the~~
9 ~~common interest community manager shall submit documentation of gross receipts for the~~
10 ~~preceding calendar year with each annual assessment in order to verify the annual assessment~~
11 ~~amount due. Documentation of gross receipts is not required from common interest community~~
12 ~~managers that submit the maximum annual assessment amount of \$1,000. Acceptable~~
13 ~~documentation may include, but is not limited to, audits, tax returns, or financial statements.²~~

14 ~~Provisional licensees must submit annual proof of current bond or insurance policy in~~
15 ~~accordance with 18VAC48-50-30 E, and are also subject to the provisions of 18VAC48-50-150~~
16 ~~D. Failure to submit the annual assessment and proof of current bond or insurance policy within~~
17 ~~30 days of the request by the board shall result in the automatic suspension of the license.~~

18 Part IV

19 Renewal and Reinstatement

20 **18VAC48-50-90. Renewal required.**

21 A license issued under this chapter shall expire one year from the last day of the month in
22 which it was issued. A certificate issued under this chapter shall expire two years from the last
23 day of the month in which it was issued. A fee shall be required for renewal. ~~In accordance with~~

² Reflects amendment effective July 1, 2019 to eliminate annual assessment payment requirement.

24 ~~§ 54.1-2346 F of the Code of Virginia, provisional licenses shall expire on June 30, 2012, and~~
25 ~~shall not be renewed.~~

26 **18VAC48-50-190. Prohibited acts.**

27 The following acts are prohibited and any violation may result in disciplinary action by the
28 board:

29 1. Violating, inducing another to violate, or cooperating with others in violating any of the
30 provisions of any of the regulations of the board or Chapter 23.3 (§ 54.1-2345 et seq.) of
31 Title 54.1 of the Code of Virginia, ~~Chapter 4.2 (§ 55-79.39 et seq.) of Title 55 of the Code~~
32 ~~of Virginia, Chapter 24 (§ 55-424 et seq.) of Title 55 of the Code of Virginia, Chapter 26~~
33 ~~(§ 55-508 et seq.) of Title 55 of the Code of Virginia, or Chapter 29 (§ 55-528 et seq.) of~~
34 Title 55 of the Code of Virginia Chapter 18 (§ 55.1-1800 et seq.) of Title 55.1 of the Code
35 of Virginia, Chapter 19 (§ 55.1-1900 et seq.) of the Code of Virginia, or Chapter 21 (§
36 55.1-2100 et seq.) of the Code of Virginia, or engaging in any acts enumerated in
37 §§ 54.1-102 and 54.1-111 of the Code of Virginia.

38 2. Allowing a license or certificate issued by the board to be used by another.

39 3. Obtaining or attempting to obtain a license or certificate by false or fraudulent
40 representation, or maintaining, renewing, or reinstating a license or certificate by false or
41 fraudulent representation.

42 4. A regulant having been convicted, found guilty, or disciplined in any jurisdiction of any
43 offense or violation enumerated in 18VAC48-50-180.

44 5. Failing to inform the board in writing within 30 days that the regulant was convicted,
45 found guilty, or disciplined in any jurisdiction of any offense or violation enumerated in
46 18VAC48-50-180.

47 6. Failing to report a change as required by 18VAC48-50-150 or 18VAC48-50-170.

- 48 7. The intentional and unjustified failure to comply with the terms of the management
49 contract, operating agreement, or association governing documents.
- 50 8. Engaging in dishonest or fraudulent conduct in providing management services.
- 51 9. Failing to satisfy any judgments or restitution orders entered by a court or arbiter of
52 competent jurisdiction.
- 53 10. Egregious or repeated violations of generally accepted standards for the provision of
54 management services.
- 55 11. Failing to handle association funds in accordance with the provisions of § 54.1-2353
56 A of the Code of Virginia or 18VAC48-50-160.
- 57 12. Failing to account in a timely manner for all money and property received by the
58 regulant in which the association has or may have an interest.
- 59 13. Failing to disclose to the association material facts related to the association's
60 property or concerning management services of which the regulant has actual
61 knowledge.
- 62 14. Failing to provide complete records related to the association's management
63 services to the association within 30 days of any written request by the association or
64 within 30 days of the termination of the contract unless otherwise agreed to in writing by
65 both the association and the common interest community manager.
- 66 15. Failing upon written request of the association to provide books and records such
67 that the association can perform pursuant to ~~§§ 55-510 (Property Owners' Association~~
68 ~~Act), 55-79.74:1 (Condominium Act), and 55-474 (Virginia Real Estate Cooperative~~
69 ~~Act)~~ §§ 55.1-1815 (Property Owners' Association Act), 55.1-1945 (Virginia Condominium
70 Act), and 55.1-2151 (Virginia Real Estate Cooperative Act) of the Code of Virginia.

- 71 16. Commingling the funds of any association by a principal, his employees, or his
72 associates with the principal's own funds or those of his firm.
- 73 17. Failing to act in providing management services in a manner that safeguards the
74 interests of the public.
- 75 18. Advertising in any name other than the name or names in which licensed.
- 76 19. Failing to make use of a legible, written contract clearly specifying the terms and
77 conditions of the management services to be performed by the common interest
78 community manager. The contract shall include, but not be limited to, the following:
- 79 a. Beginning and ending dates of the contract;
- 80 b. Cancellation rights of the parties;
- 81 c. Record retention and distribution policy;
- 82 d. A general description of the records to be kept and the bookkeeping system to be
83 used; and
- 84 e. The common interest community manager's license number.
- 85 20. Performing management services or accepting payments prior to the signing of the
86 contract by an authorized official of the licensed firm and the client or the client's
87 authorized agent.

Virginia Administrative Code
Title 18. Professional and Occupational Licensing
Agency 48. Common Interest Community Board
Chapter 50. Common Interest Community Manager Regulations

18VAC48-50-10. Definitions.

Part I. General

Section [54.1-2345](#) of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Association"

"Board"

"Common interest community"

"Common interest community manager"

"Declaration"

"Governing board"

"Lot"

"Management services"

The following words, terms, and phrases when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Active status" means the status of a certificated person in the employ of a common interest community manager.

"Address of record" means the mailing address designated by the regulant to receive notices and correspondence from the board. Notice mailed to the address of record by certified mail, return receipt requested, shall be deemed valid notice.

"Applicant" means a common interest community manager that has submitted an application for licensure or an individual who has submitted an application for certification.

"Application" means a completed, board-prescribed form submitted with the appropriate fee and other required documentation.

"Certified principal or supervisory employee" refers to any individual who has principal responsibility for management services provided to a common interest community or who has supervisory responsibility for employees who participate directly in the provision of management services to a common interest community, and who holds a certificate issued by the board.

"Contact hour" means 50 minutes of instruction.

"Department" means the Virginia Department of Professional and Occupational Regulation.

"Direct supervision" means exercising oversight and direction of, and control over, the work of another.

"Firm" means a sole proprietorship, association, partnership, corporation, limited liability company, limited liability partnership, or any other form of business organization recognized under the laws of the Commonwealth of Virginia and properly registered, as may be required, with the Virginia State Corporation Commission.

"Gross receipts" means all revenue derived from providing management services to common interest communities in the Commonwealth of Virginia, excluding pass-through expenses or reimbursement of expenditures by the regulant on behalf of an association.

"Principal responsibility" means having the primary obligation for the direct provision of management services provided to a common interest community.

"Regulant" means a common interest community manager as defined in § [54.1-2345](#) of the Code of Virginia who holds a license issued by the board or an individual who holds a certificate issued by the board.

"Reinstatement" means the process and requirements through which an expired license or certificate can be made valid without the regulant having to apply as a new applicant.

"Renewal" means the process and requirements for periodically approving the continuance of a license or certificate.

"Responsible person" means the employee, officer, manager, owner, or principal of the firm who shall be designated by each firm to ensure compliance with Chapter 23.3 (§ [54.1-2345](#) et seq.) of Title 54.1 of the Code of Virginia, and all regulations of the board, and to receive communications and notices from the board that may affect the firm. In the case of a sole proprietorship, the sole proprietor shall have the responsibilities of the responsible person.

"Sole proprietor" means any individual, not a corporation or other registered business entity, who is trading under his own name, or under an assumed or fictitious name pursuant to the provisions of §§ [59.1-69](#) through [59.1-76](#) of the Code of Virginia.

"Supervisory responsibility" means providing formal supervision of the work of at least one other person. The individual who has supervisory responsibility directs the work of another employee or other employees, has control over the work performed, exercises examination and evaluation of the employee's performance, or has the authority to make decisions personally that affect the management services provided.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#), eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#), eff. March 1, 2012.

18VAC48-50-20. Application Procedures.

Part II. Entry

All applicants seeking licensure or certification shall submit an application with the appropriate fee specified in [18VAC48-50-60](#) . Application shall be made on forms provided by the board or its agent.

By submitting the application to the department, the applicant certifies that the applicant has read and understands the applicable statutes and the board's regulations.

The receipt of an application and the deposit of fees by the board does not indicate approval by the board.

The board may make further inquiries and investigations with respect to the applicant's qualifications to confirm or amplify information supplied. All applications shall be completed in accordance with the instructions contained herein and on the application. Applications will not be considered complete until all required documents are received by the board.

An individual or firm will be notified within 30 days of the board's receipt of an initial application if the application is incomplete. An individual or firm that fails to complete the process within 12 months of receipt of the application in the board's office must submit a new application and fee.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-30. Qualifications for Licensure As a Common Interest Community Manager.

A. Firms that provide common interest community management services shall submit an application on a form prescribed by the board and shall meet the requirements set forth in § [54.1-2346](#) of the Code of Virginia, as well as the additional qualifications of this section.

B. Any firm offering management services as defined in § [54.1-2345](#) of the Code of Virginia shall hold a license as a common interest community manager. All names under which the common interest community manager conducts business shall be disclosed on the application. The name under which the firm conducts business and holds itself out to the public (i.e., the trade or fictitious name) shall also be disclosed on the application. Firms shall be organized as business entities under the laws of the Commonwealth of Virginia or otherwise authorized to transact business in Virginia. Firms shall register any trade or fictitious names with the State Corporation Commission or the clerk of court in the county or jurisdiction where the business is to be conducted in accordance with §§ [59.1-69](#) through [59.1-76](#) of the Code of Virginia before submitting an application to the board.

C. The applicant for a common interest community manager license shall disclose the firm's mailing address, the firm's physical address, and the address of the office from which the firm provides management services to Virginia common interest communities. A post office box is only acceptable as a mailing address when a physical address is also provided.

D. In accordance with § [54.1-204](#) of the Code of Virginia, each applicant for a common interest community manager license shall disclose the following information about the firm, the responsible person, and any of the principals of the firm:

1. All felony convictions.

2. All misdemeanor convictions in any jurisdiction that occurred within three years of the date of application.

3. Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication shall be considered a conviction for the purposes of this section. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.

E. The applicant for a common interest community manager license shall submit evidence of a blanket fidelity bond or employee dishonesty insurance policy in accordance with § [54.1-2346](#) D of the Code of Virginia. Proof of current bond or insurance policy with the firm as the named bondholder or insured must be submitted in order to obtain or renew the license. The bond or insurance policy must be in force no later than the effective date of the license and shall remain in effect through the date of expiration of the license.

F. The applicant for a common interest community manager license shall be in compliance with the standards of conduct and practice set forth in Part V ([18VAC48-50-140](#) et. seq.) of this chapter at the time of application, while the application is under review by the board, and at all times when the license is in effect.

G. The applicant for a common interest community manager license, the responsible person, and any principals of the firm shall be in good standing in Virginia and in every jurisdiction and with every board or administrative body where licensed, certified, or registered and the board, in its discretion, may deny licensure to any applicant who has been subject to, or whose principals have been subject to, or any firm in which the principals of the applicant for a common interest community manager license hold a 10% or greater interest have been subject to, any form of adverse disciplinary action, including but not limited to, reprimand, revocation, suspension or denial, imposition of a monetary penalty, required to complete remedial education, or any other corrective action, in any jurisdiction or by any board or administrative body or surrendered a license, certificate, or registration in connection with any disciplinary action in any jurisdiction prior to obtaining licensure in Virginia.

