

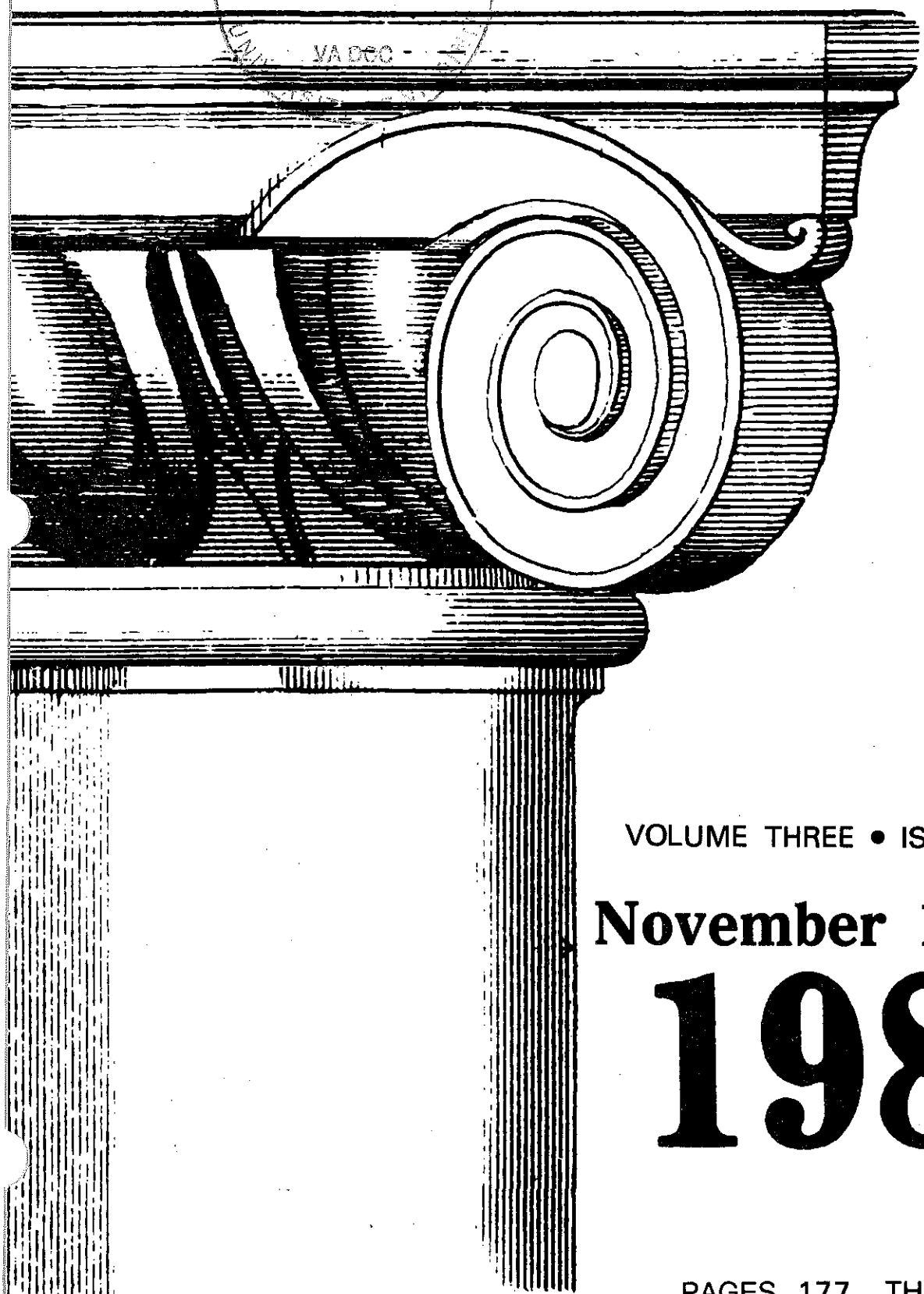
VA  
DOC

COD R  
5/126/

# THE VIRGINIA REGISTER

OF REGULATIONS

ALDEN LIBRARY  
PUBLIC DOCUMENTS  
REFERENCE DEPARTMENT  
NOV 19 1986  
VA DOC



VOLUME THREE • ISSUE THREE

November 10, 1986

# 1986

PAGES 177 THROUGH 358

# INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

## VIRGINIA REGISTER

The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative.

The *Virginia Register* has several functions. The full text of all regulations, both as proposed and as finally adopted or changed by amendment are required by law to be published in the *Virginia Register of Regulations*.

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the Virginia Tax Bulletin issued monthly by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the Virginia Register a notice of proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register*, sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will review the proposed regulations. The Governor will transmit his comments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register*.

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions, or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the *Virginia Registrar* and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative Committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and

require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before final action is taken.

## EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

## CITATION TO THE VIRGINIA REGISTER

The Virginia Register is cited by volume, issue, page number, and date. 1:3 VA.R. 75-77 November 12, 1984 refers to Volume 1, Issue 3, pages 75 through 77 of the Virginia Register issued on November 12, 1984.

**Virginia Register of Regulations.** Published bi-weekly, with an index published quarterly by the Commonwealth of Virginia, Virginia Code Commission, P.O. Box 3-AG, Richmond, Virginia 23208, pursuant to Article 7 of Chapter 1.1:1 (§ 9-6.14:2 et seq.) of the Code of Virginia. Subscriptions \$85 per year, postpaid to points in the U.S., 3rd-Class postage paid at Richmond, Virginia and individual copies \$4 each. Direct all mail to Registrar of Regulations, P.O. Box 3-AG, Richmond, Virginia 23208, Telephone (804) 786-3591.

**Members of the Virginia Code Commission:** Theodore V. Morrison, Jr., Chairman, Delegate; Dudley J. Emick, Jr., Vice Chairman Senator; A. L. Philpott, Speaker of the House of Delegates; James P. Jones, Senator; Russell M. Carraal, Circuit Judge; John Wingo Knowles, Retired Circuit Judge; E. Lane Kneedler, Chief Deputy Attorney General; John A. Banks, Jr., Secretary, Director of the Division of Legislative Services.

**Staff of the Virginia Register:** Joan W. Smith, Registrar of Regulations; Ann M. Brown, Assistant Registrar of Regulations.

**VIRGINIA REGISTER OF REGULATIONS**

**PUBLICATION DEADLINES AND SCHEDULES**

<b>PUBLICATION DATE</b>	<b>MATERIAL SUBMITTED BY</b> 12 noon Wednesday
July 7	June 18
July 21	July 2
Aug. 4	July 16
Aug. 18	July 30
Sept. 1	Aug. 13
Sept. 15	Aug. 27
Sept. 29	Sept. 10
<b>Final Index - Volume II</b>	
Oct. 13	Sept. 24
Oct. 27	Oct. 8
Nov. 10	Oct. 22
Nov. 24	Nov. 5
Dec. 8	Nov. 19
Dec. 22	Dec. 3
<b>Index - 1st Issue, Volume III</b>	
<b>1987</b>	
Jan. 5	Dec. 17
Jan. 19	Dec. 31
Feb. 2	Jan. 14
Feb. 16	Jan. 28
Mar. 2	Feb. 11
Mar. 16	Feb. 25
<b>Index - 2nd Issue</b>	
Mar. 30	Mar. 11
Apr. 13	Mar. 25
Apr. 27	Apr. 8
May 11	Apr. 22
May 25	May 6
June 8	May 20
June 22	June 3
<b>Index - 3rd Issue</b>	
July 6	June 17
July 20	July 1
Aug. 3	July 15
Aug. 17	July 29
Aug. 31	Aug. 12
Sept. 14	Aug. 26
Sept. 28	Sept. 9
<b>Final Index - Volume III</b>	

# TABLE OF CONTENTS

## PROPOSED REGULATIONS

### STATE AIR POLLUTION CONTROL BOARD

Regulations for the Control and Abatement of Air Pollution. (Emission Standards for Open Burning) (VR 120-01) ..... 178

### VIRGINIA BOARD OF OPTOMETRY

Regulations of the Virginia Board of Optometry. (VR 510-01-1) ..... 183

### VIRGINIA REAL ESTATE BOARD

Virginia Real Estate Board Licensing Regulations. (VR 585-01-1) ..... 186

Condominium Regulations. (VR 585-01-2) ..... 227

Time-Share Regulations. (VR 585-01-3) ..... 258

### VIRGINIA DEPARTMENT OF SOCIAL SERVICES

Health Care Coverage. (VR 615-70-5) ..... 278

### THE TREASURY BOARD

Virginia Security for Public Deposits Act Regulations (VR 640-02) ..... 279

## FINAL REGULATIONS

### VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Procedures, Instructions, and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income. (VR 400-02-0003) ..... 289

### MARINE RESOURCES COMMISSION

Pertaining to Dredging of Conchs. (VR 450-01-0040) . 302

### STATE BOARD OF PHARMACY

Virginia Board of Pharmacy Regulations. (VR 530-01-1) (Withdrawn) ..... 303

## DEPARTMENT OF SOCIAL SERVICES

Standards and Regulations for Licensed Adult Day Care Centers. (VR 615-21-02) ..... 303

## STATE CORPORATION COMMISSION

CASE NO. PUC850036

Investigation of Private Resale or Shared Use of Local Exchange Services ..... 328

## GOVERNOR

### GOVERNOR'S COMMENTS

## DEPARTMENT OF HEALTH

Regulations Governing Eligibility Standards and Charges for Medical Care Services. (VR 355-39-01) ... 331

## GENERAL NOTICES/ERRATA

### NOTICES OF INTENDED REGULATORY ACTION

Notices of Intent ..... 332

### NOTICE TO STATE AGENCIES

Forms for filing material on date for publication in the Virginia Register of Regulations ..... 336

## CALENDAR OF EVENTS

### EXECUTIVE

Open Meetings and Public Hearings ..... 337

### LEGISLATIVE

Open Meetings and Public Hearings ..... 356

### CHRONOLOGICAL LIST

Open Meetings ..... 356  
Public Hearings ..... 358



---

# PROPOSED REGULATIONS

---

For information concerning Proposed Regulations, see information page.

### Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text. Language which has been stricken indicates proposed text for deletion.

## STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution.

Statutory Authority: § 10-17.18 (b) of the Code of Virginia.

Public Hearing Date: January 14, 1987 -  
(See Calendar of Events section  
for additional information)

### Summary:

*The purpose of the proposed amendments is to change the agency's regulations concerning open burning to address the following problems: (i) the resources expended by the agency regulating open burning are disproportionately high compared to the problems caused by the resulting pollution, (ii) the inclusion of all of Roanoke County as an urban area results in unnecessarily restrictive requirements in some parts of the county which are rural in nature, (iii) the lack of specific conditions for use of special incineration devices is inconsistent with the policy for application of the regulation in AQCR VII, (iv) failure to include the burning of stakes and plastic ground cover by tomato growers as an agricultural practice is unduly restrictive and places an undue economic burden upon the growers, (v) the provision that allows burning to take place nearer to a building than the minimum specified distance if the occupants give their permission is unenforceable, and (vi) the clarity, simplicity and uniformity of certain provisions of the regulation need improvement.*

VR 120-01. Regulations for the Control and Abatement of Air Pollution.

### PART IV. EXISTING SOURCES.

#### EMISSION STANDARDS FOR OPEN BURNING. (RULE 4-40)

#### § 120-04-4001. Applicability.

A. Except as provided in subsection C of this section, the provisions of this rule apply to any person who permits or engages in open burning and or who permits or engages in burning using open pit incinerators (trench burners), conical burners (teepee burners) and other devices or methods which the board determines are

specifically designed to provide good combustion performance.

B. The provisions of this rule apply throughout the Commonwealth of Virginia.

C. The provisions of this rule do not apply to such an extent as to prohibit the burning of leaves by persons on property where they reside if the local governing body of the county, city or town in which such persons reside has enacted an otherwise valid ordinance (under the provisions of § 10-17.18 (b) of the Virginia Air Pollution Control Law) regulating such burning in all or any part of the locality.

#### § 120-04-4002. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this rule, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

#### C. Terms defined:

*"Automobile graveyard" means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.*

*"Built-up area" means any area with a substantial portion covered by industrial, commercial or residential buildings.*

*"Garbage" means rotting animal and vegetable matter accumulated by a household in the course of ordinary day-to-day living.*

*"Hazardous waste" means refuse or combination of refuse which, because of its quantity, concentration or physical, chemical or infectious characteristics may:*

*1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or*

*2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.*

## Proposed Regulations

*"Household refuse"* means waste material and trash normally accumulated by a household in the course of ordinary day-to-day living.

*"Junk"* means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

*"Junkyard"* means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

*"Opening burning"* means the burning of any matter in such a manner that the products resulting from combustion are emitted directly into the atmosphere without passing through a stack, duct or chimney.

*"Refuse"* means trash, rubbish, garbage and other forms of solid or liquid waste, including, but not limited to, wastes resultant from residential, agricultural, commercial, industrial, institutional, trade, construction, land clearing, forest management and emergency operations.

*"Salvage operation"* means any operation consisting of a business, trade or industry participating in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards as defined in § 33-270.3 of the Code of Virginia (1950), as amended.

*"Smoke"* means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash and other material in concentrations sufficient to form a visible plume.

### § 120-04-4003. Open burning prohibitions.

A. No owner or other person shall cause or permit open burning of refuse except as provided in § 120-04-4004.

B. No owner or other person shall cause or permit open burning of rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber or petroleum based materials except when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities.

C. No owner or other person shall cause or permit open burning of toxic or hazardous materials waste or containers for such materials or open burning that may cause or contribute to a violation of Rule 4-3.

D. No owner or other person shall cause or permit open burning for the purpose of a salvage operation or for the disposal of commercial/industrial waste.

E. Open burning permitted under the provisions of this rule does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries which may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this rule. In this regard special attention should be directed to § 10-62 and § 10-63 of the Forest Fire Law of Virginia (See Appendix O). Excerpts from the Forest Fire Law of Virginia are presented for information purposes only; the board has no authority to enforce the provisions thereof.

F. Upon declaration of an Alert, Warning of Emergency Stage of an Air Pollution Episode as described in Part VII or when deemed advisable by the board to prevent a hazard to, or an unreasonable burden upon, public health or welfare, no owner or other person shall cause or permit open burning; and any in-process burning shall be immediately terminated in the designated Air Quality Control Region.

### § 120-04-4004. Permissible open burning.

Open burning is permitted in the following instances provided the provisions of subsections A through F of § 120-04-4003 are met:

A. Upon the request of an owner or a responsible civil or military public official, the board may approve open burning under controlled conditions for the elimination of a hazard which constitutes a threat to the public health, safety or welfare and which cannot be remedied by other means consonant with the circumstances presented by the hazard.

B. Open burning is permitted for training and instruction of government and public fire fighters under the supervision of the designated official and industrial in-house fire fighting personnel with clearance from the local fire fighting authority. The designated official in charge of the training shall notify and obtain the approval of the regional director prior to conducting the training exercise. Training schools where permanent facilities are installed for fire fighting instruction are exempt from this notification requirement.

C. Open burning is permitted for camp fires or other fires that are used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, and for warming of outdoor workers provided the materials specified in subsections B and C of § 120-04-4003 are not burned.

D. In localities or portions of localities inside urban areas where no collection service is available at the adjacent street or public road and in localities or portions of localities outside urban areas, Open burning is permitted for the disposal of leaves and tree, yard and

## Proposed Regulations

---

garden trimmings located on the premises of private residences, provided the following conditions are met:

1. The burning takes place on the premises of the private residence.
2. The location of the burning is not less than 300 feet from any occupied building ~~unless the occupant(s) has given prior permission, other than a building located on the property on which the burning is conducted.~~
3. *There must be no publicly financed collection service available at the adjacent street or public road.*

E. In localities or portions of localities where no collection service is available on the adjacent street or public road on a schedule of at least once per week and where no collection boxes or stations are provided by the locality, Open burning is permitted for the disposal of household refuse by homeowners or tenants, provided the following conditions are met:

1. The burning takes place on the premises of the dwelling.
2. Animal carcasses or animal wastes are not burned.
3. Garbage is not burned.
4. The location of the burning is not less than 300 feet from any occupied building ~~unless the occupant(s) has given prior permission, other than a building located on the property on which the burning is conducted.~~
5. *No collection service is available at the adjacent street or public road on a schedule of at least once per week and no collection boxes or stations are provided by the locality.*

F. Open burning is permitted for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack. *Use of a flare or flare stack for the destruction of hazardous waste or commercial/industrial waste is allowed provided written approval is obtained from the board. Permits issued under Part VIII may be used to satisfy the requirement for written approval.*

G. Except in Air Quality Control Region 7, open burning is permitted for disposal of land clearing refuse on the site of clearing operations resulting from property maintenance, from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills, or from any other clearing operations which may be approved by the executive director, provided the following conditions are met:

1. All reasonable effort ~~must shall~~ be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the

removal of pulpwood, sawlogs and firewood.

2. The material to be burned shall consist of brush, stumps and similar land clearing refuse generated at the site and shall not include demolition material or any refuse brought in from other sites.

3. The burning shall be at least 500 feet from any occupied building or buildings ~~(unless the occupants have given prior permission)~~ other than a building located on the property on which the burning is conducted; burning shall be conducted at the greatest distance practicable from highways and air fields. If the regional director determines that it is necessary to protect public health and welfare, he may direct that any of the above cited distances be increased.

4. The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials.

5. The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

H. When any burning contemplated by subsection G of this section, is to occur within cities or urban areas, persons responsible for the burning shall, prior thereto, obtain a permit from the regional director. Such permits may be granted only after an ~~on-site inspection and confirmation~~ by the regional director that the burning can and will comply with the conditions in subsection G of this section and any other conditions which are deemed necessary by the regional director to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of these regulations.

I. Open burning is permitted for forest management and agriculture practices approved by the board (see Appendix D), provided the following conditions are met:

1. The burning shall be at least 1000 feet from any occupied building or buildings ~~unless the occupant(s) has given prior permission, other than a building located on the property on which the burning is conducted.~~

2. The burning shall be attended at all times.

J. Except in Air Quality Control Region 7, open burning is permitted for disposal of refuse on the site of local landfills provided that the locally elected officials (or their designated representative) obtain a permit beforehand from the executive director. Such permits may be granted only after an ~~on-site inspection and confirmation~~ by the regional director that the burning can and will comply with the conditions in subsection J, paragraphs 1 through 7

# Proposed Regulations

of this section and any other conditions which are deemed necessary by the executive director to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of these regulations. The permit may be issued for each occasion of burning or for a period of time, not to exceed two years, as deemed appropriate by the executive director.

1. The burning ~~must~~ shall take place on the premises of a local sanitary landfill (the establishment and operation of which meets the provisions of Chapter XXVIII of the Rules and Regulations of the State Department of Health) or other area operated under the authority of the locality and approved by the executive director.

2. The burning shall be attended at all times.

3. The material to be burned shall consist only of the following:

a. Brush, tree trimmings, yard and garden trimmings, and similar land clearing refuse.

b. Clean burning waste from construction and demolition operations and similar materials.

4. All reasonable effort ~~must~~ shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, sawlogs, firewood and other marketable material.

5. No materials may be burned in violation of Chapter XXVIII, Part IV, Article 2, Section E of the Rules and Regulations of the Department of Health, Disposal of Solid Waste. Special attention should be directed to § 10-62 and § 10-63 of the Forest Fire Law of Virginia (See Appendix O). Excerpts from the Forest Fire Law of Virginia are presented for information purposes only; the board has no authority to enforce the provisions thereof.

6. The regional director ~~must~~ shall be notified of the days during which the burning will occur.

7. The burning shall not take place on land that has been filled and covered so as to present an underground fire hazard due to the presence of methane gas. The exact site of the burning shall be established in coordination with the regional consultant of the ~~Division Bureau~~ Bureau of Solid and Hazardous Waste Management, State Department of Health ~~Waste Management~~ and the local fire official; and no other site shall be used without the approval of these officials.

§ 120-04-4005. Special incineration devices.

A. The provisions of this section shall apply to open pit

incinerators (trench burners), conical burners (teepee burners) and other devices or methods which the board determines are specifically designed to provide good combustion performance.

B. Prior to the initial installation (or reinstallation, in cases of relocation) and operation of devices or methods subject to the provisions of this section, persons responsible for the burning shall obtain a permit from the regional director. Such permits may be granted only after ~~an on site inspection and~~ confirmation by the regional director that the burning can and will comply with the emission standards in Rules 4-1 and 4-3 and any conditions which are deemed necessary by the regional director to ensure that the operation of the devices will not endanger the public health and welfare or to ensure compliance with any applicable provisions of these regulations.

C. Permits granted under this section in AQCR 7 shall at a minimum contain the following conditions:

1. All reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, sawlogs and firewood.

2. The material to be burned shall consist of brush, stumps and similar land clearing refuse generated at the site and shall not include demolition material or any refuse brought in from other sites.

3. The burning shall be at least 500 feet from any occupied building other than a building located on the property on which the burning is conducted; burning shall be conducted at the greatest distance practicable from highways and air fields. If the regional director determines that it is necessary to protect public health and welfare, he may direct that any of the above cited distances be increased.

4. The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials.

5. The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

## APPENDIX C URBAN AREAS.

Urban areas are geographically defined as follows:

<u>Title</u>	<u>Geographical Area</u>
Lynchburg Urban Area	Lynchburg City Campbell County

# Proposed Regulations

Newport News - Hampton Urban Area	Hampton City Newport News City Poquoson City Williamsburg City James City County York County
Norfolk - Portsmouth Urban Area	Chesapeake City Norfolk City Portsmouth City Suffolk City Virginia Beach City
Petersburg - Colonial Heights Urban Area	Colonial Heights City Hopewell City Petersburg City
Richmond Urban Area	Richmond City Chesterfield County Hanover County Henrico County
Roanoke Urban Area	Roanoke City Salem City †Roanoke County
National Capital Urban Area	Alexandria City Fairfax City Falls Church City Manassas City Manassas Park City Arlington County Fairfax County Loudoun County Prince William County

† Does not include those portions of the county designated as rural village or rural preserve in the Roanoke County Comprehensive Development Plan.

## APPENDIX D FOREST MANAGEMENT AND AGRICULTURE PRACTICES.

I. Open burning is permitted in accordance with Sections II and III of this appendix provided the provisions of subsections A through F of § 120-04-4003 are met.

II. Open burning may be used for the following forest management practices:

A. To reduce forest fuels and minimize the effect of wild fires.

B. To control undesirable growth of hardwoods.

C. To control disease in pine seedlings.

D. To prepare forest land for planting or seeding.

E. To create a favorable habitat for certain species of

wildlife.

F. To remove dead vegetation for the maintenance of railroad, highway and public utility right-of-way.

III. In the absence of other means of disposal, open burning may be used for the following agricultural practices:

A. To destroy undesirable vegetation.

B. To clear orchards and orchard prunings.

C. To destroy fertilizer and chemical containers.

D. To denature seed and grain which may no longer be suitable for agricultural purposes.

E. To prevent loss from frost or freeze damage.

F. To create a favorable habitat for certain species of wildlife.

G. To destroy strings and plastic ground cover remaining in field after being used in growing staked tomatoes.

## APPENDIX O FOREST FIRE LAW OF VIRGINIA.

§ 10-62. Regulating the burning of woods, brush, etc.; penalties.

(a) It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris, or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris, or other inflammable material, upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.

(b) During the period beginning March 1 and ending May 15 of each year, even though the precautions required by the foregoing paragraph have been taken, it shall be unlawful, in any county or city or portion thereof organized for forest fire control under the direction of the State Forester, for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire, located in or within 300' of any woodland, brushland, or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

(c) The provisions of subsection (b) of this section shall

# Proposed Regulations

not apply to any fires which may be set on rights-of-way of railroad companies by their duly authorized employees.

(d) Any person violating any provisions of this section shall be guilty of a Class 4 misdemeanor for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in addition to the above penalty, be liable to the Commonwealth and to each county or city which enters into a contract as provided in § 10-46.1 for the full amount of all expenses incurred by the Commonwealth and the county or city respectively in suppressing such fire, such amounts to be recoverable by action brought by the State Forester in the name of the Commonwealth on behalf of the Commonwealth and by the board of supervisors on behalf of the county or by the council on behalf of the city.

Subsection (b) of this section shall not become effective in any county or city of the Commonwealth until it has been approved by a majority vote of the governing body of such county or city.

§ 10-63. Failure to extinguish fires built in open.

Whoever builds a fire in the open air, or uses a fire built by another in the open air within 150' of any woodland, brushland or field containing dry grass or other inflammable material, shall, before leaving such fire untended, totally extinguish it. Any person failing to do so shall be guilty of a Class 4 misdemeanor. Whenever it is established that a forest fire originated from such fire, the person building or using such fire shall, in addition to the above penalty, be liable for the full amount of all costs incurred in suppressing the fire.

## VIRGINIA BOARD OF OPTOMETRY

Title of Regulation: VR 510-01-1. Regulations of the Virginia Board of Optometry.

Statutory Authority: § 54-376 of the Code of Virginia.

Public Hearing Date: N/A

### Summary:

These regulations provide the standards for the practice of optometry in Virginia; state the requirements for examination and licensure as optometrists; and govern the board in the performance of its duties. Existing regulations are repealed and the following regulations constitute a general revision of existing regulations and considerably simplify and shorten them.

Among other provisions, the proposals add a prohibition on the use of diagnostic drugs without board certification to use them; replace seven

regulations on advertising-and-disclosure requirements with a single prohibition against advertising that is false, misleading, or deceptive; and clarify the criteria for approving continuing education courses necessary for license renewal.

VR 510-01-1. Regulations of the Virginia Board of Optometry.

### PART I. GENERAL PROVISIONS.

#### § 1.1. Public participation guidelines.

##### A. Mailing list.

The executive director of the board will maintain a list of persons and organizations who will be mailed the following documents as they become available.

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceedings", subject of which is proposed or existing regulations.
3. Final regulation adopted.

##### B. Being placed on list: deletion.

Any person wishing to be placed on the mailing list may have their name added by writing the board. In addition, the board may, at its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation, in the formation or promulgation of regulations. Those on the list will be provided all information stated in subsection A. of this section. Those on the list may be periodically requested to indicate their desire to continue to receive documents or to be deleted from the list. When mail is returned as undeliverable, or when no timely response is forthcoming, they will be deleted from the list.

