
COMMONWEALTH OF VIRGINIA
COMMON INTEREST COMMUNITY BOARD



**CONDOMINIUM
REGULATIONS**

Last Updated August 1, 2015

STATUTES
Title 55, Chapter 4.2



Department of Professional and Occupational Regulation

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STATEMENT OF PURPOSE

This booklet contains the information you will need to complete the registration of your condominium with the Common Interest Community Board. The law that governs the registration process is found in **Title 55, Chapter 4.2 of the Code of Virginia**. That law permits the board to issue regulations that explain to you, in greater detail, what is expected of the condominium declarant, the unit owners' association, the condominium instruments, and other aspects of the Condominium Act. This booklet contains a copy of the regulations that you will need to know and obey in order to initially file and main your registration. This booklet does not contain a copy of the Condominium Act. If you require a copy of the Act, please contact the Board at the address listed below.

BE SURE YOU READ AND UNDERSTAND THE REQUIREMENTS SET FORTH IN THESE REGULATIONS. FAILURE TO COMPLY WITH THESE REQUIREMENTS COULD RESULT IN THE REVOCATION OF YOUR REGISTRATION.

It is the goal of the Department of Professional and Occupational Regulation to provide the information you need to comply with the law and regulations. If you have a question and cannot find the answer in this booklet, please write to:

Common Interest Community Board
Department of Professional and Occupational Regulation
9960 Mayland Drive, Suite 400
Richmond, VA 23233

Or call the Agency at (804) 367-8500.

Or e-mail at cic@dpor.virginia.gov.

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**PART I
GENERAL**

18VAC48-30-10. Purpose.

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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register Volume 30, Issue 20, eff. August 1, 2015.

PART II MARKETING

18VAC48-30-70. Condominium marketing activities.

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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

PART III
APPLICATION FOR REGISTRATION

18VAC48-30-90. Application procedures.

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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

**PART IV
PUBLIC OFFERING STATEMENT**

18VAC48-30-160. Public offering statement requirements, generally.

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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

18VAC48-30-220. Narrative section; 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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."

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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."

Historical Notes:

Derived from Virginia Register 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, acknowledgement 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

**PART V
CONVERSION CONDOMINIUMS**

18VAC48-30-400. Public offering statement for conversion condominium; general instructions.

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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

**PART VI
POST-REGISTRATION PROVISIONS**

18VAC48-30-460. Minimum post-registration reporting requirements.

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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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 cancelled 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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 G 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.

Historical Notes:

Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.

**PART VII
BOARD AUTHORITY AND STANDARDS OF CONDUCT**

18VAC48-30-650. Grounds for disciplinary action.

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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register 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.

Historical Notes:

Derived from Virginia Register Volume 31, Issue 20, eff. August 1, 2015.