H. The applicant for a common interest community manager license shall provide all relevant information about the firm, the responsible person, and any of the principals of the firm for the seven years prior to application on any outstanding judgments, past-due tax assessments, defaults on bonds, or pending or past bankruptcies, and specifically shall provide all relevant

financial information related to providing management services as defined in § [54.1-2345](#) of the Code of Virginia. The applicant for a common interest community manager license shall further disclose whether or not one or more of the principals who individually or collectively own more than a 50% equity interest in the firm are or were equity owners holding, individually or collectively, a 10% or greater interest in any other entity licensed by any agency of the Commonwealth of Virginia that was the subject of any adverse disciplinary action, including revocation of a license, within the seven-year period immediately preceding the date of application.

I. An applicant for a common interest community manager license shall hold an active designation as an Accredited Association Management Company by the Community Associations Institute.

J. Prior to July 1, 2012, in lieu of the provisions of subsection I of this section, an application for a common interest community manager license may be approved provided the applicant certifies to the board that the applicant has:

1. At least one supervisory employee, officer, manager, owner, or principal of the firm who is involved in all aspects of the management services offered and provided by the firm and who has satisfied one of the following criteria:

a. Holds an active designation as a Professional Community Association Manager by Community Associations Institute;

b. Has successfully completed a comprehensive training program as described in [18VAC48-50-250](#) B, as approved by the board, and has at least three years of experience in providing management services, the quality of which demonstrates to the board that the individual is competent to have supervisory responsibility or principal responsibility for management services;

c. Has successfully completed an introductory training program as described in [18VAC48-50-250](#) A, as approved by the board, and has at least five years of experience in providing management services, the quality of which demonstrates to the board that the individual is competent to have supervisory responsibility or principal responsibility for management services; or

d. Has not completed a board-approved training program but who, in the judgment of the board, has obtained the equivalent of such training program by documented course work that meets the requirements of a board-approved comprehensive training program as described in Part VI ([18VAC48-50-230](#) et seq.) of this chapter, and has at least 10 years of experience in providing management services, the quality of which demonstrates to the board that the individual is competent to have supervisory responsibility or principal responsibility for management services.

2. At least 50% of persons in the firm with principal responsibility for management services to a common interest community in the Commonwealth of Virginia have satisfied one of the following criteria:

- a. Hold an active designation as a Professional Community Association Manager and certify having provided management services for a period of 12 months immediately preceding application;
- b. Hold an active designation as a Certified Manager of Community Associations by the National Board of Certification for Community Association Managers and certify having two years of experience in providing management services. Of the required two years experience, a minimum of 12 months of experience must have been gained immediately preceding application;
- c. Hold an active designation as an Association Management Specialist and certify having two years of experience in providing management services. Of the required two years experience, a minimum of 12 months of experience must have been gained immediately preceding application; or
- d. Have completed a comprehensive or introductory training program, as set forth in [18VAC48-50-250](#) A or B, and passed a certifying examination approved by the board and certify having two years experience in providing management services. Of the required two years experience, a minimum of 12 months of experience must have been gained immediately preceding application.

K. Effective July 1, 2012, the applicant for a common interest community manager license shall attest that all employees of the firm who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community shall, within two years after employment with the common interest community manager, hold a certificate as a certified principal or supervisory employee issued by the board or shall be under the direct supervision of a certified principal or supervisory employee.

L. Effective July 1, 2012, in lieu of the provisions of subsection I of this section, an application for a common interest community manager license may be approved provided the applicant certifies to the board that the applicant has at least one supervisory employee, officer, manager, owner, or principal of the firm who is involved in all aspects of the management services offered and provided by the firm and who has satisfied one of the following criteria:

1. Holds an active designation as a Professional Community Association Manager by Community Associations Institute;
2. Has successfully completed a comprehensive training program as described in [18VAC48-50-250](#) B, as approved by the board, and has at least three years of experience in providing management services, the quality of which demonstrates to the board that the individual is competent to have supervisory responsibility or principal responsibility for management services;
3. Has successfully completed an introductory training program as described in [18VAC48-50-250](#) A, as approved by the board, and has at least five years of experience in providing management services, the quality of which demonstrates to the board that the individual is

competent to have supervisory responsibility or principal responsibility for management services; or

4. Has not completed a board-approved training program but who, in the judgment of the board, has obtained the equivalent of such training program by documented course work that meets the requirements of a board-approved comprehensive training program as described in Part VI ([18VAC48-50-230](#) et seq.) of this chapter, and has at least 10 years of experience in providing management services, the quality of which demonstrates to the board that the individual is competent to have supervisory responsibility or principal responsibility for management services.

M. The firm shall designate a responsible person.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#), eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#), eff. March 1, 2012.

18VAC48-50-35. Qualifications for Certification As a Certified Principal or Supervisory Employee Effective July 1, 2012.

A. Principal or supervisory employees requiring certification pursuant to § [54.1-2346](#) of the Code of Virginia shall meet the requirements of this section and submit an application for certification on or after July 1, 2012.

B. The applicant for certification shall be at least 18 years of age.

C. The applicant for certification shall have a high school diploma or its equivalent.

D. The applicant for certification shall provide a mailing address. A post office box is only acceptable as a mailing address when a physical address is also provided. The mailing address provided shall serve as the address of record.

E. In accordance with § [54.1-204](#) of the Code of Virginia, each applicant for certification shall disclose the following information:

1. All felony convictions.

2. All misdemeanor convictions that occurred in any jurisdiction within three years of the date of application.

3. Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication shall be considered a conviction for the purposes of this section. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.

F. The applicant for certification shall be in compliance with the standards of conduct and practice set forth in Part V ([18VAC48-50-140](#) et seq.) of this chapter at the time of application, while the application is under review by the board, and at all times when the certificate is in effect.

G. The applicant for certification shall be in good standing in Virginia and in every jurisdiction and with every board or administrative body where licensed, certified, or registered to provide management or related services; and the board, in its discretion, may deny certification to any applicant for certification who has been subject to any form of adverse disciplinary action, including but not limited to reprimand, revocation, suspension or denial, imposition of a monetary penalty, requirement to complete remedial education, or any other corrective action, in any jurisdiction or by any board or administrative body or surrendered a license, certificate, or registration in connection with any disciplinary action in any jurisdiction prior to obtaining certification in Virginia.

H. The applicant for certification shall provide all relevant information for the seven years prior to application on any outstanding judgments, past-due tax assessments, defaults on bonds, or pending or past bankruptcies, all as related to providing management services as defined in § [54.1-2345](#) of the Code of Virginia. The applicant for certification shall further disclose whether or not he was the subject of any adverse disciplinary action, including revocation of a license, certificate, or registration within the seven-year period immediately preceding the date of application.

I. An applicant for certification may be certified provided the applicant provides proof to the board that the applicant meets one of the following:

1. Holds an active designation as a Professional Community Association Manager by Community Associations Institute and certifies having provided management services for a period of three months immediately preceding application;
2. Holds an active designation as a Certified Manager of Community Associations by the National Board of Certification for Community Association Managers and certifies having two years of experience in providing management services. Of the required two years experience, a minimum of six months of experience must have been gained immediately preceding application;
3. Holds an active designation as an Association Management Specialist by Community Associations Institute and certifies having two years of experience in providing management services. Of the required two years experience, a minimum of three months of experience must have been gained immediately preceding application; or
4. Has completed an introductory or comprehensive training program as set forth in [18VAC48-50-250](#) A or B and passed a certifying examination approved by the board and certifies having two years experience in providing management services. Of the required two years experience, a minimum of six months of experience must have been gained immediately preceding application.

J. The applicant for certification shall provide the name of his employing common interest

community manager, if applicable.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-37. Licensure and Certification by Reciprocity.

A. The board may waive the requirements of [18VAC48-50-30](#) I, J, and L and issue a license as a common interest community manager to an applicant who holds an active, current license, certificate, or registration in another state, the District of Columbia, or any other territory or possession of the United States provided the requirements and standards under which the license, certificate, or registration was issued are substantially equivalent to those established in this chapter and related statutes.

B. Effective July 1, 2012, the board may waive the requirements of [18VAC48-50-35](#) I and issue a certificate as a certified employee to an applicant who holds an active, current license, certificate, or registration in another state, the District of Columbia, or any other territory or possession of the United States provided the requirements and standards under which the license, certificate, or registration was issued are substantially equivalent to those established in this chapter and related statutes.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-40. Application Denial.

The board may refuse initial licensure or certification due to an applicant's failure to comply with entry requirements or for any of the reasons for which the board may discipline a regulant.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-50. General Fee Requirements.

Part III. Fees

All fees are nonrefundable and shall not be prorated. The date on which the fee is received by the department or its agent will determine whether the fee is on time. Checks or money orders shall be made payable to the Treasurer of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010.

18VAC48-50-60. Fee Schedule.

Fee Type	Fee Amount		Recovery Fund Fee* (if applicable)	Total Amount Due (excluding annual assessment in 18VAC48-50-70)	When Due
Initial Common Interest Community Manager Application	\$100	+	25	\$125	With application
Common Interest Community Manager Renewal	\$100			\$100	With renewal application
Common Interest Community Manager Reinstatement (includes a \$200 reinstatement fee in addition to the regular \$100 renewal fee)	\$300			\$300	With renewal application
Certified Principal or Supervisory Employee Initial Application	\$75			\$75	With application
Certified Principal or Supervisory Employee Renewal	\$75			\$75	With renewal application
Certified Principal or Supervisory Employee Reinstatement (includes a \$75 reinstatement fee in addition to the regular \$75 renewal fee)	\$150			\$150	With renewal application
Training Program	\$100			\$100	With application

Provider Initial Application				
Training Program Provider Additional Program	\$50		\$50	With application

*In accordance with § [55-530.1](#) of the Code of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-70. Annual Assessment.

In addition to the fees listed in [18VAC48-50-60](#) , each common interest community manager must submit an annual assessment in accordance with § [54.1-2349](#) A 1 of the Code of Virginia. The annual assessment shall be submitted with the initial application and with each renewal application. When the annual assessment due is less than \$1,000, the common interest community manager shall submit documentation of gross receipts for the preceding calendar year with each annual assessment in order to verify the annual assessment amount due. Documentation of gross receipts is not required from common interest community managers that submit the maximum annual assessment amount of \$1,000. Acceptable documentation may include, but is not limited to, audits, tax returns, or financial statements.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010.

18VAC48-50-80. Provisional Licenses.

Provisional licenses will be subject to the annual assessment for each year that the provisional license is in effect. When the annual assessment due is less than \$1,000, the common interest community manager shall submit documentation of gross receipts for the preceding calendar year with each annual assessment in order to verify the annual assessment amount due. Documentation of gross receipts is not required from common interest community managers that submit the maximum annual assessment amount of \$1,000. Acceptable documentation may include, but is not limited to, audits, tax returns, or financial statements.

Provisional licensees must submit annual proof of current bond or insurance policy in accordance with [18VAC48-50-30](#) E, and are also subject to the provisions of [18VAC48-50-150](#) D. Failure to submit the annual assessment and proof of current bond or insurance policy

within 30 days of the request by the board shall result in the automatic suspension of the license.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-90. Renewal Required.

Part IV. Renewal and Reinstatement

A license issued under this chapter shall expire one year from the last day of the month in which it was issued. A certificate issued under this chapter shall expire two years from the last day of the month in which it was issued. A fee shall be required for renewal. In accordance with § [54.1-2346](#) F of the Code of Virginia, provisional licenses shall expire on June 30, 2012, and shall not be renewed.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-100. Expiration and Renewal.

A. Prior to the expiration date shown on the license, licenses shall be renewed upon (i) completion of the renewal application, (ii) submittal of proof of current bond or insurance policy as detailed in [18VAC48-50-30](#) E, and (iii) payment of the fees specified in [18VAC48-50-60](#) and [18VAC48-50-70](#) .