##### C. Notice of intent.

At least 30 days prior to publication of the notice of intent, an informational proceeding as required by § 9-6.14:7.1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation and will address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar for inclusion in the Virginia Register of Regulations.

D. Information proceedings or public hearings for existing rules.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing

# Proposed Regulations

---

regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar for inclusion in the Virginia Register. Such proceeding may be held separately or in conjunction with other informational proceedings.

## E. Petition for rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received in a timely manner shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

## F. Notice of formulation and adoption.

Prior to any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register.

## G. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for adequate citizen participation in the formulation, promulgation, adoption and review of regulations.

## § 1.2. Applicants.

A. The applicant, in order to be qualified to be examined by the board for licensure to practice optometry in the Commonwealth, shall:

1. Be a graduate of a school of optometry approved by the Council on Optometric Education; have the registrar of the school provide an official transcript to the board;
2. File at least 30 days prior to the date of examination, on a form supplied by the board, a completed application which shall have affixed securely in the space provided, one recent passport-type photograph of himself, not less than 2 1/2 by 2 1/2 inches in size;
3. Submit an official report from the National Board of Examiners in Optometry of the scores received on all parts of the examination of the National Board of Examiners in Optometry.
4. Submit the prescribed examination fee;

B. If any applicant withdraws from the examination at least 30 days prior to the examination date, all but the prescribed administrative fee will be refunded. If the applicant withdraws in 30 days or fewer prior to the examination date, only the licensure fee will be refunded. If an applicant is unsuccessful in passing the examination,

the applicant may request a refund of the licensure fee.

## § 1.3. Fees.

The following fees are required:

Examination fee .....	\$100
Examination fee, certification to use diagnostic pharmaceutical agents .....	\$50
Licensure fee (renewed biennially) .....	\$200
Late fee .....	\$30
Reinstatement fee .....	\$200
Administrative fee .....	\$25

## PART II. EXAMINATIONS.

### § 2.1. Examinations.

A. For the purpose of § 54-380 of the Code of Virginia, the board adopts all parts of the examination of the National Board of Examiners in Optometry as its written examination for licensure. In addition, upon receiving a passing score on all parts of the examination of the National Board of Examiners in Optometry, an applicant shall successfully complete a practical examination administered in by the Virginia Board of Optometry.

B. A candidate may take or retake the practical examination upon payment of the prescribed fee. A candidate failing the practical examination shall retake the entire examination, except that a candidate who fails one section may retake the failed portion at the next administration of the examination only, upon payment of the examination fee. Otherwise the full examination shall be retaken.

## PART III. UNPROFESSIONAL CONDUCT.

### § 3.1. Unprofessional conduct.

It shall be deemed unprofessional conduct for any licensed optometrist in the Commonwealth to:

1. Fail to use in connection with the optometrist's name wherever it appears relating to the practice of optometry one of the following: the word "optometrist," the abbreviation "O.D.," or the words "doctor of optometry."
2. Practice optometry under a name other than the optometrist's own name.
3. Fail to maintain records on each patient for not less than five years from the date of the most recent

# Proposed Regulations

service rendered. Such records shall include, but not be limited to (i) all the examinations made of the patient; (ii) the results of such examinations; and (iii) all treatments and drugs used or procedures performed on, all materials dispensed to, and all prescriptions written for, the patient.

4. Fail to include the following information on a prescription for ophthalmic goods:

- a. The printed name of the optometrists;
- b. The address and telephone number at which the patient's records are maintained and the optometrist can be reached for consultation;
- c. The name of the patient;
- d. The signature of the optometrists;
- e. The date of the examination, and, if appropriate, expiration date of the prescription;
- f. Any special instructions.

5. Refuse to provide a written prescription for spectacle lenses upon the request of the patient once all fees have been paid.

6. Refuse to provide a written prescription for contact lenses upon the request of the patient once all fees have been paid and the prescription has been established and the follow-up care completed. Follow-up care will be presumed to have been completed if there is no reappointment scheduled within 30 days after the last visit.

7. Advertise in a manner that is false, misleading, or deceptive. False, misleading and deceptive advertising shall include, but not be limited to, when the price of ophthalmic goods or services (or both) is advertised, to fail to state what goods and services the advertised price includes.

8. Administer any diagnostic pharmaceutical agents, specified in § 54-386.2 of the Code of Virginia, without certification of the Board of Optometry to use such agent.

9. Fail to post conspicuously in the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location.

10. The following requirements apply to any optometrists who employs other optometrists to practice optometry in one or more locations owned or operated by the employing optometrist:

- a. Fail to keep a record of the names of all optometrists who practice at a given location on the

premises of the optometric office for five years following their departure from the practice.

- b. Fail to note the examining optometrist's name in the record of the patient, following a description of the service rendered, subsequent to the administration of any optometric service.

- c. Fail to include and note the name of the licensed optometrist providing care on the billing invoices, and on the receipts given to patients.

- d. To use, or cause to be used, a name which contains the name of an inactive, retired, removed, or deceased optometrist for a period exceeding two years from the date of succession to a practice. When an optometrist lists the name of the inactive, retired, removed, or deceased within the permitted time period, it shall be listed in conjunction with the optometrist's own name, together with the words, "succeed by," "succeeding," or "successor to."

## PART IV.

### RENEWAL OF LICENSE; REINSTATEMENT.

#### § 5.1. Renewal fees.

A. Every person authorized by the board to practice optometry shall, on or before October 31 of every even-numbered year, pay to the Board of Optometry the prescribed biennial licensure fee.

B. It shall be the duty and responsibility of each licensee to assure that the board has the licensure's current address. All notices required by law or by these rules and regulations are to be deemed to be validly tendered when mailed to the address given.

C. It shall be the duty of each person so licensed to return the renewal application with the prescribed fee prior to the expiration of their license. The license of every person who does not return the completed form and fee by October 31 of the renewal year shall automatically become invalid. Upon expiration of the license, the executive director of the board shall notify the licensee of expiration and reinstatement procedures. The board shall reinstate the lapsed license, provided that the applicant can demonstrate continuing competence; that the applicant has satisfied requirements for continuing education during the lapsed period; and that the applicant has paid the prescribed late fees, all unpaid renewal fees from the time the license lapsed, and the prescribed reinstatement fee.

D. The board may, in its discretion, require an applicant who cannot satisfy the requirement of § 5.1 subsection C of these regulations, to pass all parts of the examination of the National Board of Examiners in Optometry or the state practical examination, or both.

## PART VI.



# Proposed Regulations

## CONTINUING EDUCATION.

### § 6.1. Continuing education.

A. Each license renewal shall be conditioned upon submission of evidence to the board of 24 hours of continuing education taken by the applicant during the previous license period.

B. It shall be the responsibility of each licensee to submit evidence substantiating attendance of continuing education courses, as required by subsection A. of this section, no later than the last day of each license period.

C. The board will review courses for acceptability for purposes of continuing education requirements if the following information is provided:

1. The title of the course;
2. The sponsoring organization;
3. The name of the lecturer;
4. The qualifications of the lecturer;
5. A brief outline of the course's content;
6. The length of the course in clock hours; and
7. The method of certification of attendance.

D. The titles of all course approved by the board will be kept on a list maintained by the board. All courses approved by the board shall pertain directly to the care of the patient.

Courses excluded by the board shall include:

1. Courses which are primarily designed to promote the sale of specific instruments or products; and
2. Courses offering instruction on augmenting income.

E. When the biennial license fee is submitted to the executive director of the board, the licensee shall enclose with it the required forms to indicate fulfillment of the continuing education requirements for the previous period. In the event such form, with proper substantiation, is not filed by October 31, the executive director of the board shall notify the licensee that their license has lapsed. The board may reinstate the license, upon showing of disability or undue hardship, or upon showing that the licensee has complied with the requirements of subsection B. of this section.

## PART VII. SEVERABILITY.

### § 8.1. Severability clause.

Contained herein are the regulations of the Virginia Board of Optometry. These regulations repeal and supercede all other regulations adopted, promulgated, revised, or amended by the board.

If any provision of these regulations or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications, and to this end the provisions of the regulations are declared severable.

## VIRGINIA REAL ESTATE BOARD

Title of Regulation: VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

Statutory Authority: §§ 54-1.28 and 54-740 of the Code of Virginia.

Public Hearing Date: January 16, 1987 - 10:30 a.m.  
(See Calendar of Events section  
for additional information)

### Summary:

The proposed regulations change some of the conditions for licensure, renewal, and registration; create some new record-keeping requirements for licensees; change some of the requirements for disclosure of information to the parties in a real estate transaction; extend the coverage of the regulations to include leasing transactions; and clarify and amend some of the grounds for disciplinary action by the Virginia Real Estate Board.

VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

## SECTION 1

### PART I. GENERAL.

1-1 Necessity for license - It shall be unlawful for any person, partnership, association or corporation, to act as a real estate broker, real estate salesperson, or rental location agent or to advertise or assume to act as such real estate broker, real estate salesperson, or rental location agent without a license issued by the Virginia Real Estate Board. No partnership, association or corporation shall be granted a license, unless every member or officer of such partnership, association or corporation, who actively participates in its brokerage business, shall hold a license as a real estate broker, and unless every employee and every independent contractor who acts as a salesperson for such partnership, association or corporation shall hold a license as a real estate salesperson; provided, however, that a person who holds a license as a real estate broker may act as a salesperson

# Proposed Regulations

for another real estate broker. [Virginia Code § 54-740 (1982 Repl. Vol.)]

## 1.2 § 1.1. Licenses Generally Definitions.

The following words and terms, when as used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Actively engaged" means employment by or association with a broker in performing those activities as defined in § 54-731 of the Code of Virginia for an average of at least twenty hours per week.

1.2.2 "Associate broker" shall mean means any individual licensee of the board holding a broker license other than a principal broker.

1.2.3 "Firm" shall mean means any partnership, association, or corporation, other than a sole proprietorship, which is required by regulations § 1.6 of these regulations to obtain a separate broker brokerage firm license.

"Inactive status" refers to any broker or salesperson who is not associated with a firm or sole proprietor and who is not performing any of the activities defined in §§ 54-730 and 54-731 of the Code of Virginia.

1.2.1 "Principal broker" shall mean means the individual broker who shall be designated by each firm to assure compliance with Title 54, Chapter 18 of the Code of Virginia of 1950, as amended, and these regulations, and to receive communications and notices from the board which may affect the firm or any licensee employed by or associated with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for supervising the activities of the firm and all its licensees.

1.2.4 "Sole proprietor" shall mean means any individual broker, not a corporation, who is trading under the broker's own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 to 76 through 59.1-76 of the Code of Virginia.

1.2.5 "Supervising broker" shall mean means the individual associate broker who shall be designated by the firm to supervise the activities of a branch office any one of its offices.

1.2 Licenses Generally - As used in these regulations, unless a different meaning is provided or is plainly required by the context:

1.2.1 "Principal broker" shall mean the individual broker who shall be designated by each firm to assure compliance with Title 54, Chapter 18 of the Code of Virginia of 1950, as amended, and these regulations, and to

receive communications and notices from the Board which may affect the firm or any licensee employed by or associated with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for supervising the activities of the firm and all its licensees.

1.2.2 "Associate broker" shall mean any individual licensee of the Board holding a broker license other than a principal broker.

1.2.3 "Firm" shall mean any partnership, association, or corporation, other than a sole proprietorship, which is required by regulation 1.6 to obtain a separate broker license.

1.2.4 "Sole proprietor" shall mean any individual broker, not a corporation, who is trading under the broker's own name, or under an assumed or fictitious name pursuant to the provisions of Virginia Code §§ 59.1-69 to 76.

1.2.5 "Supervising broker" shall mean the individual broker who shall be designated by the firm to supervise the activities of a branch office.

[Authority: § 54-1.28(5)]

## 1.1 § 1.2. Necessity for license or registration.

It shall be unlawful for any person, partnership, association or corporation, to act as a real estate broker, real estate salesperson, or rental location agent or to advertise or assume to act as such real estate broker, real estate salesperson, or rental location agent without a salesperson or broker license or rental location agent registration issued by the Virginia Real Estate Board. No partnership, association or corporation shall be granted a license unless every member or officer of such partnership, association or corporation, who actively participates in its brokerage business shall hold a license as a real estate broker, and unless every employee and every independent contractor who acts as a salesperson for such partnership, association or corporation shall hold a license as a real estate salesperson; provided, however, that a person who holds a license as a real estate broker may act as a salesperson for another real estate broker. [Virginia Code § 54-740 1986 Supplement ]

## § 1.3. License, and registration, and renewal fees.

The fee for each original real estate broker license shall be \$50.00, and the biennial renewal fee shall be \$50.00. The fee for each original real estate salesperson license and for each rental location agent license shall be \$30.00, and the biennial renewal fee shall be \$30.00. All application fees for licenses and registrations are nonrefundable.

A. Application fees for original licenses or registrations and biennial renewal fees are as follows:

# Proposed Regulations

- 1. Salesperson by education and examination .....\$30
- 2. Salesperson by reciprocity .....\$55
- 3. Renewal for salesperson .....\$30
- 4. Broker by education and examination .....\$50
- 5. Broker by reciprocity .....\$75
- 6. Broker duplicate license .....\$50
- 7. Renewal for broker .....\$50
- 8. Rental location agents .....\$30
- 9. Firm license .....\$50
- 10. Branch office license .....\$15

December 31, 1986	61	37
January 31, 1987	63	38

NOTE: EFFECTIVE DATE OF THESE REVISED REGULATIONS WILL DETERMINE WHETHER DATES LISTED BELOW WILL BE INCLUDED OR DELETED IN PART OR WHOLE.

February 28, 1987	65	40
March 31, 1987	67	41
April 30, 1987	69	42
May 31, 1987	71	43
June 30, 1987	73	45

[Authority: § 54-1.28(4)]

1.4.3 All licenses expiring on or after July 31, 1986 shall be renewed for a two year period. The amount of the renewal fee shall be \$50 for Class I categories and \$30 for Class II categories. All new licenses issued beginning on July 1, 1984, shall be issued in a manner to expire two years from the last day of the month in which they were issued. [Authority: § 54-1.28(4)]

1.4.4 A. Licenses issued under these regulations for salespersons, brokers, and firms shall expire two years from the last day of the month in which they were issued, as indicated on the license. The Commission will mail a renewal notice to the licensee at the licensee's last known home address outlining the procedures for renewal. Failure to receive this notice shall not relieve the licensee of the obligation to renew. Proprietary school licenses shall expire annually on June 30. Registrations shall expire every two years on June 30.

B. The board will mail a renewal notice to the licensee or registrant at the last known home address. The board will mail a firm renewal notice to the business address of the firm. These notices shall outline the procedures for renewal. The board will notify the firm 90 days after the expiration of the licenses of salespersons and brokers associated with the firm and again at 180 days. Failure to receive these notices shall not relieve the licensee or the registrant of the obligation to renew.

1.4.5 C. Prior to the expiration date shown on the license or registration, each licensee or registrant desiring to renew their license or registration shall return to the board the renewal application notice and the appropriate fee as outlined in § 1.3 of these regulations. Should the licensee or registrant fail to receive the renewal notice, a copy of the license or registration may be submitted with the required fee.

1.4.5.1 For firms and brokers, \$50.00;

1.4.5.2 For salespersons \$30.00.

1.4.5.3 Should the licensee fail to receive the renewal notice, a copy of the license may be submitted with

B. The application fee for original license for a proprietary school shall be \$100 and the annual renewal fee shall be \$50.

§ 1.4. Expiration, and renewal, and reinstatement of license.

1.4.1 All licenses expiring on June 30, 1984, shall be renewed by firm in a manner to implement a staggered renewal system whereby an approximately equal number of licenses will be renewed each month over a two year cycle beginning in July, 1985. Licenses expiring on June 30, 1984, will be renewed for a one to three year period. Renewal notices mailed in the spring of 1984 will indicate the amount of fee due and the next expiration date. [Authority: § 54-1.28 (5)]

1.4.2 Fees will be determined for Class I licenses (firms, brokers and associate brokers) and for Class II licenses (salesmen) based upon the following schedules:

Expiration Date	Amount of Fee	
	Class I	Class II
July 31, 1985	\$27	\$16
August 31, 1985	29	17
September 30, 1985	31	18
October 31, 1985	33	20
November 30, 1985	35	21
December 31, 1985	37	22
January 31, 1986	39	23
February 28, 1986	41	25
March 31, 1986	43	26
April 30, 1986	45	27
May 31, 1986	47	28
June 30, 1986	49	30
July 31, 1986	51	31
August 31, 1986	53	32
September 30, 1986	55	33
October 31, 1986	57	35
November 30, 1986	59	36

# Proposed Regulations

the required fee. [Authority: § 54-1-28(4), (5)]

~~1-4.6~~ D. If the renewal fee is not received by the board within 30 days of the expiration date noted on the license or registration, a penalty fee shall be required, in addition to the renewal fee, as follows:

~~1-4.6.1~~ 1. For firms and brokers, \$50;

~~1-4.6.2~~ 2. For salesperson ~~salespersons and rental location agents~~, \$30.

~~1-4.6.3~~ E. Any licensee failing to renew his license within 180 days of the expiration date noted on the license must reapply as a new applicant for a license may renew during the next 180 days by paying a penalty fee, in addition to the renewal fee, as follows:

1. For firms and brokers, \$150;

2. For salespersons, \$90.

F. After 12 months, renewal is not possible under any circumstances and the applicant must meet all current educational and examination requirements and apply as a new applicant.

~~1-4.7~~ G. Any licensee who has not been issued a license actively licensed with a broker under the provisions of regulation ~~3-1-6.2~~ § 3.1, F,2 of these regulations for a period of greater than three years shall be required to meet the educational requirements for a salesperson or broker in effect at the time written request for issuance of such license is filed with the board.

## § 1.5. Individual license.

A real estate broker license shall not be issued to an individual trading under an assumed or fictitious name, that is, a name other than the individual's full name, until the individual signs and acknowledges a certificate provided by the board, setting forth the name under which the business is to be organized and conducted, the address of the individual's residence, and the address of the individual's place of business. Each certificate must be attested by the Clerk of Court of the county or jurisdiction wherein the business is to be conducted. The attention of all applicants and licensees is directed to §§ 59.1-69 through 59.1-76 of the Code of Virginia.

## § 1.6. Partnership, association, or corporation.

Every partnership, association, or corporation must secure a separate real estate broker license for its brokerage firm before transacting real estate business as a real estate broker. Application for such license shall disclose, and the license shall be reissued to, the name under which the applicant intends to do or does business and holds itself out to the public. This license is separate and distinct from the individual broker license required of each partner, associate, and officer or director of a

corporation who is active in the brokerage business.

~~1-6.1~~ A. Partnership. Each partnership acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the partnership; the name and style of the firm; the address of the Virginia office of the firm; the length of time for which it is to continue; and the percentage or part of the partnership owned by each partner. Every change in the partnership must be evidenced by filing a new certificate with the board within ~~10~~ 30 days after the change is effective.

~~1-6.2~~ B. Association. Each association acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the association; the name and style of the firm; the length of time for which it is to continue; and the percentage or part of the association owned by each associate. Every change in the association must be evidenced by filing a new certificate with the board within ~~10~~ 30 days after the change is effective.

~~1-6.3~~ C. Corporation. Each corporation acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each officer of the corporation; the name and style of the corporation; the corporation's place of business; and the names and addresses of the members of the Board of Directors.

~~1-6.3.1~~ 1. Every change of officers must be evidenced by filing a new certificate with the board within ~~60~~ 90 days after the change is effective.

~~1-6.3.2~~ 2. The board will not consider the application of any corporation or its officers, directors, employees, or associates until the corporation is authorized to do business in Virginia.

§ 1.7. Duplicate licenses. No Duplicate licenses shall be issued by the board, except in the case of a broker to brokers active in designated as a principal broker by more than one separate legal entity upon receipt of a duplicate license form and written affidavits stating that written notice of the applicant's duplicate licensure status has been provided to the principal broker of each firm with which the applicant has been associated. Payment will be required for each license. Dual licensing or the issuance of more than one license number shall not be permitted.

§ 1.8. The board shall have the authority to appoint such committees as necessary to advise it in carrying out its responsibilities.

## SECTION 2

# Proposed Regulations

## PART II. ENTRY.

§ 2.1. Qualifications for licensure. Every applicant to the Virginia Real Estate Board for a license shall have the following qualifications:

~~2.1-1~~ 1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and competence *be competent* to transact the business of a real estate broker or a real estate salesperson in such a manner as to safeguard the interests of the public.

~~2.1-2~~ 2. The applicant shall meet the current educational requirements of § 54-740 of the Code of Virginia prior to the time the applicant sits for the licensing examination or applies for licensure. See § 4.8 of these regulations for educational requirements for salespersons.

~~2.1-3~~ The applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended in any other jurisdiction within one year prior to application, or one which was revoked in Virginia or in any other jurisdiction within five years prior to application.

3. The applicant shall be in good standing as a licensed real estate broker or salesperson in every other jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended or revoked or which has been the subject of discipline in any other jurisdiction within five years prior to applying for licensure in Virginia.

~~2.1-4~~ 4. The applicant shall not have been convicted within the past five years in a court of competent any jurisdiction of this or any other state, or of the District of Columbia, or of the United States, of forgery, embezzlement, larceny, obtaining money under false pretenses, extortion, conspiracy to defraud, bribery, burglary, robbery, a felony involving personal injury to a victim, or other like offense(s), or have pleaded guilty or nolo contendere to any such offense(s), or been found to have violated the Virginia Fair Housing Act, there being no appeal pending therefrom or the time for appeal having elapsed a misdemeanor involving moral turpitude or of any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

~~2.1-5~~ 5. The applicant shall be at least 18 years old.

~~2.1-6~~ 6. The applicant shall pass a written examination

Within the twelve months prior to making application for a license, the applicant shall have passed a written examination provided by the board or by a testing service selected by the board.

7. *Actively engaged salespersons and associate brokers must be supervised by a principal broker or designated supervising broker.*

§ 2.2. Additional qualifications for brokers.

An applicant for a license as a real estate broker shall meet the following requirements in addition to those set forth in regulation § 2.1 of these regulations; provided, however, that any person who has previously held an unrevoked Virginia real estate broker license may be issued a real estate broker license by completing the educational requirements of Virginia Code Section 54-740(b) and passing an examination, without first having to meet the experience requirement of regulation 2.2.2:

### A. New broker applicants.

~~2.2-1~~ 1. The applicant shall meet the current educational requirements of Section § 54-740(b) of the Code of Virginia.

~~2.2-2~~ 2. The applicant shall have been actively engaged as defined in § 1.1 of these regulations as a real estate salesperson for a period of 36 of the 40 months immediately preceding application. "Actively engaged" shall be deemed to mean employment by or association with a broker in performing those activities defined in Virginia Code § 54-731 for an average of at least twenty hours per week.

~~2.2-3~~ The applicant shall not be currently licensed as a real estate broker by the Virginia Real Estate Board.

B. *Previous brokers. Any person who has previously held an unrevoked Virginia real estate broker license may be issued a broker license without first having to meet the experience requirements of § 2.2, subsection A, paragraph 2 of these regulations by:*

1. *Completing the current educational requirements of § 54-740(b) of the Code of Virginia; and*

2. *Passing a written examination provided by the board or by a testing service selected by the board.*

§ 2.3. Licensees of Other Jurisdictions. Qualifications for licensure by reciprocity.

Every applicant to the Virginia Real Estate Board for a license by reciprocity shall have the following qualifications, except that § 2.3.A.5 below shall only be applicable for salesperson applicants:

~~2.3-1~~ A. *Salesperson* An individual who is currently

## Proposed Regulations

licensed as a real estate salesperson or broker in another jurisdiction may obtain a Virginia real estate salesperson license without taking a the Virginia written licensing examination by meeting the following requirements:

2.3.1.1 Submit an application fee of \$55.00 payable to the "Treasurer of Virginia." [Authority: § 54-1.28(4)]

2.3.1.2 1. Be at least 18 years of age.

2.3.1.3 2. Have received the salesperson or broker license by virtue of having passed in the jurisdiction of original licensure a written examination in the jurisdiction of original licensure deemed to be substantially equivalent to the Virginia examination.

2.3.1.4 3. Sign, as part of the application, an affidavit certifying Submit a certified statement that the applicant has read and understands the Virginia real estate license law and the regulations of the Virginia Real Estate Board.

4. Be in good standing as a licensed real estate broker or salesperson in every other jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended or revoked or which has been the subject of discipline in any other jurisdiction within five years prior to applying for licensure in Virginia.

5. At the time of application for a salesperson's license, must have been actively engaged in real estate for 12 of the preceding 36 months or have met educational requirements that are substantially equivalent to those required in Virginia.

6. Have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate salesperson or broker in such a manner as to safeguard the interests of the public.

7. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

2.3.2. B. Brokers Additional qualifications for reciprocal licensure as a broker. An individual who is currently licensed as a real estate broker in another jurisdiction may obtain a Virginia real estate broker license without taking a written examination by meeting the following requirements in addition to those set forth in § 2.3, subsection A, paragraphs 1-4, 6, and 7:

2.3.2.1 Submit an application fee of \$75.00 payable to the "Treasurer of Virginia." [Authority: § 54-1.28(4)]

2.3.2.2 Be at least 18 years of age.

2.3.2.3 Have received the broker license by virtue of having passed a written examination in the jurisdiction of original licensure.

2.3.2.4 1. Have been licensed as a real estate broker and actively engaged as a real estate broker or salesperson in the current jurisdiction of licensure for at least 36 of the 40 months immediately prior to making application in Virginia. (See regulation 2.2.2 § 1.1 of these regulations for the definition of "actively engaged.")

2. Have met educational requirements that are substantially equivalent to those required in Virginia.

2.3.2.5 Submit a certified statement that the applicant has read and understands the Virginia real estate license law and the regulations of the Virginia Real Estate Board.

### § 2.4. Rental location agent.

An applicant for licensure registration as a rental location agent need not be employed by or associated with a real estate broker, but shall apply in writing upon forms provided by the board, and shall meet all the following requirements: of regulation 2.1, except the applicant need not be employed by or associated with a real estate broker.

