

COMMON INTEREST COMMUNITY BOARD



Time-Share Regulations

Effective
November 27, 2008

Virginia

DOR

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

The Perimeter Center, Suite 400
9960 Mayland Drive
Richmond, Virginia 23233
(804) 367-8510
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STATEMENT OF PURPOSE

This booklet contains the information you will need to complete the registration of your time-share with the Common Interest Community Board. The law that governs the registration process is found in **Title 55, Chapter 21 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 time-share developer, the unit owners' association, the time-share instruments, and other aspects of the Time-Share 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 Time-Share 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
Richmond, VA 23233

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

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

-- TABLE OF CONTENTS --

| | |
|---|----------|
| PART I – DEFINITIONS..... | 1 |
| PART II – REGISTRATION | 2 |
| PART III -- MARKETING | 3 |
| PART IV – PUBLIC OFFERING STATEMENT..... | 4 |
| PART V -- POST-REGISTRATION PROVISIONS | 7 |

PART I
DEFINITIONS

18 VAC 48-40-10. Definitions and explanation of terms.

The definitions provided in § 55-362 of the Code of Virginia, as they may be supplemented herein, shall apply to this chapter.

Historical Notes:

Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.

PART II REGISTRATION

18 VAC 48-40-20. Application for registration.

Application for registration of time-share projects and programs shall be filed with the board on an application form furnished by the board and shall contain all of the documents and information required by § 55-391.1 of the Code of Virginia.

Historical Notes:

Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.

18 VAC 48-40-30. Form of the application; submission of documents.

The board may establish specific guidelines that establish the form for preparation of the application for registration. These guidelines may set forth reasonable requirements for paper size, binding and organization that assure uniformity in the manner disclosures are made to prospective purchasers.

Historical Notes:

Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.

18 VAC 48-40-40. Filing fees.

1. The filing fee for an original application for registration of a time-share project shall be \$1,500.
2. The filing fee for an amendment to the application for registration adding a phase or phases to the time-share project shall be \$250.
3. The filing fee for the annual report filed by the developer shall be \$500.
4. The filing fee for an original application for registration of an exchange company shall be \$1,000. The filing fee for the annual report of an exchange company shall be \$250.
5. There shall be no fee for filing an amended public offering statement with the board.

Historical Notes:

Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.

PART III MARKETING

18 VAC 48-40-50. Preregistration offers prohibited.

A. No developer or individual or entity acting on behalf of the developer shall offer or dispose of a time-share prior to its registration.

B. No preregistration time-share 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 for a time-share or perform some other act that would create or purport to create a legal or equitable interest in a time-share other than a security interest in or a nonbinding reservation of the time-share.

Historical Notes:

Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.

18 VAC 48-40-60. Time-share marketing standards.

A. No promise, assertion, representation or statement of fact or opinion in connection with a time-share marketing activity shall be made that is false, inaccurate or misleading by reason of inclusion of an untrue statement of a material fact or omission of a statement of a material fact relative to the actual or intended characteristics, circumstances or features of the time-share project or a time-share.

B. No promise, assertion, representation or statement of fact or opinion made in connection with a time-share marketing activity and relating to a time-share project not registered shall, by its express terms, induce, solicit or encourage a contract for sale or performing some other act that would create or purport to create a legal or equitable interest in the time-share other than a security interest in or a nonbinding reservation of the time-share, when to do so would circumvent the provisions of the Virginia Real Estate Time-Share Act.

Historical Notes:

Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.

**PART IV
PUBLIC OFFERING STATEMENT**

18 VAC 48-40-70. Preparation and distribution of public offering statement.

A. The public offering statement shall be clear and legible with pages numbered sequentially. The first page of the public offering statement shall conform to subsection D of this section.

B. The developer may include as part of the public offering statement a receipt page printed in such a way that the developer may obtain verification that a prospective purchaser has received the public offering statement. The receipt page shall include the effective date of the public offering statement as well as a place for the date of delivery and signature lines for the prospective purchaser. The authorized receipt page in proper form, duly executed, shall be evidence that the public offering statement was delivered.

C. The developer shall distribute a current public offering statement to any prospective purchaser before such purchaser executes a contract to purchase a time-share.

D. The public offering statement should read as follows:

**PURCHASER SHOULD READ THIS DOCUMENT FOR HIS OWN PROTECTION
PUBLIC OFFERING STATEMENT**

NAME OF TIME-SHARE PROJECT: _____

LOCATION OF TIME-SHARE PROJECT: _____

NAME OF DEVELOPER: _____

EFFECTIVE DATE OF PUBLIC OFFERING STATEMENT: _____

AMENDED: _____

REVISED: _____

This Public Offering Statement presents information regarding Time-Share (s) being offered for sale by the Developer. The Virginia Real Estate Time-Share Act, §§ 55-360 et seq. of the Code of Virginia, requires that a Public Offering Statement be given to every Purchaser in order to provide full and accurate disclosure of the characteristics of and material circumstances affecting the Time-Share Project and the characteristics of the Time-Share(s) being offered. The Public Offering Statement is not intended, however, to be all inclusive. The Purchaser should consult other sources for details not covered by the Public Offering Statement.

The Public Offering Statement summarizes information and documents furnished by the developer to the Common Interest Community Board. The Board has carefully reviewed the Public Offering Statement to ensure that it is an accurate summary but does not guarantee its

accuracy. In the event of any inconsistency between the Public Offering Statement and the material it is intended to summarize, the material shall control.