B. Prior to the expiration date shown on the certificate, certificates shall be renewed upon (i) completion of the renewal application; (ii) submittal of proof of completion of two hours of fair housing training as it relates to the management of common interest communities and two hours of Virginia common interest community law and regulation training, both as approved by the board and completed within the two-year certificate period immediately prior to the expiration date of the certificate; and (iii) payment of the fees specified in [18VAC48-50-60](#) .

C. The board will mail a renewal notice to the regulant at the last known mailing address of record. Failure to receive this notice shall not relieve the regulant of the obligation to renew. If the regulant fails to receive the renewal notice, a copy of the license or certificate may be submitted with the required fees as an application for renewal. By submitting an application for renewal, the regulant is certifying continued compliance with the Standards of Conduct

and Practice in Part V ([18VAC48-50-140](#) et seq.) of this chapter.

D. Applicants for renewal shall continue to meet all of the qualifications for licensure and certification set forth in Part II ([18VAC48-50-20](#) et seq.) of this chapter.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-110. Reinstatement of Common Interest Community Manager License and Certified Principal or Supervisory Employee Certificate Required.

A. If all of the requirements for renewal of a license as specified in [18VAC48-50-100](#) A are not completed within 30 days of the license expiration date, the licensee shall be required to reinstate the license by meeting all renewal requirements and by paying the reinstatement fee specified in [18VAC48-50-60](#).

B. If all of the requirements for renewal of a certificate as specified in [18VAC48-50-100](#) B are not completed within 30 days of the certificate expiration date, the certificateholder shall be required to reinstate the certificate by meeting all renewal requirements and by paying the reinstatement fee specified in [18VAC48-50-60](#).

C. A license or certificate may be reinstated for up to six months following the expiration date. After six months, the license or certificate may not be reinstated under any circumstances and the firm or individual must meet all current entry requirements and apply as a new applicant.

D. Any regulated activity conducted subsequent to the license expiration date may constitute unlicensed activity and be subject to prosecution under Chapter 1 (§ [54.1-100](#) et seq.) of Title 54.1 of the Code of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-120. Status of License or Certificate During the Period Prior to Reinstatement.

A regulant who applies for reinstatement of a license or certificate shall be subject to all laws and regulations as if the regulant had been continuously licensed or certified. The regulant shall remain under and be subject to the disciplinary authority of the board during this entire

period.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-130. Board Discretion to Deny Renewal or Reinstatement.

The board may deny renewal or reinstatement of a license or certificate for the same reasons as the board may refuse initial licensure or certification, or discipline a regulant.

The board may deny renewal or reinstatement of a license or certificate if the regulant has been subject to a disciplinary proceeding and has not met the terms of an agreement for licensure or certification, has not satisfied all sanctions, or has not fully paid any monetary penalties and costs imposed by the board.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-140. Grounds for Disciplinary Action.

Part V. Standards of Conduct and Practice

The board may place a regulant on probation, impose a monetary penalty in accordance with § [54.1-202](#) A of the Code of Virginia, or revoke, suspend or refuse to renew any license or certificate when the regulant has been found to have violated or cooperated with others in violating any provisions of the regulations of the board or Chapter 23.3 (§ [54.1-2345](#) et seq.) of Title 54.1 of the Code of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-150. Maintenance of License or Certificate.

A. No license or certificate issued by the board shall be assigned or otherwise transferred.

B. A regulant shall report, in writing, all changes of address to the board within 30 days of the

change and shall return the license or certificate to the board. In addition to the address of record, a physical address is required for each license or certificate. If the regulant holds more than one license, certificate, or registration, the regulant shall inform the board of all licenses, certificates, and registrations affected by the address change.

C. Any change in any of the qualifications for licensure or certification found in [18VAC48-50-30](#) or [18VAC48-50-35](#) shall be reported to the board within 30 days of the change.

D. Notwithstanding the provisions of subsection C of this section, a licensee shall report the cancellation, amendment, expiration, or any other change of any bond or insurance policy submitted in accordance with [18VAC48-50-30](#) E within five days of the change.

E. A licensee shall report to the board the discharge or termination of active status of an employee holding a certificate within 30 days of the discharge or termination of active status.

F. A certified principal or supervisory employee shall report a change in employing common interest community manager within 30 days of the change.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-160. Maintenance and Management of Accounts.

Licensed firms shall maintain all funds from associations in accordance with § [54.1-2353](#) A of the Code of Virginia. Funds that belong to others that are held as a result of the fiduciary relationship shall be labeled as such to clearly distinguish funds that belong to others from those funds of the common interest community manager.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-170. Change of Business Entity Requires a New License.

A. Licenses are issued to firms as defined in this chapter and are not transferable. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the license becomes void and shall be returned to the board within 30 days of the change. Such changes include but are not limited to:

1. Cessation of the business or the voluntary termination of a sole proprietorship or general partnership;

2. Death of a sole proprietor;
3. Formation, reformation, or dissolution of a general partnership, limited partnership, corporation, limited liability company, association, or any other business entity recognized under the laws of the Commonwealth of Virginia; or
4. The suspension or termination of the corporation's existence by the State Corporation Commission.

B. When a new firm is formed, the new firm shall apply for a new license on a form provided by the board before engaging in any activity regulated by Chapter 23.3 (§ [54.1-2345](#) et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#), eff. April 1, 2010.

18VAC48-50-180. Notice of Adverse Action.

A. Licensed firms shall notify the board of the following actions against the firm, the responsible person, and any principals of the firm:

1. Any disciplinary action taken by any jurisdiction, board, or administrative body of competent jurisdiction, including but not limited to any reprimand, license or certificate revocation, suspension or denial, monetary penalty, or requirement for remedial education or other corrective action.
2. Any voluntary surrendering of a license, certificate, or registration done in connection with a disciplinary action in another jurisdiction.
3. Any conviction, finding of guilt, or plea of guilty, regardless of adjudication or deferred adjudication, in any jurisdiction of the United States of any misdemeanor involving moral turpitude, sexual offense, drug distribution, or physical injury, or any felony, there being no appeal pending therefrom or the time for appeal having lapsed. Review of convictions shall be subject to the requirements of § [54.1-204](#) of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for the purpose of this section.

B. Certified principal or supervisory employees shall notify the board, and the responsible person of the employing firm, if applicable, of the following actions against the certified principal or supervisory employee:

1. Any disciplinary action taken by any jurisdiction, board, or administrative body of competent jurisdiction, including but not limited to any reprimand, license or certificate revocation, suspension or denial, monetary penalty, requirement for remedial education, or other corrective action.
2. Any voluntary surrendering of a license, certificate, or registration done in connection

with a disciplinary action in another jurisdiction.

3. Any conviction, finding of guilt, or plea of guilty, regardless of adjudication or deferred adjudication, in any jurisdiction of the United States of any misdemeanor involving moral turpitude, sexual offense, drug distribution, or physical injury, or any felony, there being no appeal pending therefrom or the time for appeal having lapsed. Review of convictions shall be subject to the requirements of § [54.1-204](#) of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for the purpose of this section.

The notice must be made to the board in writing within 30 days of the action. A copy of the order or other supporting documentation must accompany the notice. The record of conviction, finding, or case decision shall be considered prima facie evidence of a conviction or finding of guilt.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-190. Prohibited Acts.

The following acts are prohibited and any violation may result in disciplinary action by the board:

1. Violating, inducing another to violate, or cooperating with others in violating any of the provisions of any of the regulations of the board or Chapter 23.3 (§ [54.1-2345](#) et seq.) of Title 54.1 of the Code of Virginia, Chapter 4.2 (§ [55-79.39](#) et seq.) of Title 55 of the Code of Virginia, Chapter 24 (§ [55-424](#) et seq.) of Title 55 of the Code of Virginia, Chapter 26 (§ [55-508](#) et seq.) of Title 55 of the Code of Virginia, or Chapter 29 (§ [55-528](#) et seq.) of Title 55 of the Code of Virginia, or engaging in any acts enumerated in §§ [54.1-102](#) and [54.1-111](#) of the Code of Virginia.
2. Allowing a license or certificate issued by the board to be used by another.
3. Obtaining or attempting to obtain a license or certificate by false or fraudulent representation, or maintaining, renewing, or reinstating a license or certificate by false or fraudulent representation.
4. A regulant having been convicted, found guilty, or disciplined in any jurisdiction of any offense or violation enumerated in [18VAC48-50-180](#) .
5. Failing to inform the board in writing within 30 days that the regulant was convicted, found guilty, or disciplined in any jurisdiction of any offense or violation enumerated in [18VAC48-50-180](#) .
6. Failing to report a change as required by [18VAC48-50-150](#) or [18VAC48-50-170](#) .

7. The intentional and unjustified failure to comply with the terms of the management contract, operating agreement, or association governing documents.
8. Engaging in dishonest or fraudulent conduct in providing management services.
9. Failing to satisfy any judgments or restitution orders entered by a court or arbiter of competent jurisdiction.
10. Egregious or repeated violations of generally accepted standards for the provision of management services.
11. Failing to handle association funds in accordance with the provisions of § [54.1-2353 A](#) of the Code of Virginia or [18VAC48-50-160](#) .
12. Failing to account in a timely manner for all money and property received by the regulant in which the association has or may have an interest.
13. Failing to disclose to the association material facts related to the association's property or concerning management services of which the regulant has actual knowledge.
14. Failing to provide complete records related to the association's management services to the association within 30 days of any written request by the association or within 30 days of the termination of the contract unless otherwise agreed to in writing by both the association and the common interest community manager.
15. Failing upon written request of the association to provide books and records such that the association can perform pursuant to §§ [55-510](#) (Property Owners' Association Act), [55-79.74:1](#) (Condominium Act), and [55-474](#) (Virginia Real Estate Cooperative Act) of the Code of Virginia.
16. Commingling the funds of any association by a principal, his employees, or his associates with the principal's own funds or those of his firm.
17. Failing to act in providing management services in a manner that safeguards the interests of the public.
18. Advertising in any name other than the name or names in which licensed.
19. Failing to make use of a legible, written contract clearly specifying the terms and conditions of the management services to be performed by the common interest community manager. The contract shall include, but not be limited to, the following:
 - a. Beginning and ending dates of the contract;
 - b. Cancellation rights of the parties;
 - c. Record retention and distribution policy;
 - d. A general description of the records to be kept and the bookkeeping system to be used; and
 - e. The common interest community manager's license number.

20. Performing management services or accepting payments prior to the signing of the contract by an authorized official of the licensed firm and the client or the client's authorized agent.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-200. Establishment of Code of Conduct.

The firm shall establish and distribute to the firm's employees, principals, and agents a written code of conduct to address business practices including the appropriateness of giving and accepting gifts, bonuses, or other remuneration to and from common interest communities or providers of services to common interest communities. In accordance with clause (ii) of § [54.1-2346](#) E of the Code of Virginia, the code of conduct for officers, directors, and employees shall also address disclosure of relationships with other firms that provide services to common interest communities and that may give rise to a conflict of interest.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010.

18VAC48-50-210. Establishment of Internal Accounting Controls.

The firm shall establish written internal accounting controls to provide adequate checks and balances over the financial activities and to manage the risk of fraud and illegal acts. The internal accounting controls shall be in accordance with generally accepted accounting practices.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010.

18VAC48-50-220. Response to Inquiry and Provision of Records.

A. A regulant must respond within 10 days to a request by the board or any of its agents regarding any complaint filed with the department.

B. Unless otherwise specified by the board, a regulant of the board shall produce to the board or any of its agents within 10 days of the request any document, book, or record concerning

any transaction pertaining to a complaint filed in which the regulant was involved, or for which the regulant is required to maintain records for inspection and copying by the board or its agents. The board may extend such time frame upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.

C. A regulant shall not provide a false, misleading, or incomplete response to the board or any of its agents seeking information in the investigation of a complaint filed with the board.

D. With the exception of the requirements of subsections A and B of this section, a regulant must respond to an inquiry by the board or its agent within 21 days.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-230. Training Programs Generally.