2.4.1 The application fee for each original rental location agent license shall be \$30.00, and the biennial renewal fee shall be \$30.00. [Authority: § 54-1.28(4)]

2.4.2 A licensed real estate salesman or broker may surrender that license to the Commission and be licensed as a rental location agent after submitting the proper forms provided by the Commission.

2.4.3 A licensed rental location agent may at any time exchange that license for a real estate salesman license, upon the written request of the applicant's principal broker and submission of the proper forms provided by the Commission.

2.4.4 A licensed rental location agent who previously surrendered his license as a real estate broker in exchange for licensure as a rental location agent may at any time exchange that license for a real estate broker license, upon the written request of the applicant's principal broker or the submission of proof of the applicant's designation as a firm's principal broker, and upon submission of the proper forms provided by the Commission.

a. The applicant shall have a good reputation for

# Proposed Regulations

*honesty, truthfulness, and fair dealing, and be competent to transact the business of a rental location agent.*

2. *The applicant shall be at least 18 years old.*

2.4.5 3. *A person shall not be concurrently licensed as a real estate salesperson or broker and registered as a rental location agent. nor shall any A rental location agent shall not be concurrently licensed registered with more than one rental location agency.*

4. *The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.*

## § 2.5. Rental location agency.

A. Each business operating as a rental location agency, whether in the form of a sole proprietorship, association, partnership, or corporation, shall obtain from the board a firm license as a rental location agency, separate and distinct from that of its agents.

2.5.1 The application fee for each rental location agency license shall be \$50.00, and the biennial renewal fee shall be \$50.00.

2.5.2 Application for such license shall be in writing upon forms provided by the Commission, and shall disclose the name of the business and the name, business address, and residential address of each owner, associate, partner, officer and director of the business, as the case may be. Every change in the agency must be evidenced by filing a new certificate with the Commission within 10 days after the change is effective.

2.5.3 B. Every rental location agency shall be supervised by a supervising rental location agent designated by the agency and registered with the board. The supervising rental location agent shall have responsibility for supervising the activities of the agency and all its licenses registrants .

2.5.4 C. Each rental location agent license registration shall be issued only to the agency where the agent is associated or employed. The supervising rental location agent shall keep such licenses registrations in his custody and control for the duration of the agent's employment or association with that agency.

2.5.5 D. When any rental location agent is discharged or in any way terminates his employment or association with

an agency, it shall be the duty of the supervising rental location agent to notify the board of the termination by returning the license registration by certified mail to the board within 10 calendar days. The supervising rental location agent shall indicate on the license registration the date of termination, and shall sign the license registration before returning it.

## SECTION 3

### PART III. STANDARDS OF CONDUCT.

#### § 3.1. Place of business.

3.1.1 A. Within the meaning and intent of § 54-733 of the Code of Virginia, a place of business shall be an office where:

3.1.1.1 1. The principal broker, either through his own efforts or through the efforts of his employees or associates, regularly transacts the business of a real estate broker as defined in § 54-730 of the Code of Virginia; and

3.1.1.2 2. The principal broker and his employees or associates can receive business calls and direct business calls to be made.

3.1.2 B. No place of business shall be in a residence unless it is separate and distinct from the living quarters of the residence and is accessible by the public.

3.1.3 C. No license shall be issued until the Virginia Real Estate Commission, or an authorized representative of the Commission, has determined that such place of business meets the foregoing standards. The Virginia Real Estate Board or its authorized representative may inspect a place of business to ensure compliance with § 3.1, subsection A, and § 3.1, subsection B, of these regulations.

3.1.4 D. Every individual, partnership, association, or corporation acting as a real estate broker shall display at all times, in a conspicuous place on the outside of each place of business maintained in this state the Commonwealth for the purpose of transacting business as a real estate broker, a sign stating the name of such individual, partnership, association, or corporation, as set forth in the license issued by the board, and containing the words "real estate broker," "real estate agent," or another word designating a member of a generally recognized association or organization of real estate brokers, whichever is applicable. This regulation shall not apply to any place of business maintained in any locality which has a local ordinance prohibiting signs.

3.1.5 E. Display of license. Every principal broker shall display in a conspicuous and public place in the firm's main place of business his license and the license of every salesperson and broker associated with or employed by the firm. The licenses shall be displayed together, and not

# Proposed Regulations

individually, in such a manner that the public can readily determine the names of the licensees.

## 3-1-6 F. Maintenance of licenses:

~~3-1-6.1~~ 1. Salespersons and individual brokers shall at all times keep the board informed of their current home address. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address.

3-1-6.2 2. Salespersons and brokers shall only be issued a license to the place of business of the sole proprietorship or firm where the salesperson or broker is associated or employed. The license shall be issued after the sole proprietor or principal broker files a written request on a form supplied by the board. Salespersons and brokers not associated with a sole partnership or firm shall receive written acknowledgement of payment from the board at the time they renew their license, but no license shall be issued except to a sole proprietorship or firm.

3-1-6.2 3. Salespersons and brokers not associated with a sole proprietorship or firm that is, those inactive, shall receive written acknowledgement of payment from the board at the time they renew their license, but no license shall be issued except to as they are not associated with a sole proprietorship or firm.

3-1-6.3 4. When any salesperson or broker is discharged or in any way terminates his employment or association with a sole proprietorship or firm, it shall be the duty of the sole proprietor or principal broker to notify the board and the licensee of the termination by and to returning return the license by certified mail to the board so that it is received within 10 calendar days of the date of termination. The sole proprietor or principal broker shall indicate on the license the date of termination, and shall sign the license before returning it.

3-1-7 G. Each place of business and each branch office shall be supervised and personally managed by an on-premises real estate broker who shall supervise only that office and shall be at the office or within easy access during regular business hours.

3-1-8 Death of a broker - Upon the death or disablement of a licensed real estate broker who was engaged in a sole proprietorship or who was the only licensed broker in a corporation, the executor or administrator of his estate or any adult member of his family shall have the right, subject to approval by the Virginia Real Estate Board, to carry on the business of the deceased or disabled broker for 180 days following the death or disablement of the broker. [Authority: § 54-1-28(5)]

~~3-1-9~~ Individuals carrying on the business of a deceased or disabled broker pursuant to the provisions of regulation 3-1-8 shall do so subject to the supervision of the Board. [Authority: §§ 54-1-28(5), 54-740]

## § 3.2. Branch office license.

If a real estate broker maintains more than one place of business within the state *Commonwealth*, a branch office license shall be issued for each branch office maintained. Application for the license shall be made on forms provided by the board and shall reveal the name of the firm, the location of the branch office, and the name of the supervising broker for that branch office. Only the branch office license shall be maintained at the branch office location.

## § 3.3. Change of business locations.

Notice in writing, accompanied by all the current licenses shall be given to the board in the event of any change of business name or location. Such notice shall be received by the board within 10 days of the change of name or location, whereupon the board shall reissue the licenses for the unexpired period.

## § 3.4. Records and deposits of funds.

A complete record of transactions conducted under authority of the principal broker's Virginia license or the rental location agent's license registration shall be maintained in the principal broker's place of business in Virginia, or in a designated branch office, or in the office of the rental location agency. When the principal broker's office or the main office of the rental location agency is located outside of Virginia and the firm has a branch office in Virginia, these records shall be maintained in the Virginia office. These records shall show, in addition to any other requirements of the regulations, the following information: from whom money was received; the date of receipt; the place of deposit; the date of deposit; and, after the transaction has been completed, the final disposition of the funds.

3-4-1 A. Each principal or supervising broker firm or sole proprietorship shall maintain in the name by which the firm it is licensed one or more separate escrow or trust accounts in a federally insured depository in Virginia into which all down payments, earnest money deposits, money received upon final settlement, rental payments, rental security deposits, money advanced by a buyer or seller for the payment of expenses in connection with the closing of real estate transactions, money advanced by the broker's principal or expended on behalf of the principal, or other escrow funds received by him or his associates on behalf of his principal or any other person shall be deposited unless all parties to the transaction have agreed otherwise in writing. The principal broker or supervising broker may be held responsible for these accounts.

3-4-2 B. Unless otherwise agreed in writing by all parties



## Proposed Regulations

to the transaction, expenses incidental to closing a transaction, e.g., fees for appraisal, insurance, credit report, etc., shall not be deducted from a deposit or down payment.

**3-4-3 C.** A principal or supervising broker licensee shall not disburse or cause to be disbursed monies from a property management account money for repairs, mortgage payment, insurance payment, etc., unless sufficient money is on deposit in that account to the credit of the individual client or property involved.

**3-4-4 D.** The principal or supervising broker shall maintain a bookkeeping system which shall accurately and clearly disclose full compliance with the requirements outlined in § of Regulation 3.4 of these regulations .

**3-4-5 E.** Upon acceptance of a contract, earnest money deposits and down payments received by the principal or supervising broker or his associates shall remain intact be placed in the an escrow account and shall remain in that account until the transaction has been consummated or terminated. In the event the transaction is not consummated, the principal or supervising broker shall keep these hold such funds intact in escrow until (i) all parties to the transaction have agreed in writing as to their disposition, or (ii) until a court of competent jurisdiction orders such disbursement of the funds, or (iii) the broker can pay the funds to the party who is entitled to receive them in accordance with the clear and explicit terms of the contract which established the deposit. In the latter event, prior to disbursement, the broker shall give written notice to each party not to be paid, by either (i) hand delivery receipted for by the addressee, or (ii) by regular and certified mail, that this payment will be made unless a written protest from that party is received by the broker within 30 days of the delivery or mailing, as appropriate, of that notice. A broker who has carried out the above procedure shall be construed to have fulfilled the requirements of this regulation.

**3-4-6 F.** Unless otherwise agreed in writing by all parties to the transaction, a licensee shall not be entitled to any part of the earnest money deposit or to any other money paid to the licensee in connection with any real estate transaction as part of the licensee's commission until the transaction has been consummated.

**3-4-7 G.** Funds to be deposited in the escrow account will necessarily include monies which shall ultimately belong to the licensee, but such monies shall be separately identified in the escrow account records and shall be paid to the firm by a check drawn on the escrow account when the funds become due to the licensee. The fact that an escrow account contains money which may ultimately belong to the licensee does not constitute "commingling of funds" as set forth by regulation 3-5-23, § 3.5, paragraph 27, of these regulations, provided that there are periodic withdrawals of said funds at intervals of not more than 12 at least 6 months, and that the licensee can at all times accurately identify the total funds in that account which

belong to him the licensee and the firm .

**3-4-8 H.** On funds placed in an account bearing interest, disclosure shall be made in writing regarding the disposition disbursement of the interest.

**3-4-9 I.** If escrow funds are used to purchase a certificate of deposit, the pledging or hypothecation of such certificate, or the absence of the original certificate from the direct control of the principal or supervising broker, shall constitute commingling as prohibited by 3-5-23 § 3.5, paragraph 27, of these regulations .

**J.** Licensees shall maintain accounting records which are in sufficient detail to provide necessary information to determine compliance with § 3.4 of these regulations.

### § 3.5. Grounds for disciplinary action.

The board has the power to fine any licensee or registrant, or to suspend, revoke, or deny renewal of any license or registration issued under the provisions of Title 54, Chapter 18 of the Code of Virginia and the regulations of the board, at any time after a hearing conducted pursuant to the provisions of the Administrative Process Act, Title 54 9 , Chapter 1.1:1 of the Code of Virginia and the Agency Rules of Practice, where the licensee has been found to be guilty of:

**3-5-1 1.** Obtaining a license by false or fraudulent representation;

**3-5-2 2.** Paying a commission or other valuable consideration to any person for acts or services performed in violation of Title 54, Chapter 18 of the Code of Virginia or these regulations; provided, however, that referral fees and shared commissions may be paid to any real estate firm licensed in this or another jurisdiction, or to any referral firm in the United States, the members of which are brokers licensed in this or another jurisdiction and which only disburses commissions or referral fees to its licensed member brokers;

**3-5-3 3.** Notwithstanding the provisions of § 54-731.1 of the Code of Virginia, accepting a commission or other valuable consideration, as a real estate salesperson or associate broker, for the performance of any of the acts specified in Title 54, Chapter 18 of the Code of Virginia or the regulations of the board, from any person except the licensee's principal broker at the time of the transaction;

**3-5-4 4.** Violating or cooperating with others in violating any provision of Title 54, Chapter 18 of the Code of Virginia or any regulation of the board;

**3-5-5 5.** Representing or attempting to represent as a salesperson or associate broker a real estate broker other than the licensee's principal broker, without the written consent of the principal broker;

## Proposed Regulations

2.5.6 6. Acting for more than one party in a transaction without the knowledge *written consent* of all parties for whom the licensee acts;

7. Acting as an agent for any principal in a real estate transaction outside the licensee's brokerage firm(s) or sole proprietorship(s);

2.5.7 8. Making an exclusive agency contract or an exclusive right-to-sell contract which does not have a definite termination date;

2.5.8 9. Making a listing contract or lease which provides for a "net" return to the seller /lessor , leaving the licensee free to sell or lease the property at any price he can obtain in excess of the "net" price named by the seller /lessor ;

2.5.9 10. Failing to give the parties involved true, make prompt delivery to each party to a document, complete and legible copies of any written or printed listing listings, obtained contracts, residential leases, or other agreements being negotiated by a salesperson or broker at the time such listing listings, is contracts, residential leases, or other agreements signed by the parties are secured;

2.5.10 11. Offering real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

2.5.11 12. Placing a sign on any property without the consent of the owner of the property;

2.5.12 13. Causing any advertisement for sale, rent, or lease to appear in any newspaper, periodical, or sign without including in the advertisement the firm's name name of the firm or sole proprietorship ;

2.5.13 14. Using "bait and switch" tactics by advertising or offering real property for sale or rent with the intent not to sell or rent at the price or terms advertised, unless the advertisement or offer clearly states that the property advertised is limited in specific quantity and the licensee or registrant did in fact have at least that quantity for sale or rent;

2.5.14 15. Failing to disclose in a timely manner to a prospective purchaser /lessee, or seller /lessor, any material information related to the property readily reasonably available to the licensee or registrant; concerning the real estate's character, condition, location, acreage, boundaries, loan charges, loan discount, highway location or relocation, zoning restrictions, proposed zoning changes, the existence and availability of public utilities and sewer connections, taxes, and approximate closing costs;

2.5.15 16. Failing as a licensee to promptly tender to

the seller every written offer to purchase obtained on the property involved;

2.5.15.1 17. Failing to make prompt delivery of true fully executed copies of the contract or lease, signed by the seller /lessor and purchaser /lessee , to both purchaser /lessee and seller /lessor after obtaining a proper acceptance of the offer to purchase or rent ;

18. Failing to provide in a timely manner to all parties to the transaction written notice of any material changes to the transaction;

2.5.15.2 19. Failing to make certain that all of include the complete terms and conditions of the real estate transaction are included in such offer to purchase or rent, including identification of all those holding any deposits ;

2.5.16 20. Handling of closings Acting in the capacity of a settlement agent in a real estate closing by a salesperson, except:

2.5.16 a. When the salesperson is under the direct supervision of his the principal /supervising broker; or

2.5.16 b. When the salesperson is under the direct supervision of a licensed officer of the corporation or a licensed partner of the partnership under which the salesperson is licensed; or

2.5.16 c. When the settlement agent is a member of the Virginia State Bar or a law firm, the members of which are members of the Virginia State Bar, and is present at the closing;

d. When the settlement agent is a title insurance company or an agency thereof of a firm regularly engaged in the business of closing real estate transactions;

2.5.17 21. Failing to deliver to the seller and buyer, at the time a real estate transaction is completed, a complete and accurate statement of receipts and disbursements of monies received by him the licensee , duly signed and certified by the principal or supervising broker or his authorized agent; provided, however, if the transaction is closed by a settlement agent other than the licensee or his broker, and if the disbursement of monies received by the licensee is disclosed on the applicable settlement statement, the licensee shall not be required to provide the separate statement of receipts and disbursements but shall be responsible for the delivery of the settlement statement;

2.5.18 22. Refusing or failing without just cause to surrender to the rightful owner, upon demand, any document or instrument which the licensee possesses;

# Proposed Regulations

---

~~3.5-19~~ 23. Failing, as a principal or supervising broker, to retain on file true copies of all statements licenses are required to deliver to the seller and buyer pursuant to subsection (17) of this regulation for a period of three years from the date of the closing a complete and legible copy of each contract, agreement, notice and closing statement related to a real estate transaction, and all other documents material to that transaction ;

3.5-20 24. Having received monies on behalf of others and failed to maintain a complete and accurate record of such receipts and their disbursements for a period of three years from the date of the closing;

3.5-21 25. Failing, within a reasonable time, to account for or to remit any monies coming into a licensee's possession which belong to others;

3.5-22 26. Accepting any note, nonnegotiable instrument, or anything of value not readily negotiable, as a deposit on a contract or offer to purchase, or lease, without acknowledging its acceptance in the contract agreement ;

3.5-23 27. Commingling the funds of any person by a principal or supervising broker or his employees or associates with his own funds, or those of his corporation, firm, or association; or failure to deposit such funds in an account or accounts designated to receive only such funds as required by regulation § 3.4 † subsection A of these regulations ;

3.5-24 28. Offering or paying any money or other valuable consideration to any party other than a principal to a transaction which resulted in a fee paid to the licensee;

3.5-25 29. Accepting, receiving, or Charging money or other valuable consideration to or accepting or receiving money or other valuable consideration from any person or entity other than the licensee's principal for expenditures made on behalf of that principal without the written consent of the principal ;

30. Receiving, as a real estate firm or sole proprietorship, and monies or other valuable consideration from any party other than a principal to the transaction, a licensed real estate firm, sole proprietorship, or referral firm (see § 3.5, subsection (b) of these regulations;

3.5-26 31. Knowingly making any false statement or report, or willfully misstating the value of any land, property, or security for the purpose of influencing in any way the action of any lending institution lender upon:

3.5-26-1 a. Applications, advance discounts, purchase agreements, repurchase agreements, commitments or loans;

3.5-26-2 b. Changes in terms or extensions of time for any of the items listed in regulation 3.5-26-1, § 3.5, paragraph 31a, whether by renewal, deferment of action, or other means;

3.5-26-3 c. Acceptance, release, or substitution of security for any of the items listed in regulation 3.5-26-1 § 3.5, paragraph 31a.

3.5-27 32. Making any misrepresentation;

3.5-28 33. Making a false promise through agents, salespersons, advertising, or other means;

3.5-29 34. Holding more than one license as a real estate broker or salesperson in Virginia except as provided in § 1.7 of these regulations ;

3.5-30 35. As a currently licensed real estate salesperson, sitting for the licensing examination for a salesperson's license;

3.5-31 36. As a currently licensed real estate broker, sitting for a real estate licensing examination;

3.5-32 37. Refusing or failing, upon request or demand, to produce to the board or any of its agents any document, book, record, or copy thereof in a licensee's possession concerning any real estate transaction in which the licensee was involved as a broker or salesperson, or for which the licensee is required to maintain records for inspection and copying by the board or its agents;

3.5-33 38. Having been convicted within the past five years in a court of competent or found guilty regardless of adjudication in any jurisdiction of this or any other state, or of the District of Columbia, or of the United States of forgery, embezzlement, larceny, obtaining money under false pretenses, extortion, conspiracy to defraud, bribery, burglary, robbery, a felony involving personal injury to a victim, or other like offense(s), or pleading guilty or of any felony or a misdemeanor involving moral turpitude there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere to any such offense(s), or having been found to have violated the Virginia Fair Housing Act, as provided in Virginia Code § 36-05-2, there being no appeal pending therefrom or the time for appeal having elapsed; shall be considered a conviction for the purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt;

3.5-34 39. Engaging in any practice constituting a violation Having been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the fair

## Proposed Regulations

*housing laws of any jurisdiction of the United States, including without limitation Title VIII of the Civil Rights Act of 1968, or the Civil Rights Act of 1866, there being no appeal therefrom or the time for appeal having elapsed ;*

**3.5.35 40.** Being unworthy or incompetent to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public, or otherwise engaging in improper, fraudulent, or dishonest conduct;

**3.5.36 41.** Accepting or agreeing to accept any fee as a rental location agent without giving the person paying or agreeing to pay such fee a contract or receipt in which the agent sets forth a definite termination date for the services to be provided. The termination date shall not be later than one year from the date of the original agreement or acceptance of a fee. The rental location agent shall agree in the contract or receipt to repay, upon request, within 10 days of the expiration date, any amount of fee collected over and above the sum of \$10 service charge if no rental is obtained. The rental location agent shall further agree in the contract or receipt that if rental information provided by the agent is not current or accurate, the full fee shall be repaid upon request within 10 days of the delivery of the inaccurate rental information;

**3.5.37 42.** Referring, as a rental location agent, a prospective tenant to any property for which the agent has not verified the availability of the property within seven working days prior to the referral;

**3.5.38 43.** Failing, as a rental location agent, to maintain a written registry of all lists of rentals provided to customers and of all advertisements published or caused to be published by the agent, together with the address of the property listed or advertised, the date of verification of the availability, and the name, address, and telephone number, if any, of the party who offered the property for rent. This registry shall be kept for a period of three years from the date of the lists or the publication of any advertisement listed in it;

**44.** *Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude.*

### § 3.6. Advertising by licensees.

The name under which the broker does business and the manner in which the broker advertises shall not imply that the property listed or marketed by the broker for others is "for sale by owner." A broker shall not advertise in any newspaper, periodical, or sign to sell, buy, exchange, rent, or lease property in a manner indicating that the offer to sell, buy, exchange, rent, or lease such property is being made by a person not licensed as a real estate broker. No advertisement shall be inserted in any

publication where only a post office box number, telephone number, or street address appears. Every broker, when advertising real estate in any newspaper or periodical, shall affirmatively and unmistakably indicate that the party advertising is a real estate broker.

**3.6.1 A.** Every salesperson or associate broker is prohibited from advertising *and marketing* under the licensee's own name in any manner offering on behalf of others to buy, sell, exchange, rent, or lease any real property. All advertising *and marketing* must be under the direct supervision of the principal broker or supervising broker and in the name of the firm. *The name of the firm which must be predominantly displayed on all display signs and other types of advertising and marketing and must be printed in a size equal to or greater than the size of the name of the salesperson or broker .*

**3.6.2 B.** Notwithstanding the above restrictions, where a salesperson or associate broker is the owner of or has any ownership interest in the property being advertised, the licensee shall advertise with the notice that the owner is a real estate licensee, but such advertisement must not indicate or imply that the licensee is operating a real estate brokerage business.

### § 3.7. Service marks and institutional advertising.

As used in regulation § 3.7, unless a different meaning is plainly required by the context:

**3.7.1** "Licensee" shall mean a sole proprietorship, partnership, corporation, association, or any other form of business entity licensed by the Commission as a real estate broker;

**3.7.2** "Registered name" shall mean the name in which the licensee's license to act as a real estate broker has been issued;

**3.7.3** "Service mark" shall mean the trade name, service mark, or logo, whether or not registered under any federal or state law, which is owned by an entity other than the licensee and which the licensee has obtained permission to use through agreement, license, franchise, or otherwise;

**3.7.4** "Advertising" shall mean means any communication, whether oral or written, between a licensee or an entity acting on behalf of one or more licensees and any other natural person or business entity. It shall include, but is not limited to, telephonic communications, insignias, business cards, telephone directory listings, listing agreements, contracts of sale, billboards, signs, letterheads, as well as radio, television, magazine, and newspaper advertisements; and

**3.7.5** "Institutional advertising" shall mean means advertising in which neither the registered name nor any other identification of any licensee licensed individual is disclosed, no real property is identified, and a service

# Proposed Regulations

---

mark is identified.

~~3-7-1~~ "Licensee" shall mean means a sole proprietorship, partnership, corporation, association, or any other form of business entity licensed by the board as a real estate broker;

~~3-7-2~~ "Registered name" shall mean means the name in which the licensee's license to act as a real estate broker has been issued;

~~3-7-3~~ "Service mark" shall mean means the trade name, service mark, or logo, whether or not registered under any federal or state law, which is owned by a entity other than the licensee and which the licensee has obtained permission to use through agreement, license, franchise, or otherwise;

~~3-7-5-1~~ 1. All institutional advertising shall state that the service being advertised is real estate brokerage, and shall state affirmatively that each licensee licensed brokerage firm or sole proprietorship displaying or using the service mark is an independently owned and operated business.

~~3-7-5-2~~ 2. Any service mark constituting a part of written noninstitutional advertising shall conspicuously disclose that the licensee licensed brokerage firm or sole proprietorship is independently owned and operated. Disclosure that the licensee licensed brokerage firm or sole proprietorship is independently owned and operated shall not be required in the following categories of written noninstitutional advertising:

~~3-7-5-2~~ 2. Any service mark constituting a part of written noninstitutional advertising shall conspicuously disclose that the licensee licensed brokerage firm or sole proprietorship is independently owned and operated. Disclosure that the licensee licensed brokerage firm or sole proprietorship is independently owned and operated shall not be required in the following categories of written noninstitutional advertising:

~~3-7-5-2-1~~ a. "For sale" and "for lease" signs located on the premises of specific property for sale or lease.

~~3-7-5-2-2~~ b. Advertising by a licensee licensed brokerage firm or sole proprietorship in newspapers, magazines, or other publications of a single specific property for sale or lease when the advertisement occupies no more than 28 of the standard classified advertising lines of the newspaper, magazine, or other publication in which the advertisement is published.

~~3-7-5-2-3~~ c. Telephone directory listings; however, disclosure that the licensee licensed brokerage firm or sole proprietorship is independently owned and

operated is required in "display" advertisements and "in column informational" or "business card" advertisements, or their equivalent, appearing in telephone directories.

~~3-7-5-3~~ 3. In oral noninstitutional advertising, the speaker shall disclose affirmatively the licensee's registered name, and except in the case of telephone communication, shall disclose that the licensee licensed brokerage firm or sole proprietorship is independently owned and operated.

## § 3.8. Disclosure of interest.

A licensee of the Virginia Real Estate Board shall not acquire any interest in real property for himself, or for any member of his immediate family, his firm, or any member of his firm, or for any entity in which he has any ownership interest, without making his true position known to the owner in writing; in selling real property owned by a licensee or in which a licensee has any interest, those facts shall be revealed to the purchaser in writing.