Under § 55-376 of the Virginia Real Estate Time-Share Act, a Purchaser of a Time-Share may cancel the Contract until midnight of the seventh calendar day following the execution of such Contract. If the Purchaser elects to cancel the Contract, he can obtain all payments made in connection with the Contract before cancellation. If the purchaser elects to cancel the Contract, he shall only do so either (i) by hand-delivering the notice to the developer at its principal office or at the project or (ii) by mailing the notice by certified United States mail, return receipt requested, to the developer or its designated agent.

The following are violations of Virginia law and should be reported to the Common Interest Community Board, Perimeter Center, Suite 400, 9960 Mayland Drive, Richmond, Virginia 23233:

- a misrepresentation made in the Public Offering Statement;
- an oral modification of the Public Offering Statement; or
- a representation that the Board has passed on the merits of the Time-Share(s) being offered or endorses the Time-Share project.

PURCHASER SHOULD READ THIS DOCUMENT FOR HIS OWN PROTECTION

Historical Notes:

Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.

18 VAC 48-40-80. Nature of information to be included in public offering statement.

A. The provisions of § 55-374 of the Code of Virginia and this chapter shall be strictly construed to promote full and accurate disclosure in the public offering statement of the characteristics of and material circumstances affecting the time-share project and the characteristics of the time-share(s) being offered.

B. The requirements for disclosure are not exclusive. In addition to expressly required information, the developer shall disclose all other available information that may reasonably be expected to affect the decision of the ordinarily prudent purchaser to accept or reject the offer of a time-share. The developer shall disclose any additional information necessary to make the required information not misleading. No information may be presented in such a fashion as to obscure the facts, to encourage a misinterpretation of the facts or otherwise to mislead a purchaser.

C. No information shall be incorporated by reference to an extrinsic source that is not readily available or already known to an ordinary purchaser. Whenever required information is not known or not reasonably available, such fact shall be stated in the public offering statement with a brief explanation. Whenever special circumstances exist that would render required disclosure inaccurate or misleading, the required disclosure shall be modified to accomplish the purpose of the requirement or the disclosure shall be omitted, provided that such modification or omission promotes full and accurate disclosure.

D. The public offering statement shall be as brief as is consistent with full and accurate disclosure. In no event shall the public offering statement be made so lengthy or detailed as to discourage close examination. Duplication and unnecessary legal language is discouraged.

E. Expressions of opinion in the public offering statement shall be deemed inconsistent with full and accurate disclosure unless there is an existing foundation in fact for the opinion expressed therein; provided, however, that this sentence shall not affect in any way the developer's duty to set forth a projected budget for the time-share estate program's operation.

F. Except for brief excerpts, the public offering statement shall not incorporate verbatim portions of the time-share instrument or other documents. The developer is encouraged in the public offering statement to direct the purchaser's attention to pertinent portions of the time-share instrument or documents attached to the public offering statement where required disclosures can be found, and if incorporated by reference, shall be deemed to be a part of the public offering statement.

G. Maps, photographs and drawings may be utilized in the public offering statement, provided that such use promotes full and accurate disclosure of the required characteristics of and material circumstance affecting the time-share project and the characteristics of the time-share(s) being offered.

Historical Notes:

Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.

18 VAC 48-40-90. Readability of public offering statement.

The public offering statement shall be clear and understandable. The public offering statement may be written in narrative, question and answer, or other form selected by the developer so long as all information required by the Virginia Real Estate Time-Share Act and this chapter is included in a clear and understandable manner. Use of defined terms in the Virginia Real Estate Time-Share Act in writing the public offering statement is encouraged. Determination as to compliance with this section is within the exclusive discretion of the board.

Historical Notes:

Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.

**PART V
POST-REGISTRATION PROVISIONS**

18 VAC 48-40-100. Amendment of public offering statement; material change.

A. Within 20 business days of the occurrence of a material change, as defined by § 55-362 of the Code of Virginia, the developer shall amend the public offering statement to disclose each occurrence constituting the material change.

B. An amendment of the public offering statement, necessitated by the occurrence of a material change, may be accomplished in any intelligible manner and, to the extent that strict compliance with any of the other provisions of this chapter governing the form of presentation of information in the public offering statement would be unduly burdensome, the developer may deviate therefrom in amending the public offering statement, provided that (i) no such deviation shall be more extensive than is necessary and appropriate under the circumstances, (ii) the requirements of this chapter are strictly observed and (iii) the presentation of information in the amended public offering statement is organized so as to facilitate reading and comprehension. Nothing contained in this chapter shall authorize a deviation from strict compliance with this chapter governing the substance of disclosure in the public offering statement. If any information has become inaccurate or misleading by reason of the material change, such information shall be deleted from the public offering statement or amended in such a way to make the information accurate and not misleading.

Historical Notes:

Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.

18 VAC 48-40-110. Filing of amended public offering statement.

A. The developer shall file with the board a copy of the amended public offering statement generated pursuant to 18 VAC 48-40-100. The filing shall be dated by the developer and its receipt dated by the board. The amended public offering statement shall be effective upon its receipt by the board.

B. When an amended document pursuant to 18 VAC 48-40-100 is filed with the board, and the amendments are not apparent on the face of the document, the document shall be redlined, highlighted or otherwise marked to indicate the changes.

Historical Notes:

Derived from Virginia Register Volume 25, Issue 4, eff. November 27, 2008.