Part VI. Training Programs and Examination

All training programs proposed for the purposes of meeting the requirements of this chapter must be approved by the board. Any or all of the approved training programs can be met using distance or online education technology. Training programs may be approved retroactively; however, no applicant will receive credit for the training program until such approval is granted by the board.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010.

18VAC48-50-240. Approval of Common Interest Community Manager Training Programs.

Each provider of a training program shall submit an application for program approval on a form provided by the board. In addition to the appropriate fee provided in [18VAC48-50-60](#) , the application shall include but is not limited to:

1. The name of the provider;
2. Provider contact person, address, and telephone number;
3. Program contact hours;
4. Schedule of training program, if established, including dates, times, and locations;

5. Instructor information, including name, license or certificate number(s), if applicable, and a list of trade-appropriate designations, as well as a professional resume with a summary of teaching experience and subject-matter knowledge and qualifications acceptable to the board;

6. A summary of qualifications and experience in providing training under this chapter;

7. Training program and material fees; and

8. Training program syllabus.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#), eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#), eff. March 1, 2012.

18VAC48-50-250. Introductory and Comprehensive Training Program Requirements.

A. In order to qualify as an introductory training program under [18VAC48-50-30](#) or [18VAC48-50-35](#), the introductory training program must include a minimum of 16 contact hours and the syllabus shall encompass all of the subject areas set forth in subsection C of this section.

B. In order to qualify as a comprehensive training program under [18VAC48-50-30](#) or [18VAC48-50-35](#), the comprehensive training program must include a minimum of 80 contact hours and the syllabus shall include at least 40 contact hours encompassing all of the subject areas set forth in subsection C of this section and may also include up to 40 contact hours in other subject areas approved by the board.

C. The following subject areas as they relate to common interest communities and associations shall be included in all comprehensive and introductory training programs. The time allocated to each subject area must be sufficient to ensure adequate coverage of the subject as determined by the board.

1. Governance, legal matters, and communications;
2. Financial matters, including budgets, reserves, investments, internal controls, and assessments;
3. Contracting;
4. Risk management and insurance;
5. Management ethics for common interest community managers;
6. Facilities maintenance; and

7. Human resources.

D. All training programs are required to have a final, written examination.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#), eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#), eff. March 1, 2012.

18VAC48-50-253. Virginia Common Interest Community Law and Regulation Training Program Requirements.

In order to qualify as a Virginia common interest community law and regulation training program for renewal of certificates issued by the board, the common interest community law and regulation program must include a minimum of two contact hours and the syllabus shall encompass updates to Virginia laws and regulations directly related to common interest communities.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 11](#), eff. March 1, 2012; amended, Virginia Register [Volume 33, Issue 20](#), eff. July 1, 2017.

18VAC48-50-255. Fair Housing Training Program Requirements.

In order to qualify as a fair housing training program for renewal of certificates issued by the board, the fair housing training program must include a minimum of two contact hours and the syllabus shall encompass Virginia fair housing laws and any updates, all as related to common interest communities.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 11](#), eff. March 1, 2012; amended, Virginia Register [Volume 33, Issue 20](#), eff. July 1, 2017.

18VAC48-50-257. Documentation of Training Program Completion Required.

All training program providers must provide each student with a certificate of training program completion or other documentation that the student may use as proof of training program completion. Such documentation shall contain the contact hours completed.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 11](#) , eff. March 1, 2012.

18VAC48-50-260. Maintenance of Records.

All providers must establish and maintain a record for each student. The record shall include the student's name and address, the training program name and hours attended, the training program syllabus or outline, the name or names of the instructors, the date of successful completion, and the board's approved training program code. Records shall be available for inspection during normal business hours by authorized representatives of the board. Providers must maintain these records for a minimum of five years.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010.

18VAC48-50-270. Reporting of Changes.

Any change in the information provided in [18VAC48-50-240](#) must be reported to the board within 30 days of the change with the exception of changes in the schedule of training program offerings, which must be reported within 10 days of the change. Any change in information submitted will be reviewed to ensure compliance with the provisions of this chapter.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010.

18VAC48-50-280. Withdrawal of Approval.

The board may withdraw approval of any training program for the following reasons:

1. The training program being offered no longer meets the standards established by the board.
2. The provider, through an agent or otherwise, advertises its services in a fraudulent or deceptive way.
3. The provider, instructor, or designee of the provider falsifies any information relating to the application for approval, training program information, or student records or fails to

produce records required by [18VAC48-50-260](#) .

4. A change in the information provided that results in noncompliance with [18VAC48-50-240](#) , except for subdivision 4 of [18VAC48-50-240](#) .

5. Failure to comply with [18VAC48-50-270](#) .

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010.

18VAC48-50-290. Examinations.

All examinations required for licensure or certification shall be approved by the board and administered by the board, a testing service acting on behalf of the board, or another governmental agency or organization.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 26, Issue 11](#) , eff. April 1, 2010; amended, Virginia Register [Volume 28, Issue 11](#) , eff. March 1, 2012.

Forms (18VAC48-50)

[Common Interest Community Manager Change of Personnel Form, A492-0501MGTCHG-v2 \(rev. 10/2018\)](#)

[Common Interest Community Manager License Application, A492-0501LIC-v2 \(rev. 10/2018\)](#)

[Common Interest Community Manager Training Program Approval Application, A492-05TRAPRV-v3 \(rev. 10/2018\)](#)

[Experience Verification Form, A492-0501_10EXPv2 \(rev. 10/2018\)](#)

[Common Interest Community Manager License Renewal Application, A492-0501REN-v2 \(rev. 10/2018\)](#)

[Common Interest Community Manager Principal or Supervisory Employee Certificate Application, A492-0510CERT-v2 \(rev. 10/2018\)](#)

[Principal or Supervisory Employee Certificate Renewal Form, A492-0510REN-v2 \(rev. 10/2018\)](#)

[Common Interest Community Manager Application Supplement Comprehensive Training Program Equivalency Form, A492-0501TREQ-v2 \(rev. 10/2018\)](#)

1
2 **COMMON INTEREST COMMUNITY BOARD**

3 **CIC Management Information Fund Regulations - Title 55 Recodification**

4
5 **18VAC48-60-10. Purpose.**

6 These regulations govern the exercise of powers granted to and the performance of duties
7 imposed upon the Common Interest Community Board by §§ 54.1-2350, ~~55-79.93-1, 55-504.1,~~
8 ~~55-516.1 and 55-528~~ 54.1-2354.2, 55.1-1835, 55.1-1980, and 55.1-2182 of the Code of Virginia.

9
10 Statutory Authority

11 § 54.1-2349 of the Code of Virginia.

12 Historical Notes

13 Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.

14
15 **18VAC48-60-13. Definitions.**

16 "Association" shall be as defined in ~~§ 55-528~~ § 54.1-2345 of the Code of Virginia.

17 "Governing board" shall be as defined in § 54.1-2345 of the Code of Virginia.

18
19 Statutory Authority

20 §§ 54.1-201, and 54.1-2349 ~~and 55-530~~ of the Code of Virginia.

21 Historical Notes

22 Derived from Virginia Register Volume 25, Issue 15, eff. May 15, 2009.

23
24 **18VAC48-60-17. Association registration and renewal.**

25 An association registration shall expire one year from the last day of the month in which it
26 was issued or renewed. A registration shall be renewed upon submittal to the board office of the
27 completed annual report and applicable fees. An association shall notify the board office, in
28 writing, within 30 days of any of the following:

- 29 1. Change of address;
- 30 2. Change of members of the governing board; and

31 3. Any other changes in information that was reported on the association's previous
32 annual report filing.

33
34 Statutory Authority

35 §§ 54.1-201, and 54.1-2349 ~~and 55-530~~ of the Code of Virginia.

36 Historical Notes

37 Derived from Virginia Register Volume 25, Issue 15, eff. May 15, 2009.

38

39 **18VAC48-60-20. Annual report by association.**

40 Each association annual report shall be on the form designated by the board or shall be a
41 copy of the annual report filed with the State Corporation Commission. Such report shall be
42 accompanied by the fee established by this chapter, as well as the annual assessment required
43 pursuant to §§ 55-79.93:1 C, 55-516.1 C, and 55-504.1 C of the Code of Virginia.¹

44

45 Statutory Authority

46 §§ 54.1-201, and 54.1-2349 ~~and 55-530~~ of the Code of Virginia.

47 Historical Notes

48 Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008; amended, Virginia
49 Register Volume 25, Issue 15, eff. May 15, 2009.

50

51 **18VAC48-60-50. Annual report by property owners' association.**

52 Within the meaning and intent of ~~§ 55-516.1~~ 55.1-1835 of the Code of Virginia, within 30
53 days of the creation of the association, and every year thereafter, the association shall file an
54 annual report with the board.

55

56 Statutory Authority

57 § 54.1-2349 of the Code of Virginia.

58 Historical Notes

59 Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.

¹ Reflects amendment effective July 1, 2019 to eliminate annual assessment payment requirement.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion and are not to be construed as regulation or official Board position.
DRAFT AGENDA

Virginia Administrative Code
Title 18. Professional and Occupational Licensing
Agency 48. Common Interest Community Board
Chapter 60. Common Interest Community Board Management Information Fund Regulations

18VAC48-60-10. Purpose.

These regulations govern the exercise of powers granted to and the performance of duties imposed upon the Common Interest Community Board by §§ [54.1-2350](#) , [55-79.93:1](#) , [55-504.1](#) , [55-516.1](#) and [55-528](#) of the Code of Virginia.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 25, Issue 04](#) , eff. November 27, 2008.

18VAC48-60-13. Definitions.

"Association" shall be as defined in § [55-528](#) of the Code of Virginia.

"Governing board" shall be as defined in § [54.1-2345](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-201](#) , [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 25, Issue 15](#) , eff. May 15, 2009.

18VAC48-60-17. Association Registration and Renewal.

An association registration shall expire one year from the last day of the month in which it was issued or renewed. A registration shall be renewed upon submittal to the board office of the completed annual report and applicable fees. An association shall notify the board office, in writing, within 30 days of any of the following:

1. Change of address;
2. Change of members of the governing board; and
3. Any other changes in information that was reported on the association's previous annual report filing.

Statutory Authority

§§ [54.1-201](#) , [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 25, Issue 15](#) , eff. May 15, 2009.

18VAC48-60-20. Annual Report by Association.

Each association annual report shall be on the form designated by the board or shall be a copy of the annual report filed with the State Corporation Commission. Such report shall be accompanied by the fee established by this chapter, as well as the annual assessment required pursuant to §§ [55-79.93:1](#) C, [55-516.1](#) C, and [55-504.1](#) C of the Code of Virginia.

Statutory Authority

§§ [54.1-201](#) , [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 25, Issue 04](#) , eff. November 27, 2008; amended, Virginia Register [Volume 25, Issue 15](#) , eff. May 15, 2009.

18VAC48-60-50. Annual Report by Property Owners' Association.

Within the meaning and intent of § [55-516.1](#) of the Code of Virginia, within 30 days of the creation of the association, and every year thereafter, the association shall file an annual report with the board.

Statutory Authority

§ [54.1-2349](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 25, Issue 04](#) , eff. November 27, 2008.

Code of Virginia

Title 55. Property and Conveyances

Chapter 29. Common Interest Community Management Information Fund

§ 55-528. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Association" includes condominium, cooperative, or property owners' associations.

"Balance of the fund" means cash, securities that are legal investments for fiduciaries under the provisions of subdivisions A 1, 2, and 4 of § 2.2-4519, and repurchase agreements secured by obligations of the United States government or any agency thereof, and shall not mean accounts receivable, judgments, notes, accrued interest, or other obligations to the fund.

"Board" means the Common Interest Community Board.

"Claimant" means upon proper application to the Director, a receiver for a common interest community manager appointed pursuant to § 54.1-2353 in those cases in which there are not sufficient funds to restore all funds that were or ought to have been held in a fiduciary capacity by the subject common interest community manager or to pay an award of reasonable fees, costs, and expenses to the receiver.

"Common interest community" means real estate located within the Commonwealth subject to a declaration which contains lots, at least some of which are residential or occupied for recreational purposes, and common areas to which a person, by virtue of his ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration.