## § 3.9. Licensees dealing on own account.

Any licensee failing to comply with the provisions of Title 54, Chapter 18 of the Code of Virginia, or the regulations of the Virginia Real Estate Board in performing any acts covered by §§ 54-730 and 54-731 of the Code of Virginia, may be charged with improper dealings, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.

## § 3.10. Investigation by board.

Upon the complaint of any person, the board shall may cause to be conducted an investigation of the actions of any licensee or registrant, or of any person who presumes to act in such capacity within this state the Commonwealth, provided such complaint together with any evidence presented with the complaint makes out a prima facie case of alleges a violation of Title 54, Chapter 18 of the Code of Virginia, or a violation of any of these regulations. The board may cause an investigation to be conducted upon its own motion.

**3.11 Postponement of Administrative Hearing -** If the matter which is to be considered in a hearing on a license is also the subject of judicial proceedings in a court of competent jurisdiction, the hearing may be postponed until after the conclusion of the judicial proceedings whenever:

**3.11.1** The licensee is a defendant or respondent in such judicial proceedings; or, in the case of an appeal, was a defendant or respondent in the proceedings from which appeal is taken; and

**3.11.2** It appears that issues common to both the hearing on the license and the judicial proceedings will be decided

# Proposed Regulations

on their merits in the judicial proceedings. [Authority: § 54-1-28(5)]

3-12 § 3.11. Principal broker's responsibility for acts of associates.

Any unlawful act or violation of any of the provisions of Title 54, Chapter 18 or of Title 36, Chapter 5 of the Code of Virginia, or of the regulations of the board by any real estate salesperson, employee, partner or associate of a principal broker, shall may not be cause for disciplinary action against the principal broker unless it appears to the satisfaction of the board that the principal broker knew or should have known of the unlawful act or violation.

3-13 § 3.12. Effect of disciplinary action on subordinate licensees.

Action by the board resulting in the revocation, suspension, or denial of renewal of the license of any principal broker or sole proprietor shall automatically result in an order that the licenses of any and all individuals associated with or employed by the affected firm be returned to the board until such time as they are reissued upon the written request of a sole proprietor or principal broker pursuant to regulation § 3.1 6-2, subsection F, paragraph 2 of these regulations .

## SECTION 4

### PART IV. SCHOOLS.

§ 4.1. Definitions.

As used in these regulations, unless a different meaning is plainly required by the context:

4-1-1 "Accredited colleges, universities and community colleges," as used in § 54-740(a) of the Code of Virginia, shall refer to means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the "Report of Credit" Given by Educational Institutions Transfer Credit Practices of Designated Educational Institutions , published by the American Association of Collegiate Registrars and Admissions Officers.

4-1-2 "Equivalent course" shall refer to means any course encompassing the principles and practices of real estate and approved by the board.

§ 4.2. Instructor qualifications.

Every applicant to the Virginia Real Estate Board for approval as an instructor shall have one of the following qualifications:

4-2-1 1. Baccalaureate degree in real estate, or in business with a major in real estate or a closely related field; or

4-2-2 2. Baccalaureate degree, a real estate license, and two years of *discipline-free* active real estate experience within the past five years ("active experience" shall be deemed to mean employment by or association with a broker in performing those activities defined in Virginia Code § 54-731 for an average of at least 20 hours per week); ("active experience" is defined in § 1.1, subsection A of these regulations); or

4-2-3 3. Associate degree, or its equivalent, as indicated through continuing course work, plus five Seven years of *discipline-free* active experience acquired in the real estate field in the past ten years and an active broker's license. In any equivalent course under Virginia Code § 54-740(a), the continuing course work must be acceptable to the Board.

§ 4.3. Course evaluation and grading.

4-3-1 A. All real estate courses acceptable to the board are required to have a monitored, final written examination.

4-3-2 B. Students must obtain a minimum course grade of "C," or a minimum score of 75%.

§ 4.4. Texts.

A school may use any textbook chosen from a list of approved texts maintained by the board.

§ 4.5. Educational environment.

All schools must be in a building conducive to academic purposes, with library facilities readily accessible to students at times other than their regularly scheduled class hours. Classroom arrangement should allow for workshop-type instruction and small-group activity. A maximum of 50 students is encouraged. Facilities must meet necessary building code standards, fire safety standards, and sanitation standards.

4-6 License Fee for Schools - The initial application fee shall be \$100.00, and the annual renewal fee shall be \$50.00. [Authority: §§ 54-1-28(4), 54-740]

4-7 § 4.6. Posting school certificates certificate of approval and license .

All schools to whom certificates Certificate of approval and license are granted must be display displayed them in each approved school facility in a conspicuous place readily accessible to the public.

4-8 § 4.7. Withdrawal of approval.

The board may withdraw approval of any school for the following reasons:

4-8-1 1. The school, instructors, or courses no longer

# Proposed Regulations

---

meet the standards established by the board.

4.8.2 2. The school solicits information from any person for the purpose of discovering past examination questions or questions which may be used in future examinations.

4.8.3 3. The school distributes to any person copies of examination questions, or otherwise communicates to any person examination questions, without receiving the prior written approval of the copyright owner to distribute or communicate those questions.

4.8.4 4. The school, through an agent or otherwise, advertises its services in a fraudulent, deceptive or misrepresentative manner.

4.8.5 5. Officials, instructors or designees of the school sit for a real estate licensing examination for any purpose other than to obtain a license as a broker or salesperson.

4.9 § 4.8. Course content of real estate principles and practices.

The following shall apply be included in the three-semester-hour or six-quarter-hour course which shall not have less than 45 classroom hours:

4.9.1 Approved Courses

- 4.9.1.1 1. Economy and social impact of real estate
- 4.9.1.2 2. Real estate market and analysis
- 4.9.1.3 3. Property rights
- 4.9.1.4 4. Contracts
- 4.9.1.5 5. Deeds
- 4.9.1.6 6. Mortgages and deeds of trust
- 4.9.1.7 7. Types of mortgages
- 4.9.1.8 8. Leases
- 4.9.1.9 9. Liens
- 4.9.1.10 10. Home ownership
- 4.9.1.11 11. Real property and title insurance
- 4.9.1.12 12. Investment
- 4.9.1.13 13. Taxes in real estate
- 4.9.1.14 14. Real estate financing
- 4.9.1.15 15. Brokerage and agency contract responsibilities

- 4.9.1.16 16. Real estate marketing
- 4.9.1.17 17. Real property management
- 4.9.1.18 18. Search, examination, and registration of title
- 4.9.1.19 19. Title closing
- 4.9.1.20 20. Appraisal of residential and income producing property
- 4.9.1.21 21. Planning subdivision developments and condominiums
- 4.9.1.22 22. Regulatory statutes
- 4.9.1.23 23. Housing legislation
- 24. Fair housing statutes
- 25. Virginia Real Estate Board regulations

**NOTE: THE PROPOSED ADDITIONS, NUMBERS 24 AND 25, WILL ONLY BECOME EFFECTIVE UPON ENACTMENT OF APPROPRIATE LEGISLATIVE CHANGES BY THE GENERAL ASSEMBLY.**

4.10 § 4.9. Related subjects.

“Related subjects,” as referred to in § 54-740(b) of the Code of Virginia, shall be real estate related with the exception of business law. These subjects and shall include, but are not limited to, courses in property management, land planning and land use, business law, real estate economics, and real estate investments.

§ 4.10. Required specific courses.

Brokerage shall be a required specific course with three semester hours or six quarter hours constituting a complete course.

§ 4.11. Credit for broker-related courses.

No more than three semester hours of six three quarter hours of broker-related courses shall be accepted in lieu of specific broker courses.

§ 4.12. Broker-related course approval procedure.

Schools intending to offer equivalent broker courses must submit to the board for approval a copy of the syllabus of the particular course and a copy of the textbook to be used with a cover letter requesting approval. In addition, the school must accompany these materials with a copy of a comparable course syllabus from an accredited university, college, or community college to establish equivalency.

All citations of the authority are pursuant to the Code of

### Virginia.

All previous regulations of the Real Estate Board are repealed with the exception of Section 12, Fair Housing Regulations, adopted May 22, 1980, and June 5, 1980, effective September 15, 1980; Condominium Regulations, adopted January 16, 1978, effective August 1, 1978; and Time-Share Regulations, adopted December 15, 1982, effective July 1, 1983.



## INSTRUCTIONS

## REAL ESTATE SALESPERSON APPLICATION

THE VIRGINIA REAL ESTATE BOARD  
 3600 West Broad Street, 5th Floor  
 Richmond, Virginia 23230-4917  
 (804) 257-8526 or Toll Free 1-800-552-3016 (Virginia Only)

PLEASE READ THESE INSTRUCTIONS AND REVIEW THE APPLICATION BEFORE COMPLETING.

I. GENERAL INSTRUCTIONS:

- Print or type.
- All application and renewal fees are non-refundable.
- All items must be properly completed or the application will be returned to the applicant for completion and resubmittal.
- Non-resident notaries must use seal.
- MAIL COMPLETED FORMS TO: COMMONWEALTH OF VIRGINIA, DEPARTMENT OF COMMERCE, P. O. BOX 11066, RICHMOND, VIRGINIA 23230-1066
- DO NOT RETURN INSTRUCTIONS WITH APPLICATION

II. APPLICATION FORM INSTRUCTIONS:

1. Check the appropriate block to indicate whether you are applying for licensure by education and examination in this state or by reciprocity from another state where you are currently licensed and actively engaged in real estate. Please see regulations (2.1 and 2.3.1).
2. Complete your full legal name (do not use initials), generation (Jr., Sr., III, etc.) and title.
3. List other names you have used, i.e., various spellings, maiden name, previous married name, etc.
4. Complete your current residential address. Place street name in "Address 2" line as the Post Office will deliver to that address. A Post Office Box number is not acceptable.
5. Complete your current mailing address if it differs from your residential address. A Post Office Box number may be used. The address in line 2 is the address to which the Post Office will deliver.
6. Telephone numbers: residence; and office telephone number if an active license is to be issued.
7. Disclosure of your Social Security Number is helpful to ensure identification and will aid in processing your application.

- 1 -

8. Date of birth; applicant must be at least 18 years of age.
9. Indicate your place of birth.
10. Name of school where Principles of Real Estate course was completed.
11. Give full explanation on a separate sheet of paper and submit with certified court documents if you checked "yes." This explanation should include date and place of offense, date and place of conviction, name of court, the part you played at the time the offense occurred, and charge and final disposition--jail term, fine, amount, probation terms, etc.
12. If you have ever been issued a salesperson and/or broker license in Virginia, provide date(s) and license number(s).
13. If you have ever been issued a real estate license in any other jurisdiction, provide name of jurisdiction(s).
14. If you have ever been refused a real estate license in any jurisdiction(s), please provide details including date of denial, jurisdiction, reason(s) licensing was denied.
15. If you will not be actively employed in real estate nor associated with a broker but wish to be placed on inactive status, check "yes." If you check "yes," do not complete item 16.
16. Have your broker complete item 16 only if you are to be actively engaged in real estate and associated with that broker.
17. All applicants must complete this section. Applicant's affidavit must be signed and notarized.

III. LICENSURE BY EXAMINATION

Include the following with your completed application:

- A. a copy of PASS NOTICE from testing service. Exam must have been passed within 12 months immediately preceding receipt of application by the Virginia Real Estate Board;
- B. a CHECK in the amount of \$50 made payable to "Treasurer of Virginia." This includes the \$30 application fee plus a \$20 assessment for the Virginia Real Estate Transaction Recovery Fund;
- C. a CERTIFICATION OF LICENSURE from each state in which you now hold or have ever held a real estate license must be dated no more than 30 days prior to receipt of your application by the Virginia Real Estate Board. This is not a copy of your license. It is an official history of licensure prepared by the licensing agency;
- D. a "CONSENT TO SUITS AND SERVICE OF PROCESS" form if your residence is not in Virginia must be notarized, with seal.

- 2 -

- E. In addition, request an ORIGINAL TRANSCRIPT with seal from the college where "Principles of Real Estate" was taken. Please send fee to your college to have transcript sent directly to the Virginia Real Estate Board. Certificates from distributive education or proprietary schools must be originals or copies certified as true copies by a Notary Public.

IV. LICENSURE BY RECIPROCITY

See Regulation 2.3.1 which states that applicant must have received license by virtue of passing a written examination in the jurisdiction of original licensure. Include the following with your completed application:

- A. a CHECK in the amount of \$75 made payable to the "Treasurer of Virginia." This includes the \$55 application fee plus a \$20 assessment for the Virginia Real Estate Transaction Recovery Fund;
- B. a CERTIFICATION OF LICENSURE from each state in which you now hold or have ever held a real estate license must be dated no more than 30 days prior to receipt of application by the Virginia Real Estate Board. This is not a copy of your license. It is an official history of licensure prepared by the licensing agency;
- C. a "CONSENT TO SUITS AND SERVICE OF PROCESS" form if your residence is not in Virginia must be notarized, with seal;

PLEASE ALLOW AT LEAST THREE WEEKS FOR PROCESSING. IF A CRIMINAL OFFENSE IS INVOLVED, PROCESSING MAY TAKE UP TO EIGHT WEEKS.

VIRGINIA REAL ESTATE BOARD  
 ATTN: CC 490  
 3600 West Broad Street, 5th Floor  
 Richmond, Virginia 23230-4917  
 (804) 257-8526 or Toll Free 1-800-552-3016 (Virginia Only)

REAL ESTATE SALESPERSON APPLICATION

PLEASE READ THE INSTRUCTIONS AND APPLICATION CAREFULLY BEFORE COMPLETING

1. I hereby make application for a real estate salesperson license:  
 \_\_\_ By Examination (Fee: \$50)      \_\_\_ By Reciprocity (Fee: \$75)
2. Applicant's Name:  
 Last Name Only \_\_\_\_\_ Generation \_\_\_\_  
 First Name Only \_\_\_\_\_  
 Middle Name Only \_\_\_\_\_  
 Title \_\_\_ Mr. \_\_\_ Ms. \_\_\_ Mrs. \_\_\_ Miss
3. Other names which you have used: \_\_\_\_\_
4. Applicant's Legal Residence: \_\_\_\_\_  
 Address 1 -- Apt. No. \_\_\_\_\_  
 Address 2 -- Street \_\_\_\_\_  
 City \_\_\_\_\_  
 State and Zip Code \_\_\_\_\_
5. Applicant's Mailing Address: \_\_\_\_\_  
 Address 1 -- Apt. No. \_\_\_\_\_  
 Address 2 --Box # or Street \_\_\_\_\_  
 City \_\_\_\_\_  
 State and Zip Code \_\_\_\_\_
6. Telephone Numbers: (Residence) (\_\_\_\_\_) \_\_\_\_\_  
 (Firm) (\_\_\_\_\_) \_\_\_\_\_

Ent. Req. _____	Lic. Iss.: _____
Ent. Ck. _____	Date: _____
Bd. Rev. _____	App. Rej.: _____
Bd. Rev. _____	Date: _____

- 7. Social Security Number: \_\_\_\_\_
- 8. Date of Birth: \_\_\_\_\_
- 9. Place of Birth: City \_\_\_\_\_ State \_\_\_\_\_
- 10. Name of school where Principles of Real Estate course was completed: \_\_\_\_\_
- 11. Have you been convicted of any criminal offense other than a minor traffic violation, or is there any such charge pending against you?  YES  NO
- 12. Have you ever been issued a real estate license in Virginia? Salesperson  YES  NO Broker  YES  NO  
If yes, give date(s) and license number(s) \_\_\_\_\_
- 13. Have you ever been issued a real estate license in any other jurisdiction? Name of jurisdiction(s) \_\_\_\_\_  YES  NO
- 14. Have you been refused a real estate license in any jurisdiction? If yes, which jurisdiction(s)? \_\_\_\_\_  YES  NO
- 15. Do you want to be placed on inactive status?  YES  NO
- 16. PLEASE COMPLETE IF A LICENSE IS TO BE ISSUED AT THIS TIME FOR ACTIVE STATUS:

I, \_\_\_\_\_, the undersigned, a  
(Principal Broker's Name, Printed or Typed)  
licensed real estate broker in the Commonwealth of Virginia, being duly sworn, depose and say that the statements made and the answers to questions set forth below are true to the best of my knowledge.

I hereby authorize \_\_\_\_\_ to apply for a license as a real estate licensee to be supervised by me and do whatever is necessary to obtain such a license, and I hereby assume responsibility for the licensee pursuant to Regulation 3.12.

This license is to be issued to:

Firm Name \_\_\_\_\_

Address \_\_\_\_\_

Firm Certificate Number \_\_\_\_\_

Firm Telephone Number ( ) \_\_\_\_\_

In my opinion, the applicant has a good reputation for honesty, truthfulness and fair dealing, and competence to transact the business of a real estate salesperson in such a manner as to safeguard the interests of the public.

(Signature of Principal Broker) \_\_\_\_\_ (Broker's License Number) \_\_\_\_\_

State of \_\_\_\_\_

City/County \_\_\_\_\_

Sworn and subscribed to before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

\_\_\_\_\_  
(My commission expires)

17. ALL APPLICANTS MUST COMPLETE THIS SECTION:

The undersigned, being duly sworn, deposes and says that he/she is the person who executed application, and that the statements herein contained are true, that he/she has not suppressed any information that might affect this application, and that he/she has read and understands the Virginia Real Estate Board regulations and license law as well as this affidavit.

\_\_\_\_\_  
Signature of Applicant

Sworn and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

My commission expires \_\_\_\_\_

DO NOT RETURN INSTRUCTIONS WITH APPLICATION

ENCLOSURES:

BY EXAMINATION

- Pass Notice
- Check (\$50)
- Certification of Licensure
- Consent to Suits and Service of Process
- Transcript

BY RECIPROCITY

- Check (\$75)
- Certification of Licensure
- Consent to Suits and Service of Process

OTHER

- Item 10
- Item 13

OTHER

- Item 10
- Item 13



COMMONWEALTH of VIRGINIA

Department of Commerce

DAVID R. HATHCOCK  
Director

3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23230 - 4917

TELEPHONE: (804) 257-8500  
TOLL FREE: 1 (800) 552-3016

VIRGINIA REAL ESTATE BOARD

WAIVER OF EXAMINATION -- REAL ESTATE SALESMAN

Please read carefully and submit ALL required documents in one package. If not complete all items submitted must be returned.

2.3 Licensees of Other Jurisdictions

2.3.1 Salesmen -- An individual who is currently licensed as a real estate salesman in another jurisdiction may obtain a Virginia real estate salesman's license without taking a written examination by meeting the following requirements:

- (1) The applicant must complete an original application and accompany it with a check for \$75.00 made payable to "Treasurer of Virginia".
(2) The applicant must be at least 18 years of age.
(3) The applicant must have received the license by virtue of passing a written examination in the jurisdiction of original licensure.
(4) The applicant must contact the Real Estate Board in ALL prior jurisdictions where he/she is or ever has been licensed and request a current Certification of Licensure.
(5) The applicant must submit a certified statement that they have read and understand the Virginia Real Estate License Law and Regulations.

REPLY: Attn: CC-49

VIRGINIA REAL ESTATE BOARD
3600 West Broad Street
Richmond, Virginia 23230
Toll Free in Virginia 1-800-552-3016

APPLICATION TO ACTIVATE INACTIVE SALESPERSON LICENSE

NOTE: This form is not to be used for applicants who have never obtained an original license.

ANSWERS ARE TO BE TYPEWRITTEN OR PRINTED

Social Security Number
Place of Birth
Date of Birth (Month) (Day) (Year)

- 1. Legal name of applicant Mr. Miss Mrs. (First) (Middle) (Last)
2. Legal residence (Number & Street) (City/State/Zip) (Phone)

NOTE: A person who is not a bona fide resident of Virginia must file with the Virginia Real Estate Board an irrevocable consent in writing to the Secretary of the Board for services in suits in Virginia. A form to accomplish the foregoing will be furnished by the Licensing Section.

- 3. I am to be employed by: (Firm/Broker) (Number & Street) (City, State & Zip) (Telephone)

- 4. Has any complaint been filed against you with this Board or that of any other state or District of Columbia during the past five years? If "Yes" give full particulars on a separate sheet of paper. (Yes or No)

- 5. Are you now a party, either complainant or defendant, in any litigation involving a real estate transaction with which you were connected as a real estate broker or salesperson? (Yes or No)

- 6. Have you been convicted, within the past five years, in a court of competent jurisdiction of this or any other state, or of the District of Columbia, or of the United States, of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, bribery, burglary, robbery, a felony involving personal injury to a victim, or other like offense or offenses, or pleading guilty or nolo contendere to any such offenses, or having been found guilty of a violation of Chapter 5, Title 36, Virginia Fair Housing Law, as provided in Virginia Code Section 36-95.2, there being no appeal pending therefrom or the time therefor having elapsed? (Yes or No)

- 7. State if you have ever been convicted of any criminal offense other than a minor traffic violation, or if there is any such criminal charge now pending against you, or any member or officer of your firm, partnership or corporation: (Yes or No) particulars on separate sheet of paper. Statement not needed if already on file with the Board.

HAS YOUR NAME CHANGED SINCE ORIGINALLY LICENSED? IF SO PLEASE NOTE.
\*\*\*MUST ATTACH COPY OF INACTIVE STATUS CARD OR EVIDENCE OF PREVIOUS LICENSE\*\*\*

The applicant being duly sworn according to law, deposes and says that the answers on this application are true to the best of his/her knowledge and belief and that the information in this application is given for the purpose of being issued the license applied for. He/she thoroughly understands that after the license applied for has been issued, if the information contained in this application is false, such license may be revoked.

Signature of Applicant
State of
Sworn and subscribed to before me at this day of 19
City/County
My Commission expires

Seal required if outside of Virginia Notary Public

SEE REVERSE SIDE

Proposed Regulations

ENTIRE ITEM 8 MUST BE COMPLETED.

8. I hereby authorize \_\_\_\_\_ to apply for a license as a real estate salesperson to be employed by \_\_\_\_\_

and to do whatever is necessary to obtain such a license, and I hereby assume joint responsibility with salesperson applicant.

In my opinion, the applicant has a good reputation for honesty, integrity and fair dealing and I do unreservedly recommend that a salesperson license be granted to the aforementioned applicant as a person worthy of confidence.

I have read Virginia Code Section 54-733: Sec. 3.1 of the Regulations of the Virginia Real Estate Board. I do hereby certify that I maintain a place of business in Virginia in accordance with Virginia Code Section 54-733: that my place of business is located in an office or headquarters where I conspicuously display my license and the licenses of my employees and at or from which I or my employees regularly transact the real estate business and where I and my employees can receive business calls and direct business calls to be made. My place of business is properly identified in accordance with the requirements of Sec. 3.1.4 of the Regulations of the Virginia Real Estate Board.

I \_\_\_\_\_, the undersigned, a licensed Real Estate Broker in the \_\_\_\_\_ (Print/Type Broker's Name)

Commonwealth of Virginia, being duly sworn according to law, depose and say that the statements made and the answers to questions set forth above are true to the best of my knowledge.

I INTEND TO EMPLOY THE APPLICANT WHEN QUALIFIED FOR LICENSURE.

\_\_\_\_\_  
Signature of Employing Broker

STATE OF \_\_\_\_\_

Sworn and subscribed to before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

My Commission Expires \_\_\_\_\_ City/County \_\_\_\_\_ Notary Public

Seal required if outside Virginia.

NOTE: THIS FORM IS NOT TO BE USED FOR APPLICANTS WHO HAVE NEVER OBTAINED AN ORIGINAL LICENSE.

BEFORE MAILING THIS APPLICATION PLEASE READ

1. At the time you activate your license, the Recovery Act Fee is due. If you are not sure it was recently paid, please call the Board.
2. If your license has been inactive 3 years or more, you must meet current education requirements (Section 2.1.2). Evidence of completion of Principles of Real Estate must be sent to our office. If you attended a college or community college, please order an official transcript with seal sent directly from the school to the Virginia Real Estate Board. Please note on this form that the transcript is being sent. If you attended a proprietary or public school, you must attach to this form the original completion certificate or a notarized copy of it.

REPLY: Attn: CC-490



COMMONWEALTH of VIRGINIA

Department of Commerce

3500 WEST BROAD STREET, RICHMOND, VIRGINIA 23230 - 4917  
TELEPHONE: (804) 257-6500  
TOLL FREE: 1 (800) 552-3076

DAVID R. HATHCOCK  
Director

VIRGINIA REAL ESTATE COMMISSION

WAIVER OF EXAMINATION -- REAL ESTATE BROKER

Please read carefully. Submit ALL required documents in one package. IF NOT COMPLETE ALL ITEMS SUBMITTED MUST BE RETURNED.

2.3 Licensees of Other Jurisdictions

2.3.2 Brokers -- An individual who is currently licensed as a real estate broker in another jurisdiction may obtain a Virginia real estate broker license without taking a written examination by meeting the following requirements:

- (1) The applicant must complete an original application and accompany it with a check for \$95.00 made payable to the "Treasurer of Virginia."
- (2) The applicant must be at least 18 years of age.
- (3) Have received the broker license by virtue of having passed a written examination in the jurisdiction of original licensure.
- (4) Have been licensed and actively engaged as a real estate broker and/or salesman in the current jurisdiction of licensure for at least 36 of the 40 months immediately prior to making application in Virginia. (See regulation 2.2.2 for the definition of "actively engaged.")

CONTINUED ON REVERSE SIDE

- (5) The applicant must contact the Real Estate Commission in ALL prior jurisdictions where he/she is or ever has been licensed and request a current Certification of Licensure. The certification(s) must, in turn, be submitted to our office with the application and dated no more than 30 days prior to the date of submission. This is not a copy of the license but is an official history of licensure prepared by the licensing agency. (See Item 9 of broker's application for list of states where previously licensed. Must have certifications from EACH state.)
- (6) The applicant must submit at least two affidavits from individuals in the prior jurisdiction(s) certifying that the broker applicant has been actively engaged an average of 20 hours per week or more in the brokerage business for 36 of the 40 months immediately prior to applying for the Virginia license. If statements are not on letterhead, must give name and address (either home or business) of affiant. Signatures on these documents must be notarized by a Notary Public.
- (7) The applicant must submit a certified statement that they have read and understand the Virginia Real Estate License Law and Regulations. This statement must be written by the applicant on a separate sheet of paper, signed and dated. This DOES NOT need notarization.