"Declaration" means any instrument, however denominated, recorded among the land records of the county or city in which the development or any part thereof is located, that either (i) imposes on the association maintenance or operational responsibilities for the common area as a regular annual assessment or (ii) creates the authority in the association to impose on lots, or on the owners or occupants of such lots, or on any other entity any mandatory payment of money as a regular annual assessment in connection with the provision of maintenance or services or both for the benefit of some or all of the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or supplement to the instruments described in this definition.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Governing board" means the governing board of an association, including the executive organ of a condominium unit owners' association, the executive board of a cooperative proprietary lessees' association, and the board of directors of a property owners' association.

"Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative.

1993, c. 958; 2008, cc. 851, 871.

The chapters of the acts of assembly referenced in the historical citation at the end of this section

may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55-529. Common Interest Community Management Information Fund.

There is hereby created the Common Interest Community Management Information Fund to be used in the discretion of the Board to promote the improvement and more efficient operation of common interest communities through research and education. The Fund shall consist of money paid into it pursuant to §§ 54.1-2349, 55-79.93:1, 55-504.1, and 55-516.1. The Fund shall be established on the books of the Comptroller, and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but, at the discretion of the Board, shall remain in the Fund or shall be transferred to the Common Interest Community Management Recovery Fund established pursuant to § 55-530.1. Interest earned on the Fund shall be credited to the Fund.

1993, c. 958; 2008, cc. 851, 871.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55-530. Powers of the Board; Common interest community ombudsman; final adverse decisions.

A. The Board shall administer the provisions of this chapter pursuant to the powers conferred by § 54.1-2349 and this chapter.

B. The Director in accordance with § 54.1-303 shall appoint a Common Interest Community Ombudsman (the Ombudsman) and shall establish the Office of the Common Interest Community Ombudsman. The Ombudsman shall be a member in good standing in the Virginia State Bar. All state agencies shall assist and cooperate with the Office of the Common Interest Community Ombudsman in the performance of its duties under this chapter. The expenses for the operations of the Office of the Common Interest Community Ombudsman, including the compensation paid to the Ombudsman, shall be paid first from interest earned on deposits constituting the fund and the balance from the moneys collected annually in the fund.

C. The Office of the Common Interest Community Ombudsman shall:

1. Assist members in understanding their rights and the processes available to them according to the laws and regulations governing common interest communities;
2. Answer inquiries from members and other citizens by telephone, mail, electronic mail, and in person;
3. Provide to members and other citizens information concerning common interest communities upon request;
4. Make available, either separately or through an existing Internet website utilized by the Director, information as set forth in subdivision 3 and such additional information as may be deemed appropriate;
5. Receive the notices of final adverse decisions;

6. In conjunction with complaint and inquiry data maintained by the Director, maintain data on inquiries received, the types of assistance requested, notices of final adverse decisions received, any actions taken, and the disposition of each such matter;

7. Upon request, assist members in understanding the rights and processes available under the laws and regulations governing common interest communities and provide referrals to public and private agencies offering alternative dispute resolution services, with a goal of reducing and resolving conflicts among associations and their members;

8. Ensure that members have access to the services provided through the Office of the Common Interest Community Ombudsman and that the members receive timely responses from the representatives of the Office of the Common Interest Community Ombudsman to the inquiries;

9. Upon request to the Director by (i) any of the standing committees of the General Assembly having jurisdiction over common interest communities or (ii) the Housing Commission, provide to the Director for dissemination to the requesting parties assessments of proposed and existing common interest community laws and other studies of common interest community issues;

10. Monitor changes in federal and state laws relating to common interest communities;

11. Provide information to the Director that will permit the Director to report annually on the activities of the Office of the Common Interest Community Ombudsman to the standing committees of the General Assembly having jurisdiction over common interest communities and to the Housing Commission. The Director's report shall be filed by December 1 of each year, and shall include a summary of significant new developments in federal and state laws relating to common interest communities each year; and

12. Carry out activities as the Board determines to be appropriate.

D. The Board may use the remainder of the interest earned on the balance of the fund and of the moneys collected annually and deposited in the fund for financing or promoting the following:

1. Information and research in the field of common interest community management and operation;

2. Expedient and inexpensive procedures for resolving complaints about an association from members of the association or other citizens;

3. Seminars and educational programs designed to address topics of concern to community associations; and

4. Other programs deemed necessary and proper to accomplish the purpose of this chapter.

E. The Board shall establish by regulation a requirement that each association shall establish reasonable procedures for the resolution of written complaints from the members of the association and other citizens. Each association shall adhere to the written procedures established pursuant to this subsection when resolving association member and citizen complaints. The procedures shall include but not be limited to the following:

1. A record of each complaint shall be maintained for no less than one year after the association acts upon the complaint.

2. Such association shall provide complaint forms or written procedures to be given to persons

who wish to register written complaints. The forms or procedures shall include the address and telephone number of the association or its common interest community manager to which complaints shall be directed and the mailing address, telephone number, and electronic mail address of the Office of the Common Interest Community Ombudsman. The forms and written procedures shall include a clear and understandable description of the complainant's right to give notice of adverse decisions pursuant to this section.

F. A complainant may give notice to the Board of any final adverse decision in accordance with regulations promulgated by the Board. The notice shall be filed within 30 days of the final adverse decision, shall be in writing on forms prescribed by the Board, shall include copies of all records pertinent to the decision, and shall be accompanied by a \$25 filing fee. The fee shall be collected by the Director and paid directly into the state treasury and credited to the Common Interest Community Management Information Fund, § 55-530.1. The Board may, for good cause shown, waive or refund the filing fee upon a finding that payment of the filing fee will cause undue financial hardship for the member. The Director shall provide a copy of the written notice to the association that made the final adverse decision.

G. The Director or his designee may request additional information concerning any notice of final adverse decision from the association that made the final adverse decision. The association shall provide such information to the Director within a reasonable time upon request. If the Director upon review determines that the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the Board, the Director may, in his sole discretion, provide the complainant and the association with information concerning such laws or regulations governing common interest communities or interpretations thereof by the Board. The determination of whether the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the Board shall be a matter within the sole discretion of the Director, whose decision is final and not subject to further review. The determination of the Director shall not be binding upon the complainant or the association that made the final adverse decision.

H. The Board shall issue a certificate of filing to each association which has properly filed in accordance with this title. The certificate shall include the date of registration and a unique registration number assigned by the Board.

I. The Board may prescribe regulations which shall be adopted, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) to accomplish the purpose of this chapter.

1993, c. 958; 1997, c. 222; 1998, c. 463; 2001, c. 816; 2008, cc. 851, 871; 2010, cc. 59, 208; 2012, cc. 481, 797.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55-530.1. Common Interest Community Management Recovery Fund.

A. There is hereby created the Common Interest Community Management Recovery Fund (the Fund) to be used in the discretion of the Board to protect the interests of associations.

B. Each common interest community manager, at the time of initial application for licensure, and

each association filing its first annual report after the effective date shall be assessed \$25, which shall be specifically assigned to the Fund. Initial payments may be incorporated in any application fee payment or annual filing fee and transferred to the Fund by the Director within 30 days.

All assessments, except initial assessments, for the Fund shall be deposited within three business days after their receipt by the Director, in one or more federally insured banks, savings and loan associations, or savings banks located in the Commonwealth. Funds deposited in banks, savings institutions, or savings banks, to the extent in excess of insurance afforded by the Federal Deposit Insurance Corporation or other federal insurance agency, shall be secured under the Security for Public Deposits Act (§ 2.2-4400 et seq.). The deposit of these funds in federally insured banks, savings and loan associations, or savings banks located in the Commonwealth shall not be considered investment of such funds for purposes of this section. Funds maintained by the Director may be invested in securities that are legal investments for fiduciaries under the provisions of § 64.2-1502.

Interest earned on the deposits constituting the Fund shall be used for administering the Fund. The remainder of this interest, at the discretion of the Board, may be transferred to the Common Interest Community Management Information Fund or accrue to the Fund.

C. On and after July 1, 2011, the minimum balance of the Fund shall be \$150,000. Whenever the Director determines that the principal balance of the Fund is or will be less than such minimum principal balance, the Director shall immediately inform the Board. At the same time, the Director may recommend that the Board transfer a fixed amount from the Common Interest Community Management Information Fund to the Fund to bring the principal balance of the Fund to the amount required by this subsection. Such transfer shall be considered by the Board within 30 days of the notification of the Director.

D. If any such transfer of funds is insufficient to bring the principal balance of the Fund to the minimum amount required by this section, or if a transfer to the fund has not occurred, the Board shall assess each association and each common interest community manager within 30 days of notification by the Director, a sum sufficient to bring the principal balance of the Fund to the required minimum amount. The amount of such assessment shall be allocated among the associations and common interest community managers in proportion to the each payor's most recently paid annual assessment, or if an association or common interest community manager has not paid an annual assessment previously, in proportion to the average annual assessment most recently paid by associations or common interest community managers respectively. The Board may order an assessment at any time in addition to any required assessment. Assessments made pursuant to this subsection may be issued by the Board (i) after a determination made by it or (ii) at the time of license renewal.

Notice to common interest community managers and the governing boards of associations of these assessments shall be by first-class mail, and payment of such assessments shall be made by first-class mail addressed to the Director within 45 days after the mailing of such notice.

E. If any common interest community manager fails to remit the required payment within 45 days of the mailing, the Director shall notify the common interest community manager by first-class mail at the latest address of record filed with the Board. If no payment has been received by the Director within 30 days after mailing the second notice, the license shall be automatically suspended. The license shall be restored only upon the actual receipt by the Director of the

delinquent assessment.

F. If any association fails to remit the required payment within 45 days of the mailing, the Director shall notify the association by first-class mail at the latest address of record filed with the Board. If no payment has been received by the Director within 30 days after mailing the second notice, it shall be deemed a knowing and willful violation of this section by the governing board of the association.

G. At the close of each fiscal year, whenever the balance of the fund exceeds \$5 million, the amount in excess of \$5 million shall be transferred to the Virginia Housing Trust Fund established pursuant to Chapter 9 (§ 36-141 et seq.) of Title 36. Except for payments of costs as set forth in this chapter and transfers pursuant to this subsection, there shall be no transfers out of the fund, including transfers to the general fund, regardless of the balance of the fund.

H. A claimant may seek recovery from the fund subject to the following conditions:

1. A claimant may file a verified claim in writing to the Director for a recovery from the Fund.
2. Upon proper application to the Director, in those cases in which there are not sufficient funds to pay an award of reasonable fees, costs, and expenses to the receiver or to restore all funds that were or ought to have been held in a fiduciary capacity by the subject common interest community manager, the Director shall report to the Board the amount of any shortfall to the extent that there are not sufficient funds (i) to pay any award of fees, costs, and expenses pursuant to subsection G of § 54.1-2353 by the court appointing the receiver; or (ii) to restore all funds that were or ought to have been held in a fiduciary capacity by the subject common interest community manager, as certified by the court appointing the receiver.
3. If the Board finds there has been compliance with the required conditions, the Board shall issue a directive ordering payment of the amount of such shortfall to the claimant from the fund, provided that in no event shall such payment exceed the balance in the fund. When the fund balance is not sufficient to pay the aggregate amount of such shortfall, the Board shall direct payment shall be applied first in satisfaction of any award of reasonable fees, costs, and expenses to the receiver and second to restore the funds that were or ought to have been held in a fiduciary capacity by the subject common interest community manager. If the Board has reason to believe that there may be additional claims against the fund, the Board may withhold any payment(s) from the fund for a period of not more than one year. After such one-year period, if the aggregate of claims received exceeds the fund balance, the fund balance shall be prorated by the Board among the claimants and paid in the above payment order from the fund in proportion to the amounts of claims remaining unpaid.
4. The Director shall, subject to the limitations set forth in this subsection, pay to the claimant from the fund such amount as shall be directed by the Board upon the execution and delivery to the Director by such claimant of an assignment to the Board of the claimant's rights on its behalf and on behalf of the associations receiving distributions from the fund against the common interest community manager to the extent that such rights were satisfied from the fund.
5. The claimant shall be notified in writing of the findings of the Board. The Board's findings shall be considered a case decision as defined in § 2.2-4001, and judicial review of these findings shall be in accordance with § 2.2-4025 of the Administrative Process Act (§ 2.2-4000 et seq.).
6. Notwithstanding any other provision of law, the Board shall have the right to appeal a decision

of any court that is contrary to any distribution recommended or authorized by it.

7. Upon payment by the Director to a claimant from the fund as provided in this subsection, the Board shall immediately revoke the license of the common interest community manager whose actions resulted in payment from the fund. The common interest community manager whose license was so revoked shall not be eligible to apply for a license as a common interest community manager until he has repaid in full the amount paid from the fund on his account, plus interest at the judgment rate of interest from the date of payment from the fund.

8. Nothing contained in this subsection shall limit the authority of the Board to take disciplinary action against any common interest community manager for any violation of statute or regulation, nor shall the repayment in full by a common interest community manager of the amount paid from the fund on such common interest community manager's account nullify or modify the effect of any disciplinary proceeding against such common interest community manager for any such violation.

2008, cc. [851](#), [871](#);2009, c. [557](#);2013, c. [754](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

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COMMON INTEREST COMMUNITY BOARD
CIC Ombudsman Regulations - Title 55 Recodification

CHAPTER 70

COMMON INTEREST COMMUNITY OMBUDSMAN REGULATIONS

Part I

General

18VAC48-70-10. Definitions.

~~Section 55-528~~ Section 54.1-2345 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

Association

Board

Common interest community

Declaration

Director

Governing board

Lot

~~Section 55-79.44~~ Section 55.1-1900 of the Code of Virginia provides definition of the following term as used in this chapter:

Condominium instruments

The following words, terms, and phrases, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Adverse decision" or "final adverse decision" means the final determination issued by an association pursuant to an association complaint procedure that is opposite of, or does not provide for, either wholly or in part, the cure or corrective action sought by the complainant. Such decision means all avenues for internal appeal under the association complaint procedure have been exhausted. The date of the final adverse decision shall be the date of the notice issued pursuant to subdivisions 8 and 9 of 18VAC48-70-50.

31 "Association complaint" means a written complaint filed by a member of the association or
32 citizen pursuant to an association complaint procedure. An association complaint shall concern
33 a matter regarding the action, inaction, or decision by the governing board, managing agent, or
34 association inconsistent with applicable laws and regulations.

35 "Association complaint procedure" means the written process adopted by an association to
36 receive and consider association complaints from members and citizens. The complaint
37 procedure shall include contact information for the Office of the Common Interest Community
38 Ombudsman in accordance with ~~§ 55-530~~ § 54.1-2354.4 of the Code of Virginia. An appeal
39 process, if applicable, shall be set out in an association complaint procedure adopted by the
40 association, including relevant timeframes for filing the request for appeal. If no appeal process
41 is available, the association complaint procedure shall indicate that no appeal process is
42 available and that the rendered decision is final.

43 "Association governing documents" means collectively the applicable organizational
44 documents, including but not limited to the current and effective (i) articles of incorporation,
45 declaration, and bylaws of a property owners' association, (ii) condominium instruments of a
46 condominium, and (iii) declaration and bylaws of a real estate cooperative, all as may be
47 amended from time to time. Association governing documents also include, to the extent in
48 existence, resolutions, rules and regulations, or other guidelines governing association member
49 conduct and association governance.

50 "Complainant" means an association member or citizen who makes a written complaint
51 pursuant to an association complaint procedure.

52 "Director" means the Director of the Department of Professional and Occupational
53 Regulation.

54 "Record of complaint" means all documents, correspondence, and other materials related to
55 a decision made pursuant to an association complaint procedure.

56

57 Statutory Authority

58 §§ 54.1-2349 and ~~55-530~~ 54.1-2354.4 of the Code of Virginia.

59 Historical Notes

60 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

61

62 **18VAC48-70-20. Submission of documentation.**

63 Any documentation required to be filed with or provided to the board, director, or Office of
64 the Common Interest Community Ombudsman pursuant to this chapter and ~~Chapter 29 (§ 55-~~
65 ~~528 et seq.) of Title 55 Article 2 (§ 54.1-2354.1 et seq.) of Chapter 23.3 of Title 54.1~~ of the Code
66 of Virginia shall be filed with or provided to the Department of Professional and Occupational
67 Regulation.

68

69 Statutory Authority

70 §§ 54.1-2349 and ~~55-530~~ 54.1-2354.4 of the Code of Virginia.

71 Historical Notes

72 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

73

74 Part II

75 Association Complaint Procedure

76

77 **18VAC48-70-30. Requirement for association to develop an association complaint**
78 **procedure.**

79 In accordance with ~~§ 55-530 E~~ § 54.1-2354.4 of the Code of Virginia, each association shall
80 have a written process for resolving association complaints from members and citizens. The
81 association complaint procedure or form shall conform with the requirements set forth in ~~§ 55-~~
82 ~~530~~ § 54.1-2354.4 of the Code of Virginia and this chapter, as well as the association governing
83 documents, which shall not be in conflict with ~~§ 55-530~~ § 54.1-2354.4 of the Code of Virginia or
84 this chapter.

85

86 Statutory Authority

87 §§ 54.1-2349 and ~~55-530~~ 54.1-2354.4 of the Code of Virginia.

88 Historical Notes

89 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

90 18VAC48-70-40. Establishment and adoption of written association complaint procedure.

91 A. Associations filing an initial application for registration pursuant to ~~§ 55-79.93:1, 55-504.1,~~
92 ~~or 55-516.4~~ §§ 55.1-1835, 55.1-1980, or 55.1-2182 of the Code of Virginia must certify that an
93 association complaint procedure has been established and adopted at the date of registering or
94 within 90 days of registering with the board.

95 B. An association that has been delinquent in registering the association and filing its
96 required annual reports is still required to have an established and adopted written association
97 complaint procedure. At the time such an association files an application for registration, it must
98 certify that an association complaint procedure has been established and adopted by the
99 governing board.

100 C. The association shall certify with each annual report filing that the association complaint
101 procedure has been adopted and is in effect.

102

103 Statutory Authority

104 ~~§ 55-530~~ § 54.1-2354.4 of the Code of Virginia.

105 Historical Notes

106 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012; amended, Virginia
107 Register Volume 33, Issue 15, eff. May 1, 2017.

108

109 18VAC48-70-50. Association complaint procedure requirements.

110 The association complaint procedure shall be in writing and shall include the following
111 provisions in addition to any specific requirements contained in the association's governing
112 documents that do not conflict with ~~§ 55-530~~ § 54.1-2354.4 of the Code of Virginia or the
113 requirements of this chapter.

114 1. The association complaint must be in writing.

115 2. A sample of the form, if any, on which the association complaint must be filed shall be
116 provided upon request.

117 3. The association complaint procedure shall include the process by which complaints
118 shall be delivered to the association.

119 4. The association shall provide written acknowledgment of receipt of the association
120 complaint to the complainant within seven days of receipt. Such acknowledgment shall
121 be hand delivered or mailed by registered or certified mail, return receipt requested, to

122 the complainant at the address provided, or if consistent with established association
123 procedure, by electronic means provided the sender retains sufficient proof of the
124 electronic delivery.

125 5. Any specific documentation that must be provided with the association complaint shall
126 be clearly described in the association complaint procedure. In addition, to the extent the
127 complainant has knowledge of the law or regulation applicable to the complaint, the
128 complainant shall provide that reference, as well as the requested action or resolution.

129 6. The association shall have a reasonable, efficient, and timely method for identifying
130 and requesting additional information that is necessary for the complainant to provide in
131 order to continue processing the association complaint. The association shall establish a
132 reasonable timeframe for responding to and for the disposition of the association
133 complaint if the request for information is not received within the required timeframe.

134 7. Notice of the date, time, and location that the matter will be considered shall be hand
135 delivered or mailed by registered or certified mail, return receipt requested, to the
136 complainant at the address provided or, if consistent with established association
137 procedure, delivered by electronic means, provided the sender retains sufficient proof of
138 the electronic delivery, within a reasonable time prior to consideration as established by
139 the association complaint procedure.

140 8. After the final determination is made, the written notice of final determination shall be
141 hand delivered or mailed by registered or certified mail, return receipt requested, to the
142 complainant at the address provided or, if consistent with established association
143 procedure, delivered by electronic means, provided the sender retains sufficient proof of
144 the electronic delivery, within seven days.

145 9. The notice of final determination shall be dated as of the date of issuance and include
146 specific citations to applicable association governing documents, laws, or regulations
147 that led to the final determination, as well as the registration number of the association. If
148 applicable, the name and license number of the common interest community manager
149 shall also be provided.

150 10. The notice of final determination shall include the complainant's right to file a Notice
151 of Final Adverse Decision with the Common Interest Community Board via the Common
152 Interest Community Ombudsman and the applicable contact information.

153
154 Statutory Authority

155 §§ 54.1-2349 and ~~55-530~~ 54.1-2354.4 of the Code of Virginia.

156 Historical Notes

157 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

158

159 **18VAC48-70-60. Distribution of association complaint procedure.**

160 A. The association complaint procedure must be readily available upon request to all
161 members of the association and citizens.

162 B. The association complaint procedure shall be included as an attachment to the resale
163 certificate or the association disclosure packet.

164

165 Statutory Authority

166 §§ 54.1-2349 and ~~55-530~~ 54.1-2354.4 of the Code of Virginia.

167 Historical Notes

168 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

169

170 **18VAC48-70-70. Maintenance of association record of complaint.**

171 A. A record of each association complaint filed with the association shall be maintained in
172 accordance with ~~§ 55-530 E-1~~ § 54.1-2354.4 A 1 of the Code of Virginia.

173 B. Unless otherwise specified by the director or his designee, the association shall provide
174 to the director or his designee, within 14 days of receipt of the request, any document, book, or
175 record concerning the association complaint. The director or his designee may extend such
176 timeframe upon a showing of extenuating circumstances prohibiting delivery within 14 days of
177 receiving the request.

178

179 Statutory Authority

180 §§ 54.1-2349 and ~~55-530~~ 54.1-2354.4 of the Code of Virginia.

181 Historical Notes

182 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

183

184 18VAC48-70-80. Failure of association to establish and utilize association complaint
185 procedure.

186 Failure of an association to establish and utilize an association complaint procedure in
187 accordance with this chapter may result in the board seeking any of the remedies available
188 pursuant to Chapter 23.3 (§ 54.1-2345 et seq.) of Title 54.1 of the Code of Virginia.

189

190 Statutory Authority

191 §§ 54.1-2349 and ~~55-530~~ 54.1-2354.4 of the Code of Virginia.

192 Historical Notes

193 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

194

Part III

Final Adverse Decision

197

198 18VAC48-70-90. Filing of notice of final adverse decision.

199 A complainant may file a notice of final adverse decision in accordance with ~~§ 55-530~~
200 ~~F~~ 54.1-2354.4 B of the Code of Virginia concerning any final adverse decision that has been
201 issued by an association in accordance with this chapter.

- 202** 1. The notice shall be filed within 30 days of the date of the final adverse decision.
- 203** 2. The notice shall be in writing on forms provided by the Office of the Common Interest
204 Community Ombudsman. Such forms shall request the following information:
- 205** a. Name and contact information of complainant;
 - 206** b. Name, address, and contact information of association;
 - 207** c. Applicable association governing documents; and
 - 208** d. Date of final adverse decision.
- 209** 3. The notice shall include a copy of the association complaint, the final adverse
210 decision, reference to the laws and regulations the final adverse decision may have
211 violated, any supporting documentation related to the final adverse decision, and a copy
212 of the association complaint procedure.

213 4. The notice shall be accompanied by a \$25 filing fee or a request for waiver pursuant
214 to 18VAC48-70-100.

215
216 Statutory Authority

217 §§ 54.1-2349 and ~~55-530~~ 54.1-2354.4 of the Code of Virginia.