## GENERAL BROKER LICENSING INFORMATION

1. If not trading under his/her own name, an individual sole proprietor must provide a certificate of ownership under a fictitious name (Form C#2).
2. If operating a firm -- Corporation, partnership or association -- must execute an application for broker license for the firm (Fee \$70.00) and a certificate of ownership (Form C#1 or C#3 as applicable). If you plan to operate as a corporation from another jurisdiction, please call the Commission to obtain proper forms and information.
3. If to be licensed with an established Virginia firm as OFFICER must submit completed C#3 showing the office he/she will hold. If not an OFFICER submit completed Associate Broker Form.

## OFFICE REQUIREMENTS

If you intend to remain a non-resident of Virginia, you are not required to establish a place of business in Virginia.

If you intend to become a resident of Virginia, you must meet the following:

(Refer to Section 3 of the Regulations)

9/84



## COMMONWEALTH of VIRGINIA

Department of Commerce

DAVID R. HATHCOCK  
Director

3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23230 - 4917

TELEPHONE (804) 257-8500  
TOLL FREE 1 (800) 552-3015

## VIRGINIA REAL ESTATE BOARD

BROKER EDUCATIONAL REQUIREMENTS

Every salesman applicant to the Virginia Real Estate Board for an original license as a Real Estate Broker by examination shall have completed courses in Real Estate approved by the Board. Requirements which became effective July 1, 1981 are:

SEMESTER Hour Courses  
12 Semester Hours  
(May use all 4 Specific courses or a combination or any 3 Specific & 1 related course)

QUARTER Hour Courses  
18 Quarter Hours  
(Must have 4 Specific courses plus 2 additional related courses)

A minimum course grade of "C" or "75%" is required for EACH course.

1. SPECIFIC BROKER COURSES are Real Estate Brokerage, Real Estate Finance, Real Estate Appraisal, and Real Estate Law. If the course Legal Aspects of Real Estate is taken at a school that offers Real Estate Law, the broker applicant must bear the burden of proof that Legal Aspects of Real Estate is the same as Real Estate Law.
2. RELATED BROKER COURSES which have been approved by the Board include: Business Law, Property Management, Land Planning and Use, Real Estate Economics, Real Estate Investments, Real Estate Math, Urban Development, and Real Estate Abstracting. If the course Real Estate Sales is completed after January 1, 1982, it will be credited as a related broker course. Completion of any of the following sets of courses (equivalent to one semester): GRI, SIR (two parts completed), CRB 301-305 (five parts completed), and CCIM (five parts completed).

PRINCIPLES OF REAL ESTATE IS FOR SALESMAN ONLY. IT CANNOT BE USED FOR BROKER.

EXAMINATION SCHEDULE

Applications for examination are made by filing "Application for Real Estate Broker Licensing Examination" form with required fee directly to American College Testing Real Estate Examination Services in accordance with the schedule shown on the form. After passing the test, person should request licensing forms from the Real Estate Board. Persons applying for the broker test must have met the educational requirements by the test date. The applicant must have been actively licensed as a salesperson and working at least 20 hours per week for 36 of the 40 months immediately prior to applying for licensing.

-over-

INACTIVE LICENSE

Section 1.4.7: Any licensee who has not been issued a license and is on inactive status under the provisions of regulation 3.1.6.2 for a period of greater than three years shall be required to meet the educational requirements for a salesman or broker in effect at the time written request for issuance of such license is filed with the Board.

2/86

FEE: \$50.00  
Payable to  
Treasurer of VA.

THE VIRGINIA REAL ESTATE COMMISSION  
3600 West Broad Street  
Richmond, Virginia 23230

REPLY: Attn: CC-490

Toll Free 1-800-552-3016

Answers are to be TYPEWRITTEN or PRINTED

ORIGINAL APPLICATION FOR REAL ESTATE BROKER LICENSE

EDUCATION AND EXAMINATION

Social Security Number \_\_\_\_\_  
(Required to implement the provisions of  
Virginia Code Section 54-1.28.1 and Virginia  
Real Estate Commission Regulation 2.1.)

- (1) Legal name of applicant <sup>Miss</sup> ~~Mr.~~ \_\_\_\_\_ <sup>Mrs.</sup> \_\_\_\_\_ <sup>Place of Birth</sup> \_\_\_\_\_ <sup>Date of Birth</sup> \_\_\_\_\_  
(First) (Middle) (Last) (Mo.) (Day) (Yr.)
- (2) Current home address of person signing \_\_\_\_\_
- (3) ATTACH COPY OF PASS NOTICE.
- (4) Name of firm, partnership, association or corporation you are to be licensed by as broker. (If applying as individual, so state.)  
\_\_\_\_\_
- (4a) Address of main office \_\_\_\_\_  
(Number & Street) (City & State) (Zip) (Phone)
- (5) Name of school(s) where you completed your broker courses:  
\_\_\_\_\_

SUBMIT WITH THIS APPLICATION OR HAVE SENT OFFICIAL EDUCATIONAL DOCUMENTS OF BROKER COURSES \*\*

- (6) Have you been licensed in Virginia at any time since January 1, 1925? \_\_\_\_\_  
(Yes or No)
- (7) Have you ever applied for a Real Estate Salesman's License in Virginia? \_\_\_\_\_  
(Yes or No)
- (8) Have you been convicted, within the past five years, in a court of competent jurisdiction of this or any other state, or of the District of Columbia or of the United States, of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, bribery, burglary, robbery, a felony involving personal injury to a victim, or other like offense or offenses, or plead guilty or nolo contendere to any such offenses, or having been convicted for violation of Chapter 5, Title 36, Virginia Fair Housing Law, as provided in Virginia Code §36-95.2, there being no appeal pending therefrom or the time therefor having elapsed? \_\_\_\_\_  
(Yes or No) If 'Yes', give full particulars on separate sheet of paper.
- (9) State if you have ever been convicted of any criminal offense other than a minor traffic violation, or if there is any such charge now pending against you, or any member or officer of your firm, partnership or corporation: \_\_\_\_\_  
If 'Yes', give full particulars on separate sheet of paper. (Yes or No)
- (10) Have you ever been licensed as a real estate broker or salesman in any other state? \_\_\_\_\_  
(Yes or No)  
If answer is 'Yes', give name of state or states \_\_\_\_\_  
Current Certification of Licensure is required before Virginia license will be issued.
- (11) Has any complaint been filed against you by this Commission or that of any other state during the past three years? \_\_\_\_\_  
(Yes or No)  
If 'Yes', give full particulars on separate sheet of paper.
- (12) Are you now a party, either complainant or defendant, in any litigation involving a real estate transaction with which you were connected as a real estate broker or salesman? \_\_\_\_\_  
(Yes or No)

FOR OFFICE USE ONLY:

CHECK #	CHECK AMT.	BATCH #	BATCH DATE	REC.	LIC.

10/82

- (13) Have you ever been refused a real estate license in any state? If "Yes", which state? \_\_\_\_\_
- (14) Are you now licensed in any state as a broker or salesman? If "Yes", which state? \_\_\_\_\_
- (15) Have you ever filed a petition in bankruptcy? \_\_\_\_\_ If "Yes", attach letter giving full details and certified true copy of discharge in bankruptcy. (Yes or No)
- (16) Give complete list of all places of residence and where engaged in business during the past five years and length of such residence and business engagement in each place consisting of 60 days or more:

RESIDENCE	CITY-STATE	FROM	TO
Number & Street		Mo. Day Yr.	Mo. Day Yr.

NAME OF REAL ESTATE FIRMS	CITY-STATE	FROM	TO
Number & Street		Mo. Day Yr.	Mo. Day Yr.

(17) It is mandatory that all persons applying for broker license shall have been actively engaged as a real estate salesman for a period of thirty-six (36) of the forty (40) months immediately preceding his or her application. 'Actively engaged' shall be deemed to mean full-time employment by or association with a broker in performing those activities defined in Virginia Code §54-731 for an average of at least twenty hours per week.

This is to certify that \_\_\_\_\_ has been employed by or associated with our firm and has been actively employed as a real estate salesman for a period of at least \_\_\_\_\_ months in accordance with the Commission's definition and the period of time stated above.

NOTE: Firm Name (Print/Type) \_\_\_\_\_ Employing Broker (Print/Type) \_\_\_\_\_

- A. Any real estate broker affixing his (her) signature to the above certification and knowing such certification to be false, will be considered justifiable cause for the Commission to suspend or revoke such broker license.
- B. Any salesman who is unable to secure his employer's signature to the above may submit affidavits signed by two duly licensed real estate brokers certifying to the salesman's experience.

I, the undersigned real estate broker, being sworn according to law, depose and say that the answers above set forth are true to the best of my knowledge and belief, and that the information is given for the purpose of recommending to the Virginia Real Estate Commission that \_\_\_\_\_ be permitted to receive the real estate broker license in accordance with Regulation Section 1.2(a).

State of \_\_\_\_\_ (Signature of Real Estate Broker)  
 Sworn and subscribed to before me at \_\_\_\_\_ City/County this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
 \_\_\_\_\_ (Notary Public) (My Commission Expires) \_\_\_\_\_

If the preceding certification DOES NOT constitute 36 of the previous 40 months, have your previous broker submit an affidavit certifying same and continue to repeat until your certifications cover 36 of the previous 40 months.

- (18) If not applying as individual, this application MUST be accompanied by either a C-1, C-2, C-3 or an Associate Broker Application.
- (19) I, the undersigned, being duly sworn according to law, depose and say that the answers above set forth are true to the best of my knowledge and belief and that the information contained in this application is given for the purpose of being issued the license applied for and I thoroughly understand that after the license applied for has been issued, if the information contained in this application is false, such license may be revoked. I also certify that I will promptly return certificate and license when required by the Commission, and to conform to all rules and regulations promulgated by the Commission.

State of \_\_\_\_\_ (Signature of Applicant)  
 Sworn and subscribed to before me at \_\_\_\_\_ City/County this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
 \_\_\_\_\_ (Notary Public) (My Commission Expires) \_\_\_\_\_

GENERAL BROKER LICENSING INFORMATION

- 1. A broker license CANNOT be issued until the SALESMAN'S LICENSE has been returned by Certified Mail to the Commission by the broker to whom it is issued.
- 2. If not trading under his/her own name, an individual sole proprietor must provide a certificate of ownership under a fictitious name (Form C-2).
- 3. If operating a firm - Corporation, partnership or association - must execute an application for broker license for the firm (Fee \$50.00) and a certificate of ownership (Form C-1 or Form C-3 as applicable).
- 4. If to be licensed with an established Virginia firm as OFFICER must submit completed C-3 showing the office he/she will hold. IF NOT an officer submit completed Associate Broker Application.

OFFICE REQUIREMENTS

An office shall be maintained in Virginia in which are available at all times records of their business transactions in this State including all transactions involving real property and wherein all of their Virginia licenses are displayed. Escrow funds must be deposited in an insured depository located in the Commonwealth of Virginia. A revenue license must be purchased from the Commissioner of the Revenue in the jurisdiction of the Virginia office.

\*\*EDUCATION DOCUMENTS

If college or university courses used for broker education, send fee to your college(s) to have official transcript with seal sent directly to VREC. This is not a grade report. Certificates from public schools or proprietary schools must be ORIGINALS or CERTIFIED AS TRUE COPIES by a Notary Public.



FEE \$95 "TREASURER OF VA"  
(Includes Recovery Act  
Assessment)

REPLY: Attn: CC-490

THE VIRGINIA REAL ESTATE COMMISSION  
3600 West Broad Street  
Richmond, Virginia 23230

THIS APPLICATION WILL BE RETURNED IF ALL ITEMS ARE NOT COMPLETED  
Answers are to be TYPEWRITTEN or PRINTED

ORIGINAL APPLICATION FOR REAL ESTATE BROKER LICENSE

WAIVER OF EXAMINATION AND EDUCATION

Social Security Number \_\_\_\_\_  
(Required to implement the provisions of  
Virginia Code Section 54-1.28.1 and Virginia  
Real Estate Commission Regulation 2.1.)

- Miss \_\_\_\_\_ Place of Birth \_\_\_\_\_  
Mrs. \_\_\_\_\_
- (1) Legal name of applicant: Mr. \_\_\_\_\_ Date of Birth \_\_\_\_\_  
(First) (Middle) (Last) (Mo.) (Day) (Yr.)
- (2) Current home address of person signing \_\_\_\_\_
- (3) Give name of firm, partnership, association or corporation you will be licensed with as broker. (If applying as individual, so state.) \_\_\_\_\_
- (3a) Give address of main office \_\_\_\_\_  
(Number & Street) (City & State) (Zip) (Phone)
- (4) If not applying as an individual, this application MUST be accompanied by either a C-1, C-2, C-3 or an Associate Broker application.
- (5) Have you been licensed in Virginia at any time since January 1, 1925? \_\_\_\_\_ (Yes or No)
- (6) Have you ever applied for a Real Estate License in Virginia? \_\_\_\_\_ (Yes or No)
- (7) Have you been convicted, within the past five years, in a court of competent jurisdiction of this or any other state, or of the District of Columbia or of the United States, of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, bribery, burglary, robbery, a felony involving personal injury to a victim, or other like offense or offenses, or plead guilty or nolo contendere to any such offenses, or having been convicted for violation of Chapter 5, Title 36, Virginia Fair Housing Law, as provided in Virginia Code § 36-95.2, there being no appeal pending therefrom or the time therefor having elapsed? \_\_\_\_\_ If 'Yes', give full particulars on separate sheet of paper.  
(Yes or No)
- (8) State if you have ever been convicted of a criminal offense other than a minor traffic violation, or if there is any such charge now pending against you, or any member or officer of your firm, partnership or corporation: \_\_\_\_\_ (Yes or No)  
If 'Yes', give full particulars on separate sheet of paper.
- (9) Have you ever been licensed as a real estate broker or salesman in any State? \_\_\_\_\_ (Yes or No)  
If answer is 'Yes', give name of state or states \_\_\_\_\_  
Current Certification of Licensure is required before Virginia license will be issued. See item 5 on waiver sheet.
- (10) Has any complaint been filed against you by this Commission or that of any other State during the past three years? \_\_\_\_\_ (Yes or No)  
If 'Yes', give full particulars on separate sheet of paper.

DO NOT WRITE BELOW THIS LINE

FOR OFFICE USE ONLY:					
CHECK #	CHECK AMT.	BATCH #	BATCH DATE	REC.	LIC.

10/83

(11) Are you now a party, either complainant or defendant, in any litigation involving a real estate transaction with which you were connected as a real estate broker or salesman?  
\_\_\_\_\_ Yes or No

(12) Have you ever been refused a real estate license in any state? If 'Yes', which state? \_\_\_\_\_

(13) Are you now licensed in any state as a broker or salesman? If 'Yes', which state? \_\_\_\_\_

(14) Give complete list of all places of residence and where engaged in business during the past five years and length of such residence and business engagement in each place consisting of 60 days or more:

Number & Street	RESIDENCE	CITY-STATE	FROM	TO
			Mo. Day Yr.	Mo. Day Yr.

Number & Street	TYPE OF BUSINESS	CITY-STATE	FROM	TO
			Mo. Day Yr.	Mo. Day Yr.

The applicant, being duly sworn according to law, depose and say that the answers above set forth are true to the best of my knowledge and belief and that the information contained in this application is given for the purpose of being issued the license applied for and I thoroughly understand that after the license applied for has been issued, if the information contained in this application is false, such license may be revoked. I also certify that I will promptly return certificate and license when required by the Commission, and to conform to all rules and regulations promulgated by the Commission.

State of \_\_\_\_\_ (Signature of Applicant)  
Sworn and subscribed to before me at \_\_\_\_\_ City/County this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

(Notary Public)

(My commission expires)

If notarized outside of Virginia, must show seal.

10/83

VIRGINIA REAL ESTATE COMMISSION  
 3600 West Broad Street  
 Richmond, Virginia 23230  
 Toll Free in Virginia 1-800-552-3016  
 TYPE OR PRINT

REPLY: Attn: CC-450

APPLICATION FOR LICENSE AS ASSOCIATE BROKER IN EMPLOY OF PROPRIETARY BROKER  
 BEFORE ANSWERING QUESTIONS, READ CAREFULLY

- I hereby request a license for one of the following reasons (check one)
  - To originate license through examination filed with Original Broker License Application
  - To activate an inactive broker license filed with Activate Form
  - To change status from Proprietary Broker to Associate Broker
  - To license through reciprocity filed with Original Broker License Application
  - To obtain Additional Broker License filed with License Application

2. Legal name of applicant \_\_\_\_\_  
 (First) (Middle) (Last)

3. Home address \_\_\_\_\_  
 (Street & No.) (City) (State) (Zip) (PHONE)

4. Firm name \_\_\_\_\_

5. Address of Main Office \_\_\_\_\_  
 (Street & No.) (City) (State) (Zip) (PHONE)

I, the applicant, being duly sworn according to law, depose and say that the answers set forth are true to the best of my knowledge and belief and that the information in this application is given for the purpose of being issued the license applied for. I thoroughly understand that after the license applied for has been issued, if the information contained in this application is false, such license may be revoked. In such event, I do agree to promptly return my license when required by the Commission; and further agree to conform to all Rules and Regulations of the Commission.

STATE OF \_\_\_\_\_  
 \_\_\_\_\_ (SIGNATURE OF APPLICANT)

Sworn and subscribed to before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
 \_\_\_\_\_ City/County My commission expires \_\_\_\_\_  
 (Notary Public)

6. I hereby authorize \_\_\_\_\_ to apply for a license as a real estate Associate Broker to be employed by \_\_\_\_\_ and to do whatever necessary to obtain such a license, and I hereby assume joint responsibility with Associate Broker Applicant.

In my opinion, the applicant has a good reputation for honesty, integrity and fair dealing, and I do unreservedly recommend that an associate broker license be granted to the aforementioned applicant as a person worthy of confidence.

I have read Virginia Code Section 54-733; and Section 6.1 of the Regulations of the Virginia Real Estate Commission. I do hereby certify that I maintain a place of business in Virginia in accordance with Virginia Code Section 54-733; that my place of business is located in an office or headquarters where I conspicuously display my license and the licenses of my employees and at or from which I or my employees regularly transact the real estate business and where I and my employees can receive business calls and direct business calls to be made. My place of business is properly identified in accordance with the requirements of Section Regulations of the Virginia Real Estate Commission.

I, \_\_\_\_\_ the undersigned, a licensed Real Estate Broker in the Commonwealth of Virginia, being duly sworn according to law, depose and say that the statements made and the answers to questions set forth above are true to the best of my knowledge. I INTEND TO EMPLOY THE APPLICANT WHEN QUALIFIED FOR LICENSE.

\_\_\_\_\_ (SIGNATURE OF EMPLOYING BROKER)

STATE OF \_\_\_\_\_

SWORN and subscribed to before me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
 \_\_\_\_\_ City/County  
 NOTARY PUBLIC  
 My commission expires \_\_\_\_\_

NO FEE THE VIRGINIA REAL ESTATE COMMISSION REPLY: ATTN: CC-450  
 3600 West Broad Street  
 Richmond, Virginia 23230  
 Toll Free 1-800-552-3016

APPLICATION TO ACTIVATE INACTIVE BROKER LICENSE

\*\*\*\* MUST ATTACH COPY OF INACTIVE STATUS CARD \*\*\*\*

NOTE: Before answering questions, READ CAREFULLY. Answers are to be typewritten or printed.

1. Legal name of applicant \_\_\_\_\_  
 (First) (Middle) (Last)

2. Current home address \_\_\_\_\_  
 (Number & Street) (City/State/Zip) (Phone)

3. Give name of firm, partnership, association or corporation applicant is to be licensed by as broker. (If applying as individual, so state.) \_\_\_\_\_

4. Give address of main office \_\_\_\_\_  
 (Number & Street) (City/State/Zip) (Phone)

5. If not applying as an individual, this application MUST BE ACCOMPANIED BY EITHER A C-1, C-2, C-3 or an Associate Broker Application.

6. Has any complaint been filed against you with this Commission or that of any other state or the District of Columbia during the past five years? Yes or No? \_\_\_\_\_  
 If "Yes" give full particulars on separate sheet of paper.

7. Are you now a party, either complainant or defendant, in any litigation involving a real estate transaction with which you were connected as a real estate broker or salesman? Yes or No? \_\_\_\_\_

8. Are there any judgments or garnishments now outstanding against you? Yes or No? \_\_\_\_\_

9. Have you been convicted, within the past five years, in a court of competent jurisdiction of this or any other state, or of the District of Columbia, or of the United States, of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, bribery, burglary, robbery, a felony involving personal injury to a victim, or other like offense or offenses, or pleading guilty or nolo contendere to any such offenses, or having been found guilty of a violation of Chapter 5, Title 36, Virginia Fair Housing Law, as provided in Virginia Code Section 36-95.2, there being no appeal pending therefrom or the time therefor having elapsed? Yes or No? \_\_\_\_\_

10. State if you have ever been convicted of any criminal offense other than a minor traffic violation, or if there is any such charge now pending against you, or any member or officer of your firm, partnership or corporation: Yes or No? \_\_\_\_\_ If "Yes", give full particulars on separate sheet of paper. Statement not needed if already on file.

1. Have you ever been refused a real estate license in any state? Yes or No? \_\_\_\_\_  
 If "Yes", which state(s)? \_\_\_\_\_

COMPLETE ON REVERSE SIDE

Proposed Regulations

REPLY: Attn: CC-450

THE VIRGINIA REAL ESTATE COMMISSION  
3500 West Broad Street  
Richmond, Virginia 23230

To be executed by non-resident Real Estate Salesperson or Broker

CONSENT TO SUITS AND SERVICE OF PROCESS  
(Section 54-773, Code of Virginia, 1950)

READ CAREFULLY BEFORE ANSWERING QUESTIONS AND EXECUTING AFFIDAVIT. ALL ANSWERS MUST BE COMPLETE AND TYPEWRITTEN/PRINTED.

Name of applicant: \_\_\_\_\_  
Legal Residence Address: \_\_\_\_\_  
Number/Street City/State Zip

WHEREAS, I, the above-named applicant for license privilege as salesman ( )/associate broker ( )/or broker ( ) trading and/or operating individually or for or under the firm name of \_\_\_\_\_ have made application for a license to act as a real estate salesman ( )/associate broker ( )/or real estate broker ( ) Non-Resident, within the State of Virginia, in accordance with the provisions of Chapter 18, Title 54, Code of Virginia, 1950.

WHEREAS, under the provisions of said Chapter, it is necessary to file in the Executive Office, Richmond, Virginia, of the Virginia Real Estate Commission, with its Secretary, a consent that suits and actions may be commenced and prosecuted against the subscriber(s) hereto in any of the courts of record of the State of Virginia, by the service of any process or pleading authorized by the laws of said State of Virginia, on the Secretary of the Virginia Real Estate Commission, the service of such process and pleading on such Secretary to be taken and held in all courts legal and valid as if made on the subscriber(s) hereto within said State, and that such consent shall be irrevocable;

NOW, THEREFORE, I \_\_\_\_\_ the above-named applicant for license privilege as salesman ( )/associate broker ( )/or broker ( ) as aforesaid, hereby execute and file with the Secretary of the Virginia Real Estate Commission my/our Irrevocable consent that suits and actions may be commenced against the subscriber(s) either individually, or as co-partners or members of said firm or partnership in any of the courts of record of the said State of Virginia, by the service of any process or pleading authorized by the laws of the said State of Virginia, on the Secretary of the Virginia Real Estate Commission, and it is hereby stipulated and agreed that such service of such process or pleading on said Secretary shall be taken and held in all courts to be as valid and binding as if due service had been made upon the subscriber(s) hereto personally within the State of Virginia.

Signature of applicant \_\_\_\_\_  
Legal Residence Address: \_\_\_\_\_  
Number/Street City/State Zip

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me the subscriber, personally appeared \_\_\_\_\_ who is known to me to be the person named in and who signed the foregoing instrument, and who acknowledged that he/she signed the same as his/her voluntary act and deed for the uses and purposes therein expressed.

STATE OF: \_\_\_\_\_ (Notary Public)  
CITY/COUNTY OF: \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

Notary Seal if outside Virginia

10/83

12. Are you now licensed in any state as a broker or salesman? Yes or No? \_\_\_\_\_  
Yes, which state(s) \_\_\_\_\_

Current Certification of Licensure from EACH state where you are or ever have been licensed is required before the Virginia license will be issued.

13. Name and address as last actively licensed \_\_\_\_\_

14. Give position to be held by applicant \_\_\_\_\_  
See Item 5.

STATE OF \_\_\_\_\_

The applicant being duly sworn according to law, deposes and says that the answers on this application are true to the best of his/her knowledge and belief and that the information in this application is given for the purpose of being issued the license applied for. He/she thoroughly understands that after the license applied for has been issued, if the information contained in this application is false, such license may be revoked.

Signature of Applicant \_\_\_\_\_  
Sworn and subscribed to before me at \_\_\_\_\_ City/County \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
My commission expires \_\_\_\_\_  
Notary Public

BEFORE MAILING THIS APPLICATION PLEASE READ

- 1. At the time you activate your license, the Recovery Act Fee is due. If you are not sure it was recently paid, please call the Commission.
- 2. If your license has been inactive 3 years or more, please call the Commission concerning meeting current education requirements (Section 11.1), before submitting this application.

10/83

THE VIRGINIA REAL ESTATE BOARD  
3600 West Broad Street  
Richmond, Virginia 23220  
Toll Free 1-800-552-3016

FORM C-1  
CERTIFICATE OF OWNERSHIP  
PARTNERSHIP OR ASSOCIATION

Name of Firm \_\_\_\_\_  
Address of Firm \_\_\_\_\_ Street and No. \_\_\_\_\_ City and Town \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Names of Associate(s) or Partners(s)	Legal Residence	Post Office	State	Percentage of Business

**\*\* ALL ACTIVE PARTNERS MUST BE BROKERS \*\***

REGULATION 1.6  
I certify that the above information is correct to the best of my knowledge and belief, and is given for the purposes of securing a license to act as a real estate broker in the Commonwealth of Virginia.

Date \_\_\_\_\_ Signature of Partner or Associate \_\_\_\_\_

PRINCIPAL BROKER \_\_\_\_\_

Trade Name \_\_\_\_\_  
BUSINESS ADDRESS \_\_\_\_\_  
INDIVIDUAL TRADING UNDER AN ASSUMED OR FICTITIOUS NAME

REGULATION 1.5  
I hereby certify that I am the sole owner of the above described real estate brokerage firm. I further certify that I have complied with the provisions of § 59.1-69, Code of Virginia, in that I have filed the Certificate provided for therein with the Clerk of the Court in the political subdivision in which my place of business is located.

Attest: \_\_\_\_\_ Signature of REAL ESTATE BROKER \_\_\_\_\_

Clerk of Court \_\_\_\_\_ Residential Address - STREET \_\_\_\_\_

Date \_\_\_\_\_

FEE: \$70.00 THE VIRGINIA REAL ESTATE BOARD FEE: \$70  
3600 West Broad Street  
Richmond, Virginia 23220  
REPLY: AGEN. CC-490  
TOLL FREE 1-800-552-3016

ORIGINAL APPLICATION FOR BROKERS LICENSE  
FOR  
CORPORATIONS-PARTNERSHIPS-ASSOCIATIONS

Please Type or Print \_\_\_\_\_  
I. Name of Firm, Partnership, Association or Corporation. \_\_\_\_\_ Phone No. \_\_\_\_\_

Main Place of Business \_\_\_\_\_  
(Include street number, city/county, state, zip code)

Designated Principal Broker \_\_\_\_\_

ATTACH A COPY OF CORPORATION CHARTER. A FOREIGN VIRGINIA CORPORATION MUST ALSO ATTACH A COPY OF REGISTRATION CERTIFICATE FROM THE STATE CORPORATION COMMISSION OF VIRGINIA  
PLEASE MAKE CHECK PAYABLE TO THE "TREASURER OF VIRGINIA" (Includes Recovery Act Assessment)

II. Give name and address of all officers and indicate in the appropriate box whether officer active or inactive in firm's brokerage business.

Name	Address	Title	Active	Inact:
1. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
2. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
3. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
4. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
5. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
6. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
7. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
8. _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

I, duly authorized representative of \_\_\_\_\_ being duly sworn according to law, depose and say that the answers above set forth are true to the best of my knowledge and belief and that application is made for the purpose of inducing the issuance of license requested.

Typed Name and Signature of Applicant \_\_\_\_\_  
(Active Officer)

Sworn and subscribed to before me at \_\_\_\_\_ (City or County and State) \_\_\_\_\_, 19\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

THE VIRGINIA REAL ESTATE BOARD  
 3600 West Broad Street  
 Richmond, Virginia 23230  
 REPLY: Attn: CC-490  
 Toll Free 1-800-552-3016

FORM C-3  
 CORPORATION

THE VIRGINIA REAL ESTATE BOARD  
 3600 West Broad Street, Richmond, Virginia 23230  
 Toll Free (VA only) 1-800-552-3016

APPLICATION FOR FIRM CHANGE OF NAME OR ADDRESS  
INSTRUCTORS

Please Type or Print

Check Appropriate Block(s):

- New Corporation       Change of Officers of Corporation       Computer Request  
 Change of Corporation Name/Address       Change of Principal Broker

Corporate Name: \_\_\_\_\_

Address of Main Place of Business: \_\_\_\_\_

Each corporation, acting as a real estate broker in accordance with § 54-749, Code of Virginia shall execute the following Certificate:

NOTE: SHOW ACTIVE OFFICERS ON THIS SHEET. ALL ACTIVE CORPORATE OFFICERS MUST BE BROKERS. Continue on additional sheet if necessary.

Officers of Corporation:

Name of Each Officer	Title	Legal Residence	City/State/Zip	Status in Brok	
				Active	Inacc

Principal Broker: \_\_\_\_\_

Board of Directors:

Name of Each Director	Legal Residence	City/State/Zip

I hereby certify that the above information is correct to the best of my knowledge and belief and is given for the purpose of securing a real estate broker's and/or salesperson's license the officers and employees of the said corporation.

\_\_\_\_\_  
 Typewritten Name and Signature of President of Corporation

ATTEST: \_\_\_\_\_ DATE: \_\_\_\_\_  
 Secretary

In fac

- Complete only one form.
- Individual changes of status (change in home address or affiliation) must be submitted separately on the appropriate form. If change of affiliation is not submitted prior to this application, the firm will receive a license for that licensee.
- The principal broker's notarized signature is mandatory.
- Attach all sales and broker licenses, in alphabetic order, by surname.
- Attach firm license.
- Return to the Virginia Real Estate Board, Attention CC-490.
- There is no fee.
- Licenses will be issued for the firm as well as all salespersons and brokers.
- Request for:  Change of Firm Name  Change of Firm Address

PRESENT FIRM LICENSE INFORMATION

- Firm Name \_\_\_\_\_ (Phone) \_\_\_\_\_
- Firm Address \_\_\_\_\_  
 (Number and Street) (City/State/Zip)

NEW FIRM LICENSE INFORMATION

- Firm Name \_\_\_\_\_ (Phone) \_\_\_\_\_
- Firm Address \_\_\_\_\_  
 (Number and Street) (City/State/Zip)

Supervising Broker--Printed/Typed \_\_\_\_\_ Supervising Broker--Signature \_\_\_\_\_

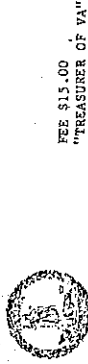
Date \_\_\_\_\_ Broker License Number \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

My commission expires: \_\_\_\_\_

9/86

\_\_\_\_\_  
 Notary Public



COMMONWEALTH OF VIRGINIA

FEE \$15.00  
"TREASURER OF VA"

FEE \$15.00  
"TREASURER OF VA"

Department of Commerce  
3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23226-4917  
TELEPHONE (804) 297-8200  
TOLL FREE 1 (800) 552-5015

DAVID R. HATHCOCK  
Director  
THE VIRGINIA REAL ESTATE BOARD

APPLICATION FOR BRANCH OFFICE LICENSE

(PLEASE TYPE OR PRINT)

1. Name of Applicant (Principal Broker): \_\_\_\_\_
2. Name under which applicant conducts business: \_\_\_\_\_
3. Give address of principal place of business (Street & Number, City or Town, State): \_\_\_\_\_  
Telephone: \_\_\_\_\_
4. State the location for which branch office license is requested (Street & Number, City or Town, State): \_\_\_\_\_  
Telephone: \_\_\_\_\_
5. Name, home address, and license number of real estate broker who will supervise branch office: \_\_\_\_\_  
Telephone: \_\_\_\_\_

Regulation 3.2 states that only the branch office license shall be maintained at the branch office location.

The applicant above named, deposes and says he/she is the applicant above named or is a member of the partnership, or an officer of the corporation in behalf of which the above application is made, that he/she has read the foregoing application and the answers hereon noted, that such answers are true to his/her knowledge except as to any matter therein stated to be alleged upon information and belief and that as to such matter he/she believes it to be true, and that he/she personally attached his/her signature to this affidavit.

Date: \_\_\_\_\_ (Signature of Applicant/Principal Broker)

VREC 39: ABOL.1

Reply Attn: CC-690  
NO FEE  
THE VIRGINIA REAL ESTATE COMMISSION  
3600 West Broad Street  
Richmond, Virginia 23230  
Toll Free 1-800-552-3016

APPLICATION FOR TRANSFER OF LICENSE DUE TO

- Change of Affiliation \_\_\_\_\_
- Change of Firm Name \_\_\_\_\_
- Change of Firm Address \_\_\_\_\_

Applicant Certificate Number \_\_\_\_\_ Phone Number \_\_\_\_\_  
Name of applicant \_\_\_\_\_  
Current home address \_\_\_\_\_ (City/State/Zip)

PRESENT LICENSE INFORMATION

1. Firm/Broker Name \_\_\_\_\_ (Phone) \_\_\_\_\_
2. Firm/Broker Address \_\_\_\_\_ (City/State/Zip) \_\_\_\_\_  
NEW LICENSE TO BE ISSUED TO \_\_\_\_\_  
1. Firm/Broker Name \_\_\_\_\_ (Phone) \_\_\_\_\_  
2. Firm/Broker Address \_\_\_\_\_ (City/State Zip) \_\_\_\_\_

PRESENT LICENSE MUST BE RETURNED BY CERTIFIED MAIL FROM THE BROKER TO WHOM IT IS ISSUED. I \_\_\_\_\_, the applicant certify that I have requested my present broker to return my license to the Commission in compliance with Regulation 3.1.5.3.

Date \_\_\_\_\_ Signature of Applicant \_\_\_\_\_  
The applicant will be under my supervision and I believe that he/she is competent to transact business as a \_\_\_\_\_ Broker \_\_\_\_\_ Associate Broker \_\_\_\_\_ Salesman.  
Supervising Broker--Printed/Typed \_\_\_\_\_ Supervising Broker--Signature \_\_\_\_\_  
Date \_\_\_\_\_ Broker Certificate Number \_\_\_\_\_

THIS APPLICATION WILL BE RETURNED IF ALL ITEMS ARE NOT COMPLETED.



COMMONWEALTH of VIRGINIA

Department of Commerce

DAVID R. HATHCOCK  
Director

3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23230 - 4917

TELEPHONE: (804) 257-8500  
TOLL FREE: 1 (800) 652-3016

REGULATION 1.7 - DUPLICATE LICENSES

PLEASE COMPLETE THIS FORM AND RETURN WITH APPLICATION FOR CORPORATION-PARTNERSHIP, C-#3 OR C-#1 FORM, AS APPLICABLE, AND \$70.00 FEE.

IF APPLYING AS INDIVIDUAL TRADING UNDER AN ASSUMED OR FICTITIOUS NAME, SUBMIT WITH C-#2 FORM. NO FEE REQUIRED.

PLEASE NOTE: REGULATION 3.1.7 - OFFICE SUPERVISION

Virginia Real Estate Commission  
3600 West Broad Street  
Richmond, Virginia 23230

Dear Commissioners:

I am currently principal broker for \_\_\_\_\_

CERTIFICATE NUMBER \_\_\_\_\_, and I will also be principal  
broker for \_\_\_\_\_

DATE: \_\_\_\_\_ CERTIFICATE NUMBER OF PB \_\_\_\_\_

\_\_\_\_\_  
Signature of Principal Broker

ACT National Real Estate  
Examination Services

Candidate Information Booklet



ACT

Table of Contents

Introduction .....	1	Test Dates .....	7
Description of the Examinations .....	2	Application Guidelines and Procedures .....	8
Format 1 .....	2	Your Admission Ticket .....	8
Format 2 .....	3	Change of Test Center .....	8
Content Outline of the National Examinations .....	4	Makeup Testing .....	8
Sample Questions .....	5	Admission and Identification on Test Day .....	8
Guidelines for Taking the Real Estate Examinations ..	7	Test Center Regulations .....	8
Examination Administration Procedures .....	7	Score Reports .....	9
Eligibility for the Examinations .....	7	Score Averaging .....	9
Applying for the Examinations .....	7	Requests for Duplicate Score Reports .....	9
Special Testing .....	7	Handscoring .....	9
Test Centers .....	7	Correspondence .....	9
		Real Estate References .....	10
		Sample Examination Request Form .....	11

The American College Testing Program provides a range of services to the states that use its Real Estate Examination Services. In many of these states ACT provides registration, test administration, and examination scoring services, while in others, ACT provides only the examinations themselves. Consequently, some of the material contained in this booklet may not describe fully the administrative procedures used in the state in which you wish to be licensed. For specific information regarding examination eligibility, registration, and licensing policies, contact the licensing authority in the state in which you are seeking licensure.

This booklet contains information that you will need to apply for your state's real estate licensing examination. Please read all information carefully. Be sure to keep the booklet after you have applied for the examination; you may wish to refer to it after you have taken the examination.



# Proposed Regulations

## Description of the Examinations

The ACT Real Estate Examination Services program was opened in 1977 in response to requests by states for professionally prepared licensure examinations for salespersons and brokers which accurately reflect the knowledge of current laws and procedures in the field of real estate. The program was developed with the express goal of presenting the examinees with realistic situations through which they could use their knowledge to demonstrate their mastery of the elements necessary to become real estate licensees.

The real estate tests are developed through a combined effort of real estate experts and testing professionals. The questions developed for the real estate examinations are written by real estate experts who are real estate practitioners and educators. After the questions are written, they are reviewed by experts in the fields of both real estate and testing to ensure that the questions are accurate in their content, as well as representative of good question writing procedures.

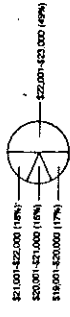
Representatives from states participating in the ACT Real Estate Examination Services program review the questions in the examinations to be certain that the content of the questions is accurate and relevant to the real estate practices in their own states. Finally, all questions are revised and updated on a continuing basis so that they reflect the current laws and practices of the changing real estate field.

The Real Estate Examination Services program includes the development of both National Real Estate Examinations for brokers and salespersons and state real estate examinations for brokers and salespersons. The National Real Estate Examinations are designed to measure the knowledge and skills relevant and common to virtually all states. Descriptions of the National Examinations are provided later in this booklet.

## Introduction

In general, applicants seeking licensure in a state using the National Examinations will also take an examination which includes questions that cover the same basic knowledge that participants in the state real estate examinations have. Some of the states using the ACT National Examinations have elected to prepare their own state examinations while others use state examinations prepared by ACT. The state examinations that are developed by ACT as part of the Real Estate Examination Services program are similar to the National Examinations in the format and question types used. Each state examination is intended to test those aspects of real estate law specific to that state. Since real estate laws differ somewhat among states, the state examinations are unique to the particular state for which they are developed. To help ensure the appropriateness of the state examinations prepared by ACT, the questions are written principally by real estate professionals in those states. The questions are reviewed by the state licensing agencies to ensure their validity.

2. In 1980, restaurants in one city produced annual net incomes in the proportions shown below.



If all of the city's restaurants were appraised using an 11 percent capitalization rate, what proportion of the city's restaurants were valued in the \$181,827 to \$190,509 price range?

- A. 16%
- B. 17%
- C. 18%
- D. 49%

(The correct answer to this question is A. By applying the 11 percent capitalization rate to the various incomes shown in this chart, you will discover that only 16 percent of the 100 restaurants, or 16 restaurants, were valued in the \$181,827 to \$190,509 price range. The chart clearly shows that 16 percent of the annual net income range of \$20,001-\$22,000 comprises 16% of the restaurants in this city.)

### Format 1

In this format, a question or an incomplete statement is followed by four possible answer choices or completions. The following four questions are examples of this format.

1. The Bairds apply for a \$30,000 loan to buy a grocery store. Is this transaction covered by Regulation Z?
  - A. No, because only transactions of \$25,000 or less are covered.
  - B. No, because business loans are not covered.
  - C. Yes, because all real estate credit transactions are covered.
  - D. Yes, because the purchase of commercial property by individuals, but not firms, is covered.

(The correct answer to Question 1 is B. Response A is incorrect because a \$25,000 maximum applies only to credit transactions for family, household, or agricultural uses. Responses C and D are incorrect because commercial loans are not covered by Regulation Z.)

3. Functional obsolescence in a single-family home would most likely be caused by:
 

- A. space heaters used as the sole heating source.
- B. a change in zoning which allows an industrial park to be built next door.
- C. a leaky roof.
- D. a weak foundation caused by termite damage.

(The answer to Question 3 is A. Response B describes a loss in value that is attributable to external obsolescence, since the cause is outside the property itself. Responses C and D are problems that occur as a result of deterioration, not obsolescence, and are, therefore, incorrect.)

4. All of the following are activities of urban planning boards EXCEPT:

- A. preparing assessed valuations of properties.
- B. modifying zoning regulations.
- C. controlling the development of land.
- D. giving advice on traffic facilities.

(The correct answer to Question 4 is A. Planning boards regulate the use and development of property. As a result, they regulate zoning (B), development of land (C), and traffic facilities (D). Assessed valuations (A) are prepared by assessors' offices, not planning boards.)

2. Which of the following is the most appropriate order of steps that a property manager should usually follow in seeking tenants for a residential apartment building?

- Determining the means of promotion or the appropriate advertising media to be used
- Identify the potential market of renters for the property
- Evaluate the property and compare it to competitive properties

- I, II, III
- II, III, I
- III, II, I
- III, I, II

(All three steps are part of the process of seeking tenants. However, response D is the correct ordering of the steps because a property manager should first evaluate the property's assets to find out what the current demand is for that kind of property. Then, the property manager should identify who the potential renters are and direct the advertising at that market.)

3. What do the following people have in common?

- A person who has received the right-of-way to cross adjoining land owned by a corporation
- A person who has received permission to drive across a neighbor's farm to get to a highway
- A residential homeowner who shares a driveway with a neighboring property owner

- They all have a leasehold estate in land.
- They all have easements appurtenant.
- They all have encroachments.
- They all have restrictions.

(Since all three persons hold a right in another's land that attaches to the owner's land, the correct answer is B. No other choice adequately characterizes all three examples.)

You should notice that each of the preceding examples, although similar in format, asks you to do something different. Question 1 asks you to do something different. Question 1 asks you to apply knowledge to a situation specified in the question. Question 2 asks you to read a graph in order to obtain basic information needed to select the correct answer. Question 3 asks you to complete the statement by choosing a cause of an action or event. Question 4 asks you to complete the statement by choosing the exception or the response that is not like all of the others.

### Format 2

In this format, a question or incomplete statement is followed by several options labeled with Roman numerals. The question is followed by the four answer choices. The following three questions are examples of this format.

1. Which of the following written documents is/are necessary for a mortgage loan to be enforceable?

- A waiver of the right of redemption that sets forth what steps may be taken if the borrower defaults
- The borrower's promise to pay the mortgage
- The borrower's promise to give the property to the mortgagee as security for the debt

- I only
- II only
- I and III only
- I, II, and III

(The correct answer to Question 1 is C. Option I is incorrect because a waiver of the right of redemption is not necessary for a mortgage loan. Option II is correct because the borrower must give a pledge that creates personal liability for payment. Option III is also correct since there must be a lien on the property as security for the debt. Both II and III must be present for the mortgage to be enforceable; thus, response C is correct.)

**Content Outline of the National Examinations**  
Both the National Salesperson and Broker Examinations are based upon four major content areas. Although the topics included in each of the major content areas are the same for the Salesperson and Broker Examinations, the emphasis devoted to the content areas differs in the two examinations.

Each of the content areas is briefly described below and is followed by an outline of the topics it includes. In addition, the approximate percentage of questions devoted to each of the Salesperson and Broker Examinations is indicated for each major content area. Both the National Salesperson Examination and the National Broker Examination are composed of 100 questions. Approximately 10% of the questions in each question booklet and in the examinations are not necessarily drawn to scale and are assumed to lie in a plane unless otherwise stated.

### I. Property Ownership, Transfer, and Use

Salesperson Examination—36%  
Broker Examination—25%

- Nature of real property
  - Methods of legal description
- Parties dealing with interests in real property
- Capacity: insane and incompetent persons, minors
  - Individuals
  - Corporations
  - Partnerships
- Land titles and interests in real property
- Fee simple, ownership in severalty
  - Life estate, tenancy in common, tenancy by the entirety
  - Leasehold interests
- Special interests relating to real property
- Easements
  - Mortgages and mortgage clauses
- Special relationships between persons holding interests in land
- Fiduciary
  - Priority of liens
  - Encroachments
  - Restrictions
  - Mechanic's liens
- Attachment and transfer of real estate
- Contracts and agreements
  - Characteristics of enforceable real estate
  - Elements of property descriptions
  - Purchase price
  - Standard printed clauses
- Options
  - Deeds
  - Adverse possession
  - Court action

- Public land use control
- Planning and zoning
- Property taxation
- Eminent domain
- Water rights
- Health and safety codes in building examinations

### II. Brokerage and Laws of Agency

Salesperson Examination—30%  
Broker Examination—30%

- Real estate agency
  - Nature of distinctions between types of agents
  - Creation of agency relationships
  - Duties of agent toward principal
  - Duties of agent toward third parties
  - Duties enforced by licensing authorities
  - Rights of agent in relation to principal(s)
  - Termination of agency
- Federal fair housing laws
  - Federal Real Estate Settlement Procedures Act
- Property management
  - Management contracts
  - Rentals and leases
  - Repairs and maintenance

### III. Valuation and Economics

Salesperson Examination—17%  
Broker Examination—25%

- Concepts and purposes of appraisal
- Appraisal techniques
- Depreciation
- Principles of real property value
- The appraisal process
- Economic trends
- Neighborhood analysis
- Site analysis and valuation
- Gross rent multiplier
- Principles of capitalization
- Market data approach
- The appraisal report
- Real estate economics and trends in land use

### IV. Finance

Salesperson Examination—17%  
Broker Examination—20%

- Mortgage lending agencies
- Government mortgage institutions
- Mathematics of financial practice
- Federal truth-in-lending legislation
- Principles of finance

# Proposed Regulations

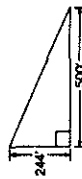
## Sample Questions

The following questions illustrate the questions used in the National Salesperson and Broker Examinations. Above each question is a brief description of the topics being tested; the topics refer to the content outline on pages 2-3 of this booklet. These sample questions are contained in the full range of the National Examinations. They are included to help you become familiar with the types and formats of questions described on pages 2-3. Read each question, and decide which answer is best. You may then check your answers with the answer key that follows question 10.

Additional sample questions are available in the Sample National Real Estate Examination. The Sample National Examination may be used as a practice exercise to help you become familiar with the types of questions you will encounter on the National Examinations. Please note, however, that none of the questions in this booklet or in the Sample National Examination will appear on the forms of the National Examinations actually administered to examination candidates.

### Nature of Real Property

- Baird bought an industrial lot shaped as in the figure shown below. If Baird buys a lot of the same size and shape next to the first lot, approximately how many total acres will be in the two lots combined?



- A. 2.8
- B. 3.2
- C. 5.6
- D. 7.0

### Contracts and Agreements

- What do the following examples have in common?
  - Carr gains title to Dole's property by adverse possession.
  - Howe's property is sold at a foreclosure sale.
  - A court-ordered partition sale of property owned by Baird and Spence is held.
- They are all examples of adverse possession.
- They are all examples of the transfer of title by sale.
- They are all examples of the involuntary transfer of title.
- They will all require the use of a quit claim deed to transfer title.

## Real Estate Agency

- In general, a broker who receives earnest money deposits is required to do all of the following EXCEPT:
  - allow the state to conduct an audit of the broker's trust account at any time.
  - accurately account for all earnest money deposits placed in the broker's personal bank accounts.
  - maintain a special account at a bank to be used only for such deposits.
  - keep any promissory notes unattached at the broker's request as long as the seller is informed of this in writing when the offer is presented.

## Eminent Domain

- Baird's motorcycle racetrack has been condemned by the city so that the land can be used to build a better approach to the municipal hospital's emergency entrance. Which of the following powers is the city exercising?
  - Power of attorney
  - Police power
  - Eminent domain
  - Escheat

## Principles of Capitalization

- An investor is considering the purchase of a shopping center. An estimate of the value of the real property should be:
  - based on the capitalization of projected future net income.
  - based on the depreciated cost of improvements plus the land value.
  - proportional to the location of the building.
  - inversely proportional to the property's remaining physical life.

## Gross Rent Multiplier

- For which of the following reasons is the gross rent multiplier a relatively INEFFECTIVE appraisal method?
  - It makes no allowances for vacancies.
  - It is sometimes based on estimated rents.
  - It does not consider expenses.
  - All of the above

## Government Mortgage Institutions

- Carr used her VA guarantee to purchase a home. Baird sold this home, paid off the mortgage, and turned the title over to another, more expensive home. Which statement about the financing of this second home is true?
  - Carr may use a full, new VA guarantee to finance her home because she has repaid the first loan.
  - Carr must wait to use a VA-guaranteed loan before she can buy another home within a specified period of time.
  - Carr may use only one-half of her VA entitlement because VA loans on second homes are guaranteed for one-half of the original entitlement.
  - Carr may not use a VA-guaranteed loan because they are available only for mortgage loans on first homes.

## Mathematics of Financial Practice

- Dole borrowed \$12,000 and gave the lender a straight note secured by a mortgage against the home. Dole made monthly payments of interest computed on a 7 percent annual rate for the full term of the note. The total interest payments were \$2,100. The term of the note was for how many months?
  - 27
  - 30
  - 33
  - 36

## Federal Fair Housing

- A salesperson deliberately shows a religious buyer homes in only one subdivision where most of the people of the buyer's faith live. Has the salesperson violated any law?
  - Yes, because a salesperson must show a prospective buyer homes in at least three different areas.
  - Yes, because a salesperson cannot discriminate on the basis of religion when showing property to a buyer.
  - No, because the salesperson's broker is responsible for any violations of law.
  - No, because there was no intent to discriminate on the basis of race or national origin.

## Federal Real Estate Settlement Procedures Act

- The Real Estate Settlement Procedures Act requires that on a residential first mortgage loan:
  - settlement costs be disclosed if a federally regulated lender is involved.
  - the FHA pay legal fees for anyone who cannot afford to hire a lawyer at closing.
  - the VA guarantee a mortgage loan for a property larger than 5 acres.
  - no acceleration clause be included in a mortgage loan on a property larger than 5 acres.

Answer Key	
1. A	6. J
2. H	7. A
3. B	8. G
4. H	9. B
5. A	10. F

## Guidelines for Taking the Real Estate Examinations

Please read the following guidelines carefully. They are designed to help you do your best on the real estate examinations.

- Listen closely to all directions. Do not hesitate to ask questions if you do not understand what you are to do.
- Be very precise in marking your answer sheet. Be sure that you blacken the appropriate ovals and that you completely erase any incorrect marks.
- Your responses **must be marked on the answer sheet** if you are to receive credit for them.
- Keep your answer sheet near your test booklet so you can mark answers quickly without moving either the booklet or the answer sheet.
- Read each question carefully. Note such qualifying words in the questions as NOT, EXCEPT, MOST, LEAST, and GREATEST. They are often crucial in determining the correct answer.
- Answer every question. There is no penalty for guessing, so use any clues that you have in choosing an answer.
- When you are unsure of the correct answer to a question, first eliminate every wrong answer you can. Each wrong answer eliminated improves your chances of selecting the correct answer.
- Do not spend too much time on any one question. If a question is too hard for you, choose a reasonable answer and go on to the next question. Work quickly but carefully.