218 Historical Notes

219 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

220

221 **18VAC48-70-100. Waiver of filing fee.**

222 In accordance with ~~§ 55-530 F~~ § 54.1-2354.4 B of the Code of Virginia, the board may, for
223 good cause shown, waive or refund the filing fee upon a finding that payment of the filing fee will
224 cause undue financial hardship for the complainant.

225

226 Statutory Authority

227 §§ 54.1-2349 and ~~55-530~~ 54.1-2354.4 of the Code of Virginia.

228 Historical Notes

229 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

230

231 **18VAC48-70-110. Review of final adverse decision.**

232 Upon receipt of the notice of final adverse decision from the complainant, along with the
233 filing fee or a board-approved waiver of filing fee, the Office of the Common Interest Community
234 Ombudsman shall provide written acknowledgment of receipt of the notice to the complainant
235 and shall provide a copy of the written notice to the association that made the final adverse
236 decision. The notice of adverse decision will not be reviewed until the filing fee has been
237 received or a waiver of filing fee has been granted by the board.

238 In accordance with ~~§ 55-530 G~~ 54.1-2345.5 of the Code of Virginia, additional information
239 may be requested from the association that made the final adverse decision. Upon request, the
240 association shall provide such information to the Office of the Common Interest Community
241 Ombudsman within a reasonable time.

242

243 Statutory Authority

244 §§ 54.1-2349 and ~~55-530~~ 54.1-2354.4 of the Code of Virginia.

245 Historical Notes

246 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

247

248 **18VAC48-70-120. Decision from the notice of final adverse decision.**

249 Upon review of the notice of final adverse decision in accordance with ~~§ 55-530-G~~ 54.1-
250 2354.5 of the Code of Virginia, if the director determines that the final adverse decision may be
251 in conflict with laws or regulations governing common interest communities or interpretations
252 thereof by the board, the director may, in his sole discretion, provide the complainant and the
253 association with information concerning such laws or regulations governing common interest
254 communities or interpretations thereof by the board.

255 The determination of whether the final adverse decision may be in conflict with laws or
256 regulations governing common interest communities or interpretations thereof by the board shall
257 be a matter within the sole discretion of the director. Such decision is final and not subject to
258 further review. The determination of the director shall not be binding upon the complainant or
259 the association that made the final adverse decision.

260

261 Statutory Authority

262 §§ 54.1-2349 and ~~55-530~~ 54.1-2345.4 of the Code of Virginia.

263 Historical Notes

264 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

265

266 **18VAC48-70-125. Referral for further action.**

267 In addition to the provisions of this chapter, any matter involving a violation of applicable
268 laws or regulations of the board may be referred for further action by the board in accordance
269 with the provisions of Chapter 23.3 (§ 54.1-2345 et seq.) of Title 54.1; ~~Chapters 4.2 (§ 55-79.39~~
270 ~~et seq.), 26 (§ 55-508 et et seq.), and 29 (§ 55-528 et seq.) of Title 55~~ Chapters 18 (§ 55.1-1800
271 et seq.), 19 (55.1-1900 et seq.), and 21 (§ 55.1-2100 et seq.) of Title 55.1 of the Code of
272 Virginia; and the board's regulations.

273

274 Statutory Authority

275 §§ 54.1-2349 and ~~55-530~~ 54.1-2354.4 of the Code of Virginia.

276 Historical Notes

277 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

278

279 Part IV

280 Office of the Common Interest Community Ombudsman

281

282 **18VAC48-70-130. Purpose, responsibilities, and limitations.**

283 The Office of the Common Interest Community Ombudsman shall carry out those activities

284 as enumerated in subsection C of ~~§ 55-530~~ 54.1-2354.3 of the Code of Virginia.

285

286 Statutory Authority

287 §§ 54.1-2349 and ~~55-530~~ 54.1-2354.4 of the Code of Virginia.

288 Historical Notes

289 Derived from Virginia Register Volume 28, Issue 19, eff. July 1, 2012.

290

Virginia Administrative Code
Title 18. Professional and Occupational Licensing
Agency 48. Common Interest Community Board
Chapter 70. Common Interest Community Ombudsman Regulations

18VAC48-70-10. Definitions.

Part I
General

Section [55-528](#) of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

Association

Board

Common interest community

Declaration

Director

Governing board

Lot

Section [55-79.41](#) of the Code of Virginia provides definition of the following term as used in this chapter:

Condominium instruments

The following words, terms, and phrases, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Adverse decision" or "final adverse decision" means the final determination issued by an association pursuant to an association complaint procedure that is opposite of, or does not provide for, either wholly or in part, the cure or corrective action sought by the complainant. Such decision means all avenues for internal appeal under the association complaint procedure have been exhausted. The date of the final adverse decision shall be the date of the notice issued pursuant to subdivisions 8 and 9 of [18VAC48-70-50](#).

"Association complaint" means a written complaint filed by a member of the association or citizen pursuant to an association complaint procedure. An association complaint shall concern a matter regarding the action, inaction, or decision by the governing board, managing agent, or association inconsistent with applicable laws and regulations.

"Association complaint procedure" means the written process adopted by an association to receive and consider association complaints from members and citizens. The complaint procedure shall include contact information for the Office of the Common Interest

Community Ombudsman in accordance with § [55-530](#) of the Code of Virginia. An appeal process, if applicable, shall be set out in an association complaint procedure adopted by the association, including relevant timeframes for filing the request for appeal. If no appeal process is available, the association complaint procedure shall indicate that no appeal process is available and that the rendered decision is final.

"Association governing documents" means collectively the applicable organizational documents, including but not limited to the current and effective (i) articles of incorporation, declaration, and bylaws of a property owners' association, (ii) condominium instruments of a condominium, and (iii) declaration and bylaws of a real estate cooperative, all as may be amended from time to time. Association governing documents also include, to the extent in existence, resolutions, rules and regulations, or other guidelines governing association member conduct and association governance.

"Complainant" means an association member or citizen who makes a written complaint pursuant to an association complaint procedure.

"Record of complaint" means all documents, correspondence, and other materials related to a decision made pursuant to an association complaint procedure.

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

18VAC48-70-20. Submission of Documentation.

Any documentation required to be filed with or provided to the board, director, or Office of the Common Interest Community Ombudsman pursuant to this chapter and Chapter 29 (§ [55-528](#) et seq.) of Title 55 of the Code of Virginia shall be filed with or provided to the Department of Professional and Occupational Regulation.

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

18VAC48-70-30. Requirement for Association to Develop an Association Complaint Procedure.

Part II. Association Complaint Procedure

In accordance with § [55-530](#) E of the Code of Virginia, each association shall have a written process for resolving association complaints from members and citizens. The association complaint procedure or form shall conform with the requirements set forth in § [55-530](#) of the Code of Virginia and this chapter, as well as the association governing documents, which shall not be in conflict with § [55-530](#) of the Code of Virginia or this chapter.

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

18VAC48-70-40. Establishment and Adoption of Written Association Complaint Procedure.

A. Associations filing an initial application for registration pursuant to § [55-79.93:1](#), [55-504.1](#), or [55-516.1](#) of the Code of Virginia must certify that an association complaint procedure has been established and adopted at the date of registering or within 90 days of registering with the board.

B. An association that has been delinquent in registering the association and filing its required annual reports is still required to have an established and adopted written association complaint procedure. At the time such an association files an application for registration, it must certify that an association complaint procedure has been established and adopted by the governing board.

C. The association shall certify with each annual report filing that the association complaint procedure has been adopted and is in effect.

Statutory Authority

§ [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012; amended, Virginia Register [Volume 33, Issue 15](#), eff. May 1, 2017.

18VAC48-70-50. Association Complaint Procedure Requirements.

The association complaint procedure shall be in writing and shall include the following provisions in addition to any specific requirements contained in the association's governing documents that do not conflict with § [55-530](#) of the Code of Virginia or the requirements of this chapter.

1. The association complaint must be in writing.
2. A sample of the form, if any, on which the association complaint must be filed shall be provided upon request.
3. The association complaint procedure shall include the process by which complaints shall be delivered to the association.
4. The association shall provide written acknowledgment of receipt of the association complaint to the complainant within seven days of receipt. Such acknowledgment shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the

complainant at the address provided, or if consistent with established association procedure, by electronic means provided the sender retains sufficient proof of the electronic delivery.

5. Any specific documentation that must be provided with the association complaint shall be clearly described in the association complaint procedure. In addition, to the extent the complainant has knowledge of the law or regulation applicable to the complaint, the complainant shall provide that reference, as well as the requested action or resolution.

6. The association shall have a reasonable, efficient, and timely method for identifying and requesting additional information that is necessary for the complainant to provide in order to continue processing the association complaint. The association shall establish a reasonable timeframe for responding to and for the disposition of the association complaint if the request for information is not received within the required timeframe.

7. Notice of the date, time, and location that the matter will be considered shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided or, if consistent with established association procedure, delivered by electronic means, provided the sender retains sufficient proof of the electronic delivery, within a reasonable time prior to consideration as established by the association complaint procedure.

8. After the final determination is made, the written notice of final determination shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided or, if consistent with established association procedure, delivered by electronic means, provided the sender retains sufficient proof of the electronic delivery, within seven days.

9. The notice of final determination shall be dated as of the date of issuance and include specific citations to applicable association governing documents, laws, or regulations that led to the final determination, as well as the registration number of the association. If applicable, the name and license number of the common interest community manager shall also be provided.

10. The notice of final determination shall include the complainant's right to file a Notice of Final Adverse Decision with the Common Interest Community Board via the Common Interest Community Ombudsman and the applicable contact information.

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

18VAC48-70-60. Distribution of Association Complaint Procedure.

A. The association complaint procedure must be readily available upon request to all members of the association and citizens.

B. The association complaint procedure shall be included as an attachment to the resale certificate or the association disclosure packet.

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

18VAC48-70-70. Maintenance of Association Record of Complaint.

A. A record of each association complaint filed with the association shall be maintained in accordance with § [55-530](#) E 1 of the Code of Virginia.

B. Unless otherwise specified by the director or his designee, the association shall provide to the director or his designee, within 14 days of receipt of the request, any document, book, or record concerning the association complaint. The director or his designee may extend such timeframe upon a showing of extenuating circumstances prohibiting delivery within 14 days of receiving the request.

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

18VAC48-70-80. Failure of Association to Establish and Utilize Association Complaint Procedure.

Failure of an association to establish and utilize an association complaint procedure in accordance with this chapter may result in the board seeking any of the remedies available pursuant to Chapter 23.3 (§ [54.1-2345](#) et seq.) of Title 54.1 of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

18VAC48-70-90. Filing of Notice of Final Adverse Decision.

Part III

Final Adverse Decision

A complainant may file a notice of final adverse decision in accordance with § [55-530](#) F of the Code of Virginia concerning any final adverse decision that has been issued by an association in accordance with this chapter.

1. The notice shall be filed within 30 days of the date of the final adverse decision.
2. The notice shall be in writing on forms provided by the Office of the Common Interest Community Ombudsman. Such forms shall request the following information:
 - a. Name and contact information of complainant;
 - b. Name, address, and contact information of association;
 - c. Applicable association governing documents; and
 - d. Date of final adverse decision.
3. The notice shall include a copy of the association complaint, the final adverse decision, reference to the laws and regulations the final adverse decision may have violated, any supporting documentation related to the final adverse decision, and a copy of the association complaint procedure.
4. The notice shall be accompanied by a \$25 filing fee or a request for waiver pursuant to [18VAC48-70-100](#).

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

18VAC48-70-100. Waiver of Filing Fee.

In accordance with § [55-530](#) F of the Code of Virginia, the board may, for good cause shown, waive or refund the filing fee upon a finding that payment of the filing fee will cause undue financial hardship for the complainant.

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

18VAC48-70-110. Review of Final Adverse Decision.

Upon receipt of the notice of final adverse decision from the complainant, along with the filing fee or a board-approved waiver of filing fee, the Office of the Common Interest Community Ombudsman shall provide written acknowledgment of receipt of the notice to the complainant and shall provide a copy of the written notice to the association that made the final adverse decision. The notice of adverse decision will not be reviewed until the filing fee has been received or a waiver of filing fee has been granted by the board.