## Examination Administration Procedures

If ACT provides examination administration services, including registration, test center supervision, and examination scoring to the state in which you are seeking licensure, you should read the following section. If you are unsure of whether ACT provides these services in your state, please consult the state licensing agency.

### Eligibility for the Examinations

Eligibility requirements for real estate licensing examinations vary from state to state. Before you apply for the examination, consult your state Application Folder for information about qualifications and/or experience necessary for the real estate examinations in your jurisdiction.

### Applying for the Examinations

Application materials may be obtained from the real estate licensing agency in your state or, in many states, from approved real estate schools. Please review all application materials carefully before you begin completing the application form. Incorrect or incomplete materials will be returned unprocessed.

### Special Testing

ACT and your real estate licensing agency recognize their obligation to make the real estate examinations equally accessible to applicants with physical or mental

handicaps or disabilities. Reasonable accommodation for specific handicaps will be made whenever necessary and possible. However, it is your responsibility to advise ACT of the need for special accommodation or procedures at the time you apply to take the examination. Medical documentation of any handicap is required, and special accommodations may be refused when the applicant fails to provide adequate notice of medical justification.

In states in which the examination is administered by ACT on Saturdays, persons who cannot take the examination on Saturday for religious reasons will be accommodated on a non-Saturday date. Such applicants must request to take the test on an alternate day for religious reasons at the time they submit their application materials. (See your state Application Folder for further information.)

### Test Centers

The number of testing sites varies from state to state. If your state offers several testing sites, every effort will be made to assign you to the test center that you select.

### Test Dates

Test dates and the number of times the examination is offered during the year vary from state to state. Check

your state Application Folder for the dates on which the examination is offered in the state in which you wish to apply.

### Application Guidelines and Procedures

Application materials must be postmarked no later than the published application deadline for the test date you select (see your state Application Folder for the test dates and deadlines for your state). Application materials postmarked after the deadline will not be accepted for that particular test date.

**There are no exceptions to the deadline.** For some states, application materials postmarked after the deadline date, but before the deadline for the next scheduled examination, will be processed for the next examination. For other states, procedures require the return of late materials to the applicant. If your state has this requirement, it will be explained in your state Application Folder.

Registration is also possible in some states through a "late registration" system. This system allows you, for an additional fee, to send registration materials to ACT after the normal postmark deadline. This system is described in your state Application Folder if it is available in your state.

Walk-in testing is available in some states. Walk-in testing allows you to take the test without first preregistering. Walk-in testing entails the payment of an additional fee for this special service. Consult your state Application Folder for information regarding the availability of walk-in testing in your state.

### Your Admission Ticket

Within three weeks after the application deadline, you will receive a Test Center Admission Ticket which will indicate the test center location. If you preregistered for the examination, you must bring your Admission Ticket with you to your assigned test center in order to be admitted.

If you do not receive your Admission Ticket at least one week before the test date, or if you encounter other problems during the application process (lost Admission Ticket, questions about admission), call the telephone number listed in your state Application Folder.

### Change of Test Center

If, after mailing your application materials, you have a legitimate reason to change test centers, you may request a change only after you receive your Test Center Admission Ticket. Test center changes are made (if time and space permit) only after all qualified applicants have been assigned to a test center.

To request a test center change, call the telephone number or write to the address listed in your state Application Folder.

### Makeup Testing

There is no provision for makeup testing. If you are unable to take the examination for which you applied, you must reapply for a later examination or engage in walk-in testing if walk-in testing is available in your state. For information regarding walk-in testing, consult your state Application Folder.

### Admission and Identification on Test Day

The test center supervisor must positively identify each applicant before admission to the test center. When you report on the test day, you must present proper identification that establishes positive proof of your identity. This identification should be in the form of a driver's license, school identification card, or other official identification that bears your photograph and signature.

Some states may require other documents for admission, such as a separate identification card or a school transcript. Be sure to read your state Application Folder carefully and to bring all necessary documentation when you report to the test center.

The supervisor will inspect your Admission Ticket and, if appropriate, any additional documentation you were instructed to bring. If identification is questionable, you may be required to complete additional forms. You will not be admitted for testing without all required identification and documentation.

### Test Center Regulations

Each preregistered applicant must submit an Admission Ticket to be admitted to the test center.

Strict security regulations will be observed at all test centers in order to ensure uniform testing conditions and procedures for all applicants.

In most states, calculators are permitted in the testing room. Check your state Application Folder or ask the licensing agency in your state to be certain that calculators are permitted.

You will be asked to provide your Social Security number on your answer sheet when you take the examination. Disclosure of your Social Security number is optional, but you are encouraged to provide it. The number is used to ensure identification, accessibility, and accuracy of your examination records. Please make sure that you have your correct Social Security number when you report to the test center.

Applicants are not permitted to take books, notes, or similar aids into the examination room. Applicants are not permitted to duplicate or record, by copying, photographing, or any other means, any part of the real estate examinations.

No applicants will be admitted to the testing room after testing has begun.

If you are unable to continue the examination because of illness, you should return the test booklet and the answer sheet to the supervisor, who will mark the answer sheet VOID and indicate on the Irregularity Report that the answer sheet is not to be scored. No special testing arrangements can be made for an applicant in this situation. To apply for a subsequent examination, you must complete all new materials and submit the appropriate fee.

Examinees who give or receive assistance of any kind may have their answer sheets voided.

#### Score Reports

Score reports will be mailed to examinees via first class mail approximately two weeks after each test date. Your score will also be reported to your state licensing agency, and a copy will be kept on file at ACT.

Examination results will not, under any circumstances, be given over the telephone.

#### Score Averaging

It is important to keep in mind that your total score on the National portion is not the average of the subscores provided for each of the four content areas. This is because some content areas contain larger numbers of questions than others. Your total percentage score for either the National portion or the State portion reflects the number of questions that you answered correctly divided by the total number of questions in that portion.

#### Requests for Duplicate Score Reports

Requests for duplicate score reports must be made in writing within a year of the test date. Your request must include all of the following in order to be processed: Social Security number, date of birth, test date and test center, type of examination (broker or salesperson), and signature. The fee for a duplicate score report is \$3.50; be sure to include a check or money order for this amount with your request for a duplicate score report. This request should be sent to: ACT Real Estate Examination Program, Contract Administration (82), P.O. Box 168, Iowa City, Iowa 52243.

#### Handscoring

Because of the sophistication of machine scoring techniques and extensive quality control procedures, errors in the scoring of answer sheets are virtually nonexistent. However, applicants may request to have their answer sheets rechecked by handscoring. Requests for handscoring must be made in writing within two months of the test date and must always include the following information: Social Security number, date of birth, test date, type of examination (broker or salesperson), and signature. Send your request to: ACT Real Estate Examination Program, Contract Administration (82), P.O. Box 168, Iowa City, Iowa 52243.

#### Correspondence

Correspondence and inquiries about policy, research, and test development should be directed to:

ACT Real Estate Examination Services  
Test Development Unit  
P.O. Box 168  
Iowa City, Iowa 52243

## Real Estate References

The references provided below are some of the available relevant study materials for the National Salesperson and Broker Examinations. However, they are not necessarily recommended by The American College Testing Program or by state licensing agencies.

#### Fundamentals of Real Estate Principles and Practices

Case, Frederick E. *Real Estate Brokerage: A System's Approach*. 2nd ed. Englewood Cliffs, N.J.: Prentice-Hall, 1982.

Dasso, Jerome, Alfred A. Ring, and Douglas McFall. *Fundamentals of Real Estate*. Englewood Cliffs, N.J.: Prentice-Hall, 1981.

Ficek, Edmund F., Thomas P. Henderson, and Ross H. Johnson. *Real Estate Principles and Practices*. 3rd ed. Columbus, Ohio: Charles E. Merrill Publishing Co., 1983.

Galaty, Fillmore W., Wellington J. Allaway, and Robert C. Kyle. *Modern Real Estate Practice*. 10th ed. Chicago: Real Estate Education Co., 1985.

Harwood, Bruce. *Real Estate: An Introduction to the Profession*. 3rd ed. Reston, Va.: Reston Publishing Co., 1983.

Harwood, Bruce. *Real Estate Principles*. 3rd ed. Reston, Va.: Reston Publishing Co., 1983.

Ring, Alfred A. and Jerome Dasso. *Real Estate Principles and Practices*. 10th ed. Englewood Cliffs, N.J.: Prentice-Hall, 1985.

Unger, Maurice A. and George R. Karvel. *Real Estate Principles and Practices*. 7th ed. Cincinnati: South-Western Publishing Co., 1983.

Weimer, Arthur M., Homer Hoyt, and George F. Bloom. *Real Estate*. 8th ed. New York: John Wiley & Sons, 1982.

#### Real Estate Finance

Atteberry, William. *Modern Real Estate Finance*. 3rd ed. Columbus, Ohio: Grid Publishing, 1980.

Beaton, William R. *Real Estate Finance*. 2nd ed. Englewood Cliffs, N.J.: Prentice-Hall, 1982.

Dasso, Jerome and Gerald Kuhn. *Real Estate Finance*. Englewood Cliffs, N.J.: Prentice-Hall, 1983.

Dennis, Marshall W. *Mortgage Lending Fundamentals and Practices*. 2nd ed. Reston, Va.: Reston Publishing Co., 1983.

Johnson, Ross H. and Thomas P. Henderson. *Real Estate Finance*. Columbus, Ohio: Charles E. Merrill Publishing Co., 1985.

Sirota, David. *Essentials of Real Estate Finance*. 3rd ed. Chicago: Real Estate Education Co., 1980.

Wiedemer, John P. *Real Estate Finance*. 4th ed. Reston, Va.: Reston Publishing Co., 1983.

#### Real Estate Appraisal

American Institute of Real Estate Appraisers. *The Appraisal of Real Estate*. 8th ed. Chicago: American Institute of Real Estate Appraisers, 1983.

Bloom, George F. and Henry S. Harrison. *Appraising the Single Family Residence*. Chicago: American Institute of Real Estate Appraisers, 1978.

Unger, Maurice A. *Elements of Real Estate Appraisal*. New York: John Wiley & Sons, 1982.

Ventolo, William L., Jr., and Martha R. Williams. *Fundamentals of Real Estate Appraisal*. 3rd ed. Chicago: Real Estate Education Co., 1983.

#### Real Estate Management

Downs, James, Jr. *Principles of Real Estate Management*. 12th ed. Chicago: Institute of Real Estate Management, 1980.

Fulmer, Robert M. and Steven C. Franklin. *Supervision: Principles of Professional Management*. 2nd ed. New York: Macmillan, 1982.

McMichael, Stanley L. and Paul T. O'Keefe. *Leases: Percentage, Short and Long Term*. 6th ed. Englewood Cliffs, N.J.: Prentice-Hall, 1974.

Realtors® National Marketing Institute. *Real Estate Office Management: People, Functions, Systems*. 2nd printing (revised). Chicago: Author, 1985.

#### Real Estate Law

Gibson, Frank, James Karp, and Elliot Klayman. *Real Estate Law*. Chicago: Real Estate Education Co., 1983.

Kratovii, Robert and Raymond J. Werner. *Real Estate Law*. 8th ed. Englewood Cliffs, N.J.: Prentice-Hall, 1983.

Lusk, Harold F. and William B. French. *Law of the Real Estate Business*. 5th ed. Homewood, Ill.: Richard D. Irwin, 1984.

Siedel, George J. III. *Real Estate Law*. St. Paul, Minn.: West Publishing Co., 1979.

#### Real Estate Mathematics

Gaines, George, Jr., and David S. Coleman. *Real Estate Math: Explanations, Problems, and Solutions*. 4th ed. Chicago: Real Estate Education Co., 1985.

Ventolo, William L., Jr., Lynette K. Marks, and Wellington J. Allaway. *Mastering Real Estate Mathematics*. 3rd ed. Chicago: Real Estate Education Co., 1979.

#### Other

Reilly, John W. *The Language of Real Estate*. 2nd ed. Chicago: Real Estate Education Co., 1982.

## Purchasing the Sample National Real Estate Salesperson Examination

### Using the Sample Examination

The sample examination is composed of questions similar to those appearing in the ACT National Real Estate Salesperson Examinations. The sample examination is comparable in format and content to the forms of the examination being administered as licensure examinations. There is only one form of the sample examination. The sample examination is intended for use in practicing to take an examination of this type prior to taking the licensure examination. The questions in the sample examination will appear in forms of the examination actually administered to candidates.

### Ordering the Sample Examination

- Only written orders will be accepted.
- There is only one form of the sample examination.
- Written orders should be directed to: Real Estate Test Development (45), The American College Testing Program, P.O. Box 168, Iowa City, Iowa 52243.
- Checks should be made payable to ACT.
- The following prices include the cost of postage:  
Order for one or two booklets \$4.50 per copy  
Order for three or more booklets \$3.50 per copy
- Orders received without payment will be returned.
- No duplication of the sample examination is allowed. The examination has been copyrighted by The American College Testing Program, Inc.

Complete this form, detach, and mail to the address shown on the bottom of the form.

### Sample National Real Estate Salesperson Examination

Please send:  
\_\_\_\_\_ copies @ \$4.50 if 1 or 2 copies ordered ..... \$ \_\_\_\_\_  
\_\_\_\_\_ copies @ \$3.50 if 3 or more copies ordered ..... \$ \_\_\_\_\_

Total enclosed: \$ \_\_\_\_\_

Make check or money order payable to ACT. Do not send cash. Orders received without payment will be returned.

Send to:

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, ZIP Code \_\_\_\_\_

Real Estate Test Development (45)  
The American College Testing Program  
P.O. Box 168  
Iowa City, Iowa 52243

## Application Folder Virginia Real Estate Examinations

July 1986-June 1987



**IMPORTANT:** Make certain you receive *The ACT National Real Estate Candidate Information Booklet* with this folder.

The Virginia Real Estate Licensing Examinations (Broker and Salesperson) are administered by The American College Testing Program (ACT) under the direction of the Virginia Real Estate Board. The examinations are given every month at established centers. Three different types of registration are available: (1) Standard Registration, (2) Walk-in Registration, and (3) Walk-in Registration. Each is described in detail in this folder. Please read the entire Application Folder carefully before completing your Application Form.

### 1986-87 TEST DATES AND STANDARD REGISTRATION DEADLINES

Test Dates	Standard Registration Postmark Deadlines
July 25, 1986	July 25, 1986
August 23, 1986	July 25, 1986
September 27, 1986	August 25, 1986
October 23, 1986	September 25, 1986
November 20, 1986	October 21, 1986
December 20, 1986	November 21, 1986
January 24, 1987	December 25, 1986
February 28, 1987	January 30, 1987
March 28, 1987	February 27, 1987
April 25, 1987	March 27, 1987
May 15, 1987	April 17, 1987
June 27, 1987	May 25, 1987

### APPLICATION FORM

To apply for the Virginia Real Estate Licensing Examinations, you must complete the Application Form that accompanies this folder. Please type or print neatly on the form and answer each question completely. *Incomplete applications will be returned unprocessed.*

- YOUR NAME:** Print your full last, first and middle names in the boxes provided. Do not use nicknames or initials.
- ADDRESS:** On Line 1, print your apartment number, suite number, or business name, if applicable. On Line 2, print the address to which the post office will deliver your mail. Your admission ticket will be mailed to the address you report on the Application Form.
- TEST:** Check the box next to the type of examination you wish to take. You may take only the test for which you are registered and have completed all other requirements for obtaining a license in Virginia.

**4. TEST CENTER:** Select the test center you prefer and check the box next to that location. Every effort will be made to assign you to the test center you request.

**5. SOCIAL SECURITY NUMBER:** Although disclosure is not mandatory, it is recommended that you provide your social security number with your application, test materials, and test results.

**6. BIRTHDAY:** Enter the month and day in the boxes provided. For month, use 01 to 12 (January = 01); for day, use 01 to 31.

**7. REGISTRATION TYPE:** Check the box next to the type of registration you are submitting.

**8. TEST DATE:** Check the box next to the month in which you wish to take the examination. Please review the all dates and postmark deadlines shown. No late registrations will be accepted. Candidates who cannot or do not take the examination on the date for which they are registered.

**9. TELEPHONE NUMBERS:** In the boxes indicated, print your home and/or office telephone numbers where you can be reached during the day between 8:30 a.m. and 4:30 p.m. Central Time.

**10. SIGNATURE:** Read carefully the statements below as well as those that precede the signature line; then sign your name as you would a check or business letter and enter the date.

**First statement:** Refer to Section 54-740 of the Virginia Code and to the Virginia Real Estate Board's regulations concerning the examinations. I certify that you have completed the educational requirements, and I certify that you have met the experience requirements outlined in Section 54-740 of the Board's regulations prior to making application for licensure.

**Second statement:** The Virginia Real Estate Board hereby notifies all applicants that the Board will check by computer to ensure that no candidate taking a Virginia Real Estate Examination is currently licensed in Virginia for the type of examination that is being applied for, or is affiliated with a real estate school as an official, instructor, or designee. I agree to the examination for any purpose other than to obtain a license.



# Proposed Regulations

The following rules apply for walk-in applicants on the day of the test:

- Report to the test center of your choice by 8:00 a.m. No one will be admitted after testing begins.
- You must complete an application form at the test center or bring a completed form with you to the test center.
- The fee for walk-in testing is \$28.50. The test supervisor will collect your application and fee, which must be in the form of a personal check or money order made payable to: ACT Real Estate Examination Services. Cash will not be accepted. You will not be admitted to test without full payment.
- You must present positive photographic identification to be admitted to the testing rooms.

The Virginia Real Estate Test Centers are:

T. C. Williams Senior High School (Main Lobby)—except for January 24, 1987 test date  
3330 King Street  
Alexandria, Virginia

For January 24, 1987 test date only  
Francis C. Hammond Junior High School  
4856 Seminary Road  
Alexandria, Virginia

Virginia Western Community College—South Campus  
Durcan Hall, Room 210  
3095 Colonial Avenue  
Roanoke, Virginia

Thomas Jefferson High School  
4100 West Chester Street  
Richmond, Virginia

Tidewater Community College  
Kempville, Building D, Room 101  
1700 College Crescent  
Virginia Beach, Virginia

Thomas Nelson Community College  
Moore Hall, Room 158  
88 Thomas Nelson Drive  
Hampton, Virginia

**YOUR SCORE REPORT**

If you apply to take the examination by following either the Standard or Late Registration procedures, your score report will be mailed approximately two weeks after the examination. If you do not receive your score report within three weeks following the examination, you should contact the Registration and Application Department at 519/337-1262. Examination results will not be given under any circumstances be given over the telephone.

If you apply to take the examination by following the walk-in procedures, your score report will be mailed approximately three weeks after the examination.

The Virginia Supplement Salesperson and Broker Examinations deal with topics relating particularly to Virginia laws and regulations and the specific real estate practices followed in Virginia. There are 40 multiple-choice questions on the Salesperson Examination and 50 multiple-choice questions on the Broker Examination. An outline of the topics covered by the Virginia Real Estate Supplement Examinations follows.

Topic Covered	Salesperson	Broker
Licensing Requirements	5	7
Prohibitions Governing the Activities of Licensees	20	26
Additional Topics	5	7
Real Estate Promotions	5	0
Real Estate Listing Agreements	5	0
Real Estate Sales Contracts	5	5
Real Estate Settlement Statements	0	5
<b>Total Number of Questions =</b>	<b>40</b>	<b>50</b>

The questions on these examinations are designed to measure your ability to understand and apply the Virginia laws and regulations of real estate. There are two general types of questions. The first is based on general information about real estate; the second on the ability to apply fundamental real estate laws, principles, and methods to new problems. Both types of questions require knowledge of real estate laws, regulations, principles, and methods.

**WALK-IN TESTING**

Walk-in Registration is for applicants who did not preregister (Standard or Late) for a specific test date and test center by applying an Application Form and the correct fee prior to the testing. You must bring your Application Form with you, please keep in mind that your Application Form will be processed after the test date and, as a result, your score report may be delayed by several days.

The Virginia Real Estate Examinations (both Broker and Salesperson) will be administered each month to applicants on a first-come, first-served basis. Walk-in applicants will be admitted to test only after all preregistered applicants have been admitted. Remaining seats and test materials will be assigned to walk-in applicants on a first-come, first-served basis. Due to seating limitations at the test centers, admission to test is not guaranteed; however, every attempt will be made to accommodate as many candidates as possible.

7. Registration Type  Standard (\$16.50 fee enclosed)  Late (\$26.50 fee enclosed)

Walk-in (\$28.50 fee and Application Form to be submitted at test center)

8. Test Date (Check one)

July 1986  October 1986  January 1987  April 1987

August 1986  November 1986  February 1987  May 1987

September 1986  December 1986  March 1987  June 1987

9. Telephone Numbers

Home Phone:

Office Phone:

10. Signature

I hereby certify that, before sitting for an examination, I will have successfully completed the education requirements required by Section 54-740 of the Virginia Code. If I am applying as a Broker applicant, I will also have completed, by the time I make application for a license, the experience requirements outlined in Section 2.2.2 of the Board's regulations.

I further certify that I am not currently licensed in Virginia for the type of examination for which I am applying, that I am not affiliated with a real estate school as an official, instructor, or designee taking the examination for any purpose other than to obtain a license, and that all information provided is true to the best of my knowledge.

Signature of Applicant \_\_\_\_\_

Date \_\_\_\_\_



# Proposed Regulations

Keep your score report. If you pass the examination, your score report will be used for license application.

If you fail the examination, your score report will indicate your total percent correct on each of the two portions of the examination. (National—100 questions, State—50 questions for Brokers, 40 questions for Salespersons). Your score report also will show the percent correct on each of the four content areas of the examination: Property Ownership, Transfer of Title, Real Estate Law, and Real Estate Finance. A detailed description of the National Examinations is shown in your ACT National Real Estate Candidate Information Booklet.

## REAPPLYING TO TAKE THE EXAMINATIONS

If you fail the examination or if you do not take the examination for which you are scheduled, you may reapply for another examination. To do so, complete new application materials and submit them with the appropriate fee. Each time you apply for an examination, you must fill out new application materials and send the application fee. There are no refunds or rescheduled examinations. You must wait 30 days after the date of your examination for which they are required.

Remember, you must bring one of two acceptable forms of photographic identification with you to the test center in order to test!

Acceptable forms of photographic identification are:

1. a valid Virginia driver's license. (You must show both parts A and B)
2. a picture ID card issued by the Virginia Division of Motor Vehicles.

# Proposed Regulations

\* \* \* \* \*

**Title of Regulation:** VR 585-01-2. Condominium Regulations.

**Statutory Authority:** § 55-79.98(a) of the Code of Virginia.

**Public Hearing Date:** January 16, 1987 - 10:30 a.m.  
(See Calendar of Events section for additional information)

**Summary:**

*The proposed amendments to the regulations generally include revisions to the rules for registration application submission, marketing activities, preparation of the public offering statement and disclosures therein, and post-registration provisions. New provisions on time-share condominiums are added. All amendments proposed are consistent with statutory disclosure requirements and board policy.*

VR 585-01-2. Condominium Regulations.

## SECTION 14 d

### PART I. GENERAL.

#### 14.1 § 1.1. Purpose.

These condominium regulations govern the exercise of powers granted to and the performance of duties imposed upon the Virginia Real Estate Commission Board by the Horizontal Property Act, § 55-79.1 et seq. of the Code of Virginia, and by the Condominium Act, § 55-79.39 et seq. of the Code of Virginia.

#### 14.2 § 1.2. Definitions.

The definitions provided in § 55-79.41 of the Code of Virginia, as they may be supplemented herein, shall apply to these condominium regulations. The corresponding meanings assigned to certain terms by § 55-79.41 of the Code of Virginia shall be applicable in these condominium regulations.

#### 14.3 § 1.3. Explanation of terms.

Each reference in these condominium regulations 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 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 to complete improvements indicated on plats and plans filed with the declaration or application for registration; to convert convertible land in a condominium

containing convertible land; to add additional land to an expandable condominium; to withdraw withdrawable land from a condominium containing withdrawable land; to convert convertible space into two or more units, common elements, or into two or more units and common elements; to maintain sales offices ; and management offices; signs advertising the condominium, and models; to use easements through the common elements for the purpose of making improvements within the condominium or within any convertible or additional land; or to appoint or remove any officer of the unit owners' association or board of directors thereof during any period of declarant control. *The transfer of successor declarant rights may be accomplished only as set forth in § 55-79.74:3 of the Code of Virginia.*

#### 14.4 § 1.4. 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 these condominium regulations, the Commission board or its subordinate shall prescribe, by order, a substitute provision to be applicable in such case which 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 these condominium regulations with reference to a condominium located outside of Virginia, shall refer to documents, portions of documents or combinations thereof, by whatever name denominated, which 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 which, in the jurisdiction in which such condominium is located, causes the condominium instruments to become legally effective.

D. *These regulations shall apply to a condominium located outside of Virginia only to the extent necessary and permissible under the provisions of § 55-79.40 B of the Code of Virginia.*

#### 14.5 § 1.5. Condominium advisory committee.

A condominium advisory committee, appointed by the Commission, shall board, may advise the Commission board in the exercise of its powers and the performance of its duties under the Horizontal Property Act and the Condominium Act and shall function as a subordinate of the Commission within the meaning of Virginia Code § 9-6.14.4(g) in such cases as the Commission may, from time to time, direct .

#### 14.6 § 1.6. Condominium Property registration administrator.

# Proposed Regulations

---

A ~~Condominium~~ *property registration* administrator, employed and designated as such by the Director of the Department of Professional and Occupational Regulation Commerce, shall function as a subordinate of the Commission board within the meaning of § 9-6.14.4(g) of the Code of Virginia for the purpose of carrying out the routine daily operations of the Commission board with respect to condominium regulations, including, without limitation, the entry of any orders provided for in these condominium regulations, the issuance of public reports and the administration of oaths and affirmations in connection with investigations or other proceedings. The ~~Condominium~~ administrator shall act as secretary of the condominium advisory committee.