In accordance with § [55-530](#) G of the Code of Virginia, additional information may be

requested from the association that made the final adverse decision. Upon request, the association shall provide such information to the Office of the Common Interest Community Ombudsman within a reasonable time.

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

18VAC48-70-120. Decision from the Notice of Final Adverse Decision.

Upon review of the notice of final adverse decision in accordance with § [55-530](#) G of the Code of Virginia, if the director determines that the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the board, the director may, in his sole discretion, provide the complainant and the association with information concerning such laws or regulations governing common interest communities or interpretations thereof by the board.

The determination of whether the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the board shall be a matter within the sole discretion of the director. Such decision is final and not subject to further review. The determination of the director shall not be binding upon the complainant or the association that made the final adverse decision.

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

18VAC48-70-125. Referral for Further Action.

In addition to the provisions of this chapter, any matter involving a violation of applicable laws or regulations of the board may be referred for further action by the board in accordance with the provisions of Chapter 23.3 (§ [54.1-2345](#) et seq.) of Title 54.1; Chapters 4.2 (§ [55-79.39](#) et seq.), 26 (§ [55-508](#) et et seq.), and 29 (§ [55-528](#) et seq.) of Title 55 of the Code of Virginia; and the board's regulations.

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

18VAC48-70-130. Purpose, Responsibilities, and Limitations.

Part IV

Office of the Common Interest Community Ombudsman

The Office of the Common Interest Community Ombudsman shall carry out those activities as enumerated in subsection C of § [55-530](#) of the Code of Virginia.

Statutory Authority

§§ [54.1-2349](#) and [55-530](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 28, Issue 19](#), eff. July 1, 2012.

Forms (18VAC48-70)

[Common Interest Community Complaint Form, F491-CICCOMP-v2 \(rev. 11/2012\)](#)

[Request for Waiver of Filing Fee, F491-CICFW-v1 \(eff. 10/2012\)](#)

[Notice of Final Adverse Decision, F491-CICNOTE-v1 \(eff. 10/2012\)](#)

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2020 Legislative Items for Consideration

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Common Interest Community Board Reserve Study Guidelines Committee

Drew Mulhare, Chair	CIC Board Member, CIC Manager
Tom Burrell	CIC Board Member, Association representative
Michele Baldry	Reserve Specialist
Howard Goldklang	CPA
Doug Greene	Reserve Specialist
Peter Miller	Reserve Specialist
Doug White	Reserve Specialist
Pia Trigiani	CIC Board Chair, Ex-officio member

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Materials
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OMBUDSMAN REPORT

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**Department of Professional and Occupational Regulation
Statement of Financial Activity**

**Common Interest Community Board
954520**

2018-2020 Biennium

April 2019

	April 2019 Activity	Biennium-to-Date Comparison	
		July 2016 - April 2017	July 2018 - April 2019
Cash/Revenue Balance Brought Forward			3,380,114
Revenues	113,358	760,622	816,381
Cumulative Revenues			4,196,495
Cost Categories:			
Board Expenditures	36,212	306,188	373,194
Board Administration	0	0	0
Administration of Exams	0	0	0
Enforcement	10,881	111,198	115,712
Legal Services	159	1,121	636
Information Systems	9,082	52,764	68,721
Facilities and Support Services	8,247	54,595	62,453
Agency Administration	3,751	53,503	42,387
Other / Transfers	0	-3	0
Total Expenses	68,331	579,365	663,103
Ending Cash/Revenue Balance			3,533,392

Actual Callahan Percentage at End of Previous Biennium	229.9%
Target Callahan Percentage at End of Current Biennium	216.3%

Number of Regulants

Current Month	7,321
Previous Biennium-to-Date	6,649

**VIRGINIA COMMON INTEREST
COMMUNITY MANAGEMENT
RECOVERY FUND**

Financial Statements

Cash Basis

For the Month Ended
January 31, 2019

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
VIRGINIA COMMON INTEREST COMMUNITY MANAGEMENT
RECOVERY FUND
BALANCE SHEET
GOVERNMENTAL FUNDS
January 31, 2019

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ASSETS

CASH AND CASH EQUIVALENTS

TOTAL ASSETS

FUND BALANCES

RESERVED FOR PAYMENT OF FUTURE CLAIMS

RESERVED FOR ADMINISTRATION OF RECOVERY ACT

TOTAL FUND BALANCES

	Special Revenue Funds		
	Principal	Interest	Totals
CASH AND CASH EQUIVALENTS	\$ 204,672	\$ 6,917	\$ 211,589
TOTAL ASSETS	\$ 204,672	\$ 6,917	\$ 211,589
FUND BALANCES			
RESERVED FOR PAYMENT OF FUTURE CLAIMS	\$ 204,672	\$ -	\$ 204,672
RESERVED FOR ADMINISTRATION OF RECOVERY ACT	-	6,917	6,917
TOTAL FUND BALANCES	\$ 204,672	\$ 6,917	\$ 211,589

The accompanying notes are an integral part of this statement.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
VIRGINIA COMMON INTEREST COMMUNITY MANAGEMENT RECOVERY FUND
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES
GOVERNMENTAL FUNDS
FOR THE MONTH ENDED
January 31, 2019

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	MONTH OF JANUARY			YEAR TO DATE		
	Principal Fund	Interest Fund	Totals	Principal Fund	Interest Fund	Totals
REVENUES:						
Assessments:	\$ 475	\$ -	\$ 475	\$ 3,810	\$ -	\$ 3,810
Investment Income	-	339	339	-	2,100	2,100
Total Revenues:	475	339	814	3,810	2,100	5,910
EXPENDITURES:						
Administrative Expense	-	-	-	-	-	-
Total Expenses:	-	-	-	-	-	-
Net Change in Fund Balances	475	339	814	3,810	2,100	5,910
Beginning Fund Balance	204,197	6,577	210,774	200,862	4,817	205,679
Ending Fund Balance	\$ 204,672	\$ 6,917	\$ 211,589	\$ 204,672	\$ 6,917	\$ 211,589

The accompanying notes are an integral part of this statement.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
 VIRGINIA COMMON INTEREST COMMUNITY MANAGEMENT RECOVERY FUND
 SUPPLEMENTAL SCHEDULE OF CLAIMS PAID
 January 31, 2019

CLAIMS PAID:	Number of Payments	Dollar Amount of Claims Paid	Related Recoveries	Net Payments
July 1, 2018 - June 30, 2019	0	\$0.00	\$0.00	\$0.00
July 1, 2017 - June 30, 2018	0	\$0.00	\$0.00	\$0.00
July 1, 2016 - June 30, 2017	0	\$0.00	\$0.00	\$0.00
July 1, 2015 - June 30, 2016	0	\$0.00	\$0.00	\$0.00
July 1, 2014 - June 30, 2015	0	\$0.00	\$0.00	\$0.00
July 1, 2013 - June 30, 2014	0	\$0.00	\$0.00	\$0.00
July 1, 2012 - June 30, 2013	0	\$0.00	\$0.00	\$0.00
July 1, 2011 - June 30, 2012	0	\$0.00	\$0.00	\$0.00
July 1, 2010 - June 30, 2011	0	\$0.00	\$0.00	\$0.00
July 1, 2009 - June 30, 2010	0	\$0.00	\$0.00	\$0.00
July 1, 2008 - June 30, 2009	0	\$0.00	\$0.00	\$0.00
Total	<u>0</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>

This schedule is presented on a cash basis and represents aggregate claims paid and related recoveries. Recoveries are often received and reported in a different year from when the claim was paid.

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DEPARTMENT OF PROFESSIONAL AND OCCUPATION REGULATION
VIRGINIA COMMON INTEREST COMMUNITY MANAGEMENT RECOVERY FUNDS
NOTES TO FINANCIAL STATEMENTS
January 31, 2019

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The following is a summary of certain significant accounting policies employed by the Department of Professional and Occupational Regulation in administering the Virginia Common Interest Community Management Recovery Fund.

A. Basis of Presentation

The accompanying financial statements have been prepared using governmental fund accounting as prescribed by the Governmental Accounting Standards Board (GASB). The financial statements are prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

B. Reporting Entity

These financial statements report the financial activity of the Virginia Common Interest Community Management Recovery Fund, which is administered by the Department of Professional and Occupational Regulation. The Department exercises oversight authority over other funds which are not included in these financial statements.

C. Financial Statement Presentation

Special Revenue Funds account for transactions related to resources received and used for restricted or specific purposes. The Virginia Common Interest Community Management Recovery Fund, which is reported as a special revenue fund, is established under Section 55-530.1 of the *Code of Virginia* to reimburse associations for losses that occur when their community manager fails to perform his or her fiduciary responsibilities.

D. Measurement Focus and Basis of Accounting

The governmental fund financial statements are reported using the current financial resources measurement focus and the cash basis of accounting. Revenues are recognized when cash is received and expenditures are recorded when paid. The Department uses the cash basis of accounting during the year and prepares financial statements in accordance with generally accepted accounting principles at year end.

E. Cash and Cash Equivalents

Cash and cash equivalents consist of cash on hand, demand deposits, and investments in the Local Government Investment Pool (LGIP). Investments in the Local Government Investment Pool are reported as cash equivalents since they are readily convertible to cash.

2. RESTRICTED FUND BALANCES

Assets held in the Virginia Common Interest Community Management Recovery Funds are restricted to the payment of claims in accordance with Section 55.530.1H of the *Code of Virginia*. Interest earned on the deposits is used to pay the expenses of administering the fund, to pay claims, or may be transferred to the Common Interest Community Management Information Fund.

3. ASSESSMENTS

The Common Interest Community Management Recovery Fund is financed through assessments. Each new common interest community manager pays a \$25 assessment into the Recovery Fund at the time of application. Each association pays \$25 into the Recovery Fund at the time of filing its first annual report. After July 1, 2011, the *Code of Virginia* requires the Board to transfer funds from the Common Interest Community Management Information Fund and/or assess each association and each common interest community manager additional fees whenever the principal balance of the Recovery Fund is less than \$150,000. If the principal balance of the fund exceeds \$5,000,000 on June 30 of any year, the Board must transfer the excess to the Virginia Housing Partnership Revolving Fund.

* These financial statements are prepared by Jordan Perryman, Fund Accountant. Please call 804-367-4003 if you have questions.

The accompanying notes are an integral part of this statement.

2020 BOARD MEETING SCHEDULE

CIC BOARD	
Training Program Review Committee	Board Meeting
Wednesday, March 11, 2020 @ 1:00 pm Board Room 3	Thursday, March 12, 2020 @ 9:30 am Board Room 3
Wednesday, June 3, 2020 @ 1:00 pm Board Room 4	Thursday, June 4, 2020 @ 9:30 am Board Room 3
Wednesday, September 2, 2020 @ 1:00 pm Board Room 3	Thursday, September 3, 2020 @ 9:30 am Board Room 3
Wednesday, December 2, 2020 @ 1:00 pm Board Room 3	Thursday, December 3, 2020 @ 9:30 am Board Room 3

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Commonwealth of Virginia



Department of Professional and Occupational Regulation Common Interest Community Board

Resolution for

Mary Elizabeth Johnson

WHEREAS, **Beth Johnson**, did faithfully and diligently serve the Common Interest Community Board from 2014 to 2019;

WHEREAS, **Beth Johnson**, did devote generously of her time, talent and leadership to the Board;

WHEREAS, **Beth Johnson**, did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Common Interest Community Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Common Interest Community Board this sixth day of June 2019, that **Beth Johnson** be given all honors and respect due her for her outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to her and be made a part of the official minutes of the Board so that all may know of the high regard in which she is held by this Board.

Lucia Anna Trigiani, Chair

Mary Broz-Vaughan, Acting Secretary

OTHER BUSINESS

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COMPLETE CONFLICT OF INTEREST
FORMS AND
TRAVEL VOUCHERS

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ADJOURN

Please return your document folders to Tanya Pettus.

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