## SECTION 15

### PART 2.

#### APPLICATION FOR REGISTRATION.

##### ~~15-1~~ § 2.1. Application for registration.

Application for registration of condominium units shall be filed at the offices of the Commission board. The application shall contain all of the documents and information required by the standard application form, of which a specimen is appended as Appendix A to these regulations and made a part hereof.

##### ~~15-2~~ § 2.2. Applications not in proper form.

Upon receipt of an application for registration not in proper form, the Commission board shall return the application to the declarant with a statement specifying the deficiencies in its form provided, however, that, if the Commission board has reason to believe that the application may readily be put into proper form it may retain the application and notify the declarant of the steps that must be taken to put the application in proper form.

##### § 2.3. Form of the application; submission of documents.

The board may establish specific guidelines which establish the form for preparation of condominium documents. These guidelines shall set forth reasonable requirements which assure uniformity in disclosures made to prospective purchasers.

##### ~~15-3~~ § 2.4. Procedure upon receipt of application for registration.

A. Upon receipt of an application for registration in proper form, the Commission board shall issue the notice of filing required by § 55-79.92(a) of the Code of Virginia and shall conduct an inquiry and investigation a review of the application and supporting documents to determine whether the prerequisites for registration set out in § 55-79.91 of the Code of Virginia and Regulation ~~16-1~~ § 3.1 of these regulations have been met. In conducting such inquiry and investigation review, the Commission board shall take cognizance of any may rely upon reliable

information concerning the declarant or the condominium coming to the Commission's board's attention. However, this does not excuse the declarant's obligation to complete the registration application accurately and truthfully.

B. If any of the prerequisites for registration appear to the Commission board not to have been met, the Commission board may informally advise the declarant of such fact and indicate in detail the nature of the failure to meet the prerequisites.

C. If, by the fiftieth day following the date of issuance of the notice of filing, if the document review conducted by the administrator reveals that the prerequisites for registration have not been met, the Commission board shall issue the correction notification required by § 55-79.92(c) of the Code of Virginia. The correction notification shall include a statement that the declarant may request additional time for correcting the application beyond the ten day period provided for in the notification.

D. A request for an extension of the correction 60-day application period shall be in writing and shall be delivered to the Commission board prior to the expiration of the period being extended. The request shall be for an extension of definite duration. The Commission board may grant in writing a request for an extension of the correction application 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 correction application period may be obtained, subject to the conditions applicable to the initial request. A request for an extension of the correction application period shall be deemed a consent to delay within the meaning of § 55-79.92(a) of the Code of Virginia.

E. If the prerequisites for registration are not met within the ten day correction application period or a valid extension thereof, the Commission board shall, upon the expiration of such period, enter an order rejecting registration as required by § 55-79.92(c) of the Code of Virginia.

F. The Commission board shall receive and act upon corrections to the application for registration at any time prior to the effective date of an order rejecting registration.

G. At such time as the Commission board affirmatively determines that the prerequisites for registration have been met, the Commission board shall enter an order registering the condominium units. The order shall designate the form and content of the public offering statement, substituted disclosure document or prospectus to be used and, in the case of application for registration made pursuant to Regulation ~~20.3(d)~~ § 8.3.D of these regulations shall provide that previous orders designating the form and content of the public offering statement, substituted disclosure document or prospectus to be used are superseded.

# Proposed Regulations

## SECTION 16

### PART 3. REGISTRATION.

#### 16.1 § 3.1. 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) 1. The declarant shall own or have the right to acquire an estate in the land constituting or to constitute the condominium which is of at least as great a degree and duration as the estate to be conveyed in the condominium units.

(b) 2. The condominium instruments must be adequate to bring a condominium into existence upon recordation of the said instruments except that the certification requirements of § 55-79.58 of the Code of Virginia need not be complied with as a prerequisite for registration.

(c) 3. The declarant shall have filed with the Commission board evidence of its ability to complete all proposed improvements on the condominium. Such evidence shall consist of the 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 Commission 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. In the case of a condominium located in Virginia, proposed improvements are uncompleted improvements which the declarant is affirmatively and unconditionally obligated to complete under §§ 55-79.58 and 55-79.67(a) of the Code of Virginia and applicable provisions of the condominium instruments or which the declarant would be so obligated to complete, if plats and plans filed with the Commission board in accordance with ~~POR 0-2014(a)~~ § 3.2 subsection A of these regulations were recorded. In the case of a condominium located outside of Virginia, "proposed improvements" are all uncompleted improvements which the declarant intends, without condition or limitation, to build or place on the condominium.

(d) 4. The current and planned condominium marketing activities of the declarant shall comply with § 59.1-44 of the Code of Virginia, Regulations 17.1, 17.2 and 17.4 and §§ 4.1, 4.3 and 4.4 of these regulations.

(e) 5. The declarant shall have filed with the Commission board: (i) a proposed public offering statement which complies with § 55-79.90(a) of the

Code of Virginia and Regulations ~~18.1~~ §§ 5.1 through ~~18.25~~ 5.26 and §§ 7.1 through 7.12 of these regulations and, if applicable, § 55-79.94(a) of the Code of Virginia and Regulations ~~10.1~~ §§ 6.1 through 10.7 6.7 of these regulations; (ii) a substituted disclosure document which complies with Regulation ~~18.26~~ § 5.25; or (iii) a prospectus which complies with ~~18.27~~ § 5.26 of these regulations.

#### 16.2 § 3.2. Requirements for plats and plans.

A. Except as provided in subparagraph (e) subsection C hereof, improvements shall be depicted on plats filed with the application for registration exactly as the declarant has depicted or intends to depict them on the recorded plats and "(NOT YET BEGUN)" and "(NOT YET COMPLETED)" labels shall be used with respect to such improvements exactly as the declarant has used or intends to use them on the recorded plats; provided, however, that this sentence shall not be construed to require the recording of plats identical to the plats filed with the application for registration.

B. The requirement of § 55-79.58(b) of the Code of Virginia that plans shall show the location and dimensions of the boundaries of each unit shall be deemed satisfied, in the case of units which are identical (within normal constructions tolerances), 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 which the declarant intends, without condition or limitation to build or place on 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 certification statement required by § 55-79.58(a)(b) of the Code of Virginia. However, such certification may appear on a separate document to be recorded with the plats and plans. As stated in § 7.1 B of these regulations, the statement need not be executed prior to registration.

E. The plats and plans filed with the board to satisfy the requirements of § 55-79.58 of the Code of Virginia

# Proposed Regulations

---

*shall be reduced and the size required for recordation.*

## 16-3 § 3.3. Exemption from registration of nonresidential condominiums.

The exemption from registration of condominiums in which all units are restricted to nonresidential use provided in § 55-79.87(a) 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.

### SECTION 17

#### PART 4. MARKETING.

##### 17-1 § 4.1. Preregistration offers prohibited.

A. No declarant or individual or entity acting on behalf of the declarant shall offer a condominium unit prior to its registration.

B. 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 which 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.

##### 17-2 § 4.2. 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 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. *With respect to condominiums located outside of Virginia, the application of these regulations is limited to those condominiums for which contracts are executed in Virginia as required by § 55-79.40 B of the Code of Virginia.*

##### 17-3 § 4.3. Condominium marketing standards.

A. No promise, assertion, representation or statement of fact or opinion in connection with a condominium marketing activity shall be made which 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 Regulation 16-1(e) § 3.1 C of these regulations ; except that, if the condominium is one for which no application for registration has been filed, there shall be no indication that an improvement will be built or placed on the condominium unless the declarant has sufficient financial assets and a bona fide intention to complete the improvement as represented.

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 which 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.

##### 17-4 § 4.4. Offering literature.

A. Offering literature is 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.

B. Offering literature mailed or delivered prior to the registration of the condominium which is the subject of the offering literature shall bear a conspicuous legend containing the substance of the following language:

{ [ Identification of the condominium ] } has not been registered by the Virginia Real Estate Commission 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.

C. Prior to registration a copy of every item of offering literature other than a personal communication shall be filed with the Commission board prior to its use. A personal communication is a communication directed to a particular prospective purchaser which has not been and is not intended to be directed to any other prospective purchaser.

D. The declarant of a condominium shall provide with the application for registration a narrative description of the promotional plan for the condominium and shall file examples or samples of promotional literature to be used in its marketing efforts.

E. Offering literature or marketing activities violative of

# Proposed Regulations

the Virginia Fair Housing Law, § 36-86 et seq. of the Code of Virginia, and the Virginia Condominium Act, § 55-79.52(c) of the Code of Virginia is prohibited.

F. Offering literature shall indicate that the property being offered is the condominium form of ownership.

~~17-5~~ § 4.5. Exemption from marketing regulations.

Nothing in Regulations ~~17-1, 17-3(b), (c) and (d) and 17-4 §§ 4.1, 4.3 B, C and D, and § 4.4~~ shall apply in the case of a condominium exempted from registration by § 55-79.87 ~~(a), (b) or (c)~~ of the Code of Virginia, or condominiums located outside of Virginia for which no contracts are to be signed in Virginia.

## SECTION 18

### PART 5.

#### PUBLIC OFFERING STATEMENT.

~~18-1~~ § 5.1. Scope of public offering statement.

A public offering statement shall make disclosure relative to a single offering and to the entire condominium in which the condominium units being offered are located. Not more than one version of a public offering statement shall be authorized for use or used at any given time with respect to a particular condominium.

~~18-2~~ § 5.2. Offering defined.

As used in these condominium regulations, the word "offering" shall refer to 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.

~~18-3~~ § 5.3. Preparation of public offering statement.

The public offering statement shall be clear and legible with pages numbered sequentially. A blank cover or a cover bearing identification information only may be used. Except as elsewhere provided, no portion of the public offering statement may be underscored, italicized or printed in larger, heavier or different color type than the remainder of the public offering statement. The first page of the public offering statement shall be prepared to conform as closely as possible to the specimen appended as Appendix B A to these regulations and made a part hereof.

~~18-4~~ § 5.4. Nature of information to be included.

A. The provisions of §§ 55-79.90(a) and 55-79.94(a) of the Code of Virginia, and Regulations ~~18-1~~ §§ 5.1 through 20-7 8.7 of these regulations shall be strictly construed to promote full and accurate disclosure in the public offering statement and, thereby, to protect the interests of purchasers.

B. The requirements for disclosure are not exclusive. In addition to expressly required information, the declarant shall disclose all other available information which may reasonably be expected to affect the decision of the ordinarily prudent purchaser to accept or reject the offer of a condominium unit. The declarant 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 which is not readily available 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 which 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. Disclosure shall be made of pertinent facts, events, conditions or other states of affairs which the declarant has reason to believe will occur or exist in the future or which the declarant intends to cause to occur or exist in the future. Disclosure relating to future facts, events, conditions or states of affairs shall be limited by the provisions of subparagraph subsection F hereof.

E. 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.

F. Expressions of opinion in the public offering statement shall be deemed inconsistent with full and accurate disclosure unless there is ample foundation in fact for the opinion; provided, however, that this sentence shall not affect in any way the declarant's duty to set forth a projected budget for the condominium's operation.

G. Except for brief excerpts therefrom, the public offering statement shall not incorporate verbatim portions of the condominium instruments or other documents. The purchaser's attention may be directed to pertinent portions of the declaration, bylaws or other documents attached to the public offering statement which are too lengthy to incorporate verbatim.

H. Maps, photographs and drawings may be utilized in the public offering statement, provided that such utilization promotes full and accurate disclosure. *These attachments shall be in standard size.*

~~18-5~~ § 5.5. Readability.

The public offering statement shall be clear and understandable. Determinations as to compliance with the

## Proposed Regulations

---

standards of this paragraph are within the exclusive discretion of the *Commission board*.

### 18-6 § 5.6. Summary of important considerations.

A. Immediately following the first page *and before the table of contents*, the public offering statement shall include a summary of important considerations consisting of particularly noteworthy items of disclosure. Certain summary statements are required by subsection D hereof. Other summary statements may be proposed by the declarant or included by order of the *Commission board* for the purpose of reinforcing the disclosure of significant information not otherwise included in the summary of important considerations. No summary statement shall be included for the sole purpose of enhancing the sales appeal of condominium units.

B. 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 narrative sections should be examined to obtain detailed information." Each summary statement shall include a reference to pertinent portions, if any, of the public offering statement for details respecting the information summarized. Each summary statement, exclusive of any reference to other portions of the public offering statement, shall be limited to not more than three sentences except that the *Commission board* may, by order, permit or require additional sentences.

C. Whenever the *Commission board* finds that the significance to purchasers of certain information requires that it be disclosed more conspicuously than by regular presentation in the summary of important considerations, it may provide, by order, that a summary statement of the information shall be underscored, italicized or printed in a larger or heavier or different color type than the remainder of the public offering statement.

D. Summary statements shall be made of the substance of the following facts and circumstances, to the extent that each is applicable. Specific information shall be substituted for the general information indicated by brackets. Appropriate modifications shall be made to reflect facts and circumstances varying from those indicated herein:

1. The condominium will be governed by a *units unit* owners' association. Each unit owner will have a vote on certain decisions of the association and will be bound by all decisions of the association including those with which he disagrees.

2. Certain decisions of the unit owners' association will be made by *[ an executive organ ]*.

3. The expenses of operating the unit owners' association will be paid by the unit owners on the basis of a *[ periodic ]* budget. Each unit owner will pay a *[ periodic ]* assessment. A unit owner

cannot reduce the amount of his assessment by refraining from use of the common elements.

4. If a unit owner fails to pay an assessment when due, the unit owners' association will have a lien against his condominium unit. Certain other penalties may be applied.

5. The declarant must pay assessments on unsold condominium units.

6. The declarant, its predecessors or principal officer has undergone *[ a debtor's relief proceeding ]*.

7. The declarant will retain control of the unit owners' association for *[ an initial period ]*.

8. A managing agent will perform the routine operations of the unit owners' association. The managing agent is *[ related to ]* the *[ declarant, director or officer of the unit owners' association ]*.

9. The declarant may rent unsold condominium units. The right of any unit owner to rent his unit is subject to *[ restrictions ]*.

10. The declarant may *[ expand or contract the condominium or convert convertible land or space ]* without the consent of any unit owner.

11. The right of the unit owner to resell his condominium unit is subject to *[ restrictions ]*.

12. The units are restricted to residential use.

13. The unit owner may not alter the structure of his unit or modify the exterior of his unit without the approval of the *[ declarant or unit owners' association ]*.

14. The unit owners' association will obtain certain insurance benefiting the unit owner, but the unit owner should obtain other insurance on his own.

15. The unit owner will pay real estate taxes on his condominium unit.

16. *The unit owner's right to bring legal action against the declarant is limited by certain provisions of the purchase contract; specifically the contract [requires the unit owner or the association to pay the attorney's fee of the declarant; requires the unit owner to waive a jury in any civil action against the declarant].*

17. *The condominium is [is not] subject to development as a time-share.*

18. *Marketing and sale of condominium units will be conducted in accordance with the Virginia Fair Housing Law (Code of Virginia § 36-85 et seq.) and the Virginia Condominium Act (Code of Virginia §*

# Proposed Regulations

55-79.52(c).

## 18-7 § 5.7. Narrative sections.

The information to be presented in the public offering statement shall be broken down into sections in order to facilitate reading and comprehension. Certain sections are required by Regulations 18-8 §§ 5.8 through 18-23 5.23 of these regulations. Supplementary sections may be included whenever necessary to incorporate information which cannot properly be placed within one of the required sections. Supplementary section captions which indicate the nature of the material presented thereunder shall be utilized. The sections may be set out in any order which lends itself to the organized presentation of information. Section captions may be underscored, italicized or printed in larger or heavier or different color type than the remainder of the public offering statement. A table of contents shall be utilized.

## 18-8 § 5.8. 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 which are different from typical condominium unit ownership.

## 18-9 § 5.9. 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 and shall briefly describe 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 the purchaser will receive copies of the recorded declaration and bylaws, or amendments, as appropriate, within the time provided for in the applicable statute.

## 18-10 § 5.10. Narrative sections; description of condominium.

A. The public offering statement shall contain a section captioned "Description of the Condominium." The section shall contain a narrative description of the condominium. The description shall include statements of (i) the land area of the condominium; (ii) the number of units in the condominium; (iii) the number of units in the offering; and (iv) the number of units in the condominium planned to be rented.

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 and the maximum number of units or maximum number of units per acre which may be added, withdrawn or converted, as the case may be, 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: "The construction and development of the condominium may be abandoned or altered, at the declarant's option, short of 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 unit owners will be declarant is required by the Virginia Condominium Act to pay for the upkeep of the convertible land. Approximately ~~per~~ percent of the common expenses will result from such upkeep." The appropriate percentage shall be inserted in the statement. *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 monthly assessment for the condominium.* If the common expense assessment will increase, the section shall also disclose the approximate percentage of such increase.

C. The section shall state whether or not the units are restricted solely to residential use and shall state where this and other use and occupancy restrictions are to be found in the condominium instruments.

D. 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.

## 18-11 § 5.11. 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 type units being offered, together with the dates on which substantial completion of unfinished units is anticipated. The section shall discuss what restrictions, if any, exist as to changes unit owners may make to the structure or exterior of their units, whether or not said exterior is a portion of the common elements.

## 18-12 § 5.12. 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. A statement of the anticipated completion dates of unfinished common elements shall be included except that



## Proposed Regulations

---

no such statement shall be necessary with respect to common elements which are completed or expected to be substantially complete when the units are completed.

C. With respect to common elements which the declarant intends to build or place on the condominium but which are not expected to be substantially complete when the units are completed, the section shall state: (i) In the case of a condominium located in Virginia, the nature, source and extent of the obligation to complete such common elements which the declarant has incurred or intends to incur upon recordation of the condominium instruments pursuant to §§ 55-79.58(a) and 55-79.67(a)(1) of the Code of Virginia and applicable provisions of the condominium instruments and that in accordance with Virginia Code pursuant to § 55-79.58:1 of the Code of Virginia, the declarant has filed with the Virginia Real Estate Commission Board a bond (~~Appendix C (1)~~) to insure completion of improvements to the common elements which the declarant has incurred or intends to incur upon recordation of the condominium instruments; and (ii) in the case of a condominium located outside of Virginia, the nature, source and extent of the obligation to complete such common elements which the declarant has incurred or intends to incur under the law of the jurisdiction in which the condominium is located.

D. The section shall describe any limited common elements which are assigned or which may be assigned and shall indicate the reservation of exclusive use. In the case of limited common elements which may be assigned, the section shall state the manner of such assignment or reassignment.

~~18-13~~ § 5.13. 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 be identified.

C. If the declarant or its parent or predecessor organization has, during the preceding 10 years, been adjudicated a 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 hereof 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.

D. The section shall indicate any final action taken by an administrative agency or civil or criminal court which

reflects 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 the any condominium unit owners' association or by its executive organ or any managing agent on behalf of such association or which has been certified as a class action on behalf of some or all of the unit owners, including disclosure of the ultimate disposition of the proceedings. The board has the sole discretion to require additional disclosure of any legal proceedings where it finds such disclosure necessary to assure full and accurate disclosure.

~~18-14~~ § 5.14. Narrative sections; terms of offering.

A. The public offering statement shall contain a section captioned "Terms of the Offering." The section shall discuss the expenses to be borne by a purchaser in acquiring a condominium unit and present information regarding the settlement of purchase agreements as provided in subparagraphs subsections B through F hereof.

B. The section shall indicate the offering prices for condominium units or a price range for condominium units, if either are 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 settlement costs which are not normal for residential real estate transactions including, without limitation, any contribution to the initial or working capital of the unit owners' association to be paid by a purchaser at settlement.

E. The section shall discuss any penalties or forfeitures to be incurred by a purchaser upon default in performance of a purchase agreement which 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 agreement 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 agreement upon failure of the declarant to obtain purchase agreements 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 set forth the significant terms of the purchase agreement. Included in this discussion shall be a detailed description of provisions which limit the unit owners' rights to seek legal recourse against the declarant.

## Proposed Regulations

### 18-15 § 5.15. Narrative sections; encumbrances.

A. The public offering statement shall contain a section captioned "Encumbrances." The section shall include the significant terms of any encumbrances, easements, liens and matters of title affecting the condominium as provided in subparagraph subsections B through I hereof.

B. Except to the extent that such encumbrances are required to be satisfied or released by § 55-79.46(a) 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 identify the lender secured or the lienholder shall state the nature and original amount of the obligation secured, shall identify the party having primary responsibility for performance of the obligation secured and shall indicate the practical effect upon unit owners of failure of said 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 its 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 including, without limitation, easements for the use of recreational areas shall be briefly described.

G. Covenants, servitudes or other devices which create an actual or potential restriction on the right of any unit owner to use and enjoy his unit or any portion of the common elements other than limited common elements shall be briefly described.

H. Any matter of title which is not otherwise required to be disclosed by the provisions of this section and which has or may have a substantial adverse impact upon unit owners' interests in the condominium shall be described. Under normal circumstances, an easement for encroachments and an easement 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 Regulations 18-10(e) §§ 5.10 C, 18-11 5.11 or 18-16 5.16 of these regulations .

### 18-16 § 5.16. 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 and which affect the unit owners' right to resell, lease or otherwise transfer an interest in his condominium unit.

### 18-17 § 5.17. 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 subparagraphs subsections B through J hereof.

B. The section shall state in summary fashion 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 their election or appointment; 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 allocation of voting power among the unit owners.

E. The section shall discuss any retention by the declarant of control over the unit owners' association both during the declarant control period and after control of the association has been transferred to the unit owners. The particular provisions of the plan to ease the transition of this transfer shall also be described .

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

# Proposed Regulations

---

and the authority to promulgate rules and regulations shall be discussed. Particular provisions of the rules and regulations shall not be discussed except as required by other provisions of these condominium regulations. 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 ~~Regulation 18.15~~ ~~(e)~~ § 9.15, subsection E, of these regulations 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.

~~18.18~~ § 5.18. 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. The section may indicate the existence and proximity of community facilities available to unit owners.

~~18.19~~ § 5.19. 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 ~~subparagraphs~~ subsections B through I hereof.

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 § 55-79.83(c) of the Code of Virginia or similar law or condominium instrument provision (referred to elsewhere in these regulations as "regular common expenses"); (ii) common expenses, if any, apportioned among and assessed to less than all of the condominium units pursuant to § 55-79.83(a) and (b) 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 their owners.

C. A projected budget shall be prepared showing regular common expenses to be assessed for the first year of the condominium's operation or, if different, the latest year for which projections are available; provided, however, that in no event shall the year for which the budget is projected have commenced more than six months prior to the date application for registration is filed. ~~The projected budget shall be prepared by inserting appropriate information in a budget form similar to Appendix D appended to these regulations and made a part hereof.~~ The projected budget shall be attached to the public offering statement as an exhibit and the section shall direct the purchaser's attention thereto. The section shall describe the manner in which the projected budget is established.

D. The section shall describe the manner in which regular common expenses are apportioned among the 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 his unit by refraining from use of any of the common elements."

E. The section shall describe budget provisions for reserves for capital expenditures and for contingencies, if any.

F. The section shall describe provisions for special assessments to be levied in the event that budgeted assessments provide insufficient funds for operation of the unit owners' association.

G. The section shall discuss any common expenses actually planned to be specially assessed pursuant to § 55-79.83(a) and (b) of the Code of Virginia or similar law or condominium instrument provisions.

H. The section shall indicate any fee, rental 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 ~~subparagraph~~ subsection, the section need not discuss any fees provided for in §§ 55-79.84(h) 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 when due assessments levied against his condominium unit. Such discussion shall indicate provisions for penalties 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 ~~(Appendix C(2))~~ conditioned on the payment of assessments filed with the Commission 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

## Proposed Regulations

obtain payment of overdue assessments by foreclosure of the lien resulting in a forced sale of the condominium unit or by suing the unit owner."

### 18.20 § 5.20. Narrative sections; insurance.

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 which 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 indicate any conditions imposed by the condominium instruments or 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 rules and regulations.

### 18.21 § 5.21. Narrative sections; taxes.

A. The public offering statement shall contain a section captioned "Taxes." The section shall describe all existing or proposed taxes to be levied against condominium units individually including, without limitation, real property taxes, sewer connection charges and other special assessments. Taxes levied against the entire condominium and payable by the unit owners' association shall be disclosed pursuant to the provisions of Regulation 18.10 § 5.19 of these regulations.

B. With respect to real property taxes, the section shall state the assessed valuations of the condominium units and the tax rate currently in effect. If assessed valuations have not yet been determined, the section shall state a procedure or formula by means of which the taxes may be estimated once assessed value has been determined.

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.

### 18.22 § 5.22. Narrative sections; governmental approval.

The public offering statement shall contain a section captioned "Governmental Approval." The section shall discuss approval of a site plan and issuance of a building permit by appropriate governmental authorities. The section shall also discuss compliance with all zoning ordinances, building codes, housing codes and similar laws affecting the condominium.

### 18.23 § 5.23. 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. If any such warranty is different from the warranty provided by § 55-79.79(b) of the Code of Virginia or a similar applicable law, the section shall 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." *If the statute of limitations for asserting claims under this warranty may be limited by separate agreement, the terms of such agreement must be described in this section.*

### 18.24 § 5.24. Documents to be included.

Copies of the following documents shall be attached as exhibits to the public offering statement: (i) the declaration; (ii) the bylaws; (iii) the projected budget; (iv) rules and regulations of the unit owners' association; (v) any management contract; (vi) any lease of recreational areas; and (vii) any similar contract or agreement affecting the use, maintenance or access of all or any part of the condominium. Other pertinent documents may be attached to the public offering statement including, without limitation, a purchase agreement, a certificate of warranty, a *warranty limitation agreement* and a depiction of unit layouts.

18.25 Time share condominiums; special disclosure provisions. — (a) A time share condominium is one in which (1) title to one or more condominium units vests in the unit owners during regularly recurring periods of time or (2) one or more condominium units is owned as a tenancy in common with the right of unit owners to possess such condominium units being limited to regularly recurring periods of time.

(b) The public offering statement for a time share condominium shall contain a narrative section captioned "Time Share Ownership." The section shall discuss the special characteristics of the time share condominium, including the program for management. The section shall contain the disclosures required by subparagraphs (c) through (e) hereof and, if applicable, the disclosures required by subparagraph (f) hereof.

(c) The section shall discuss the possibility that real property taxes will be assessed against a condominium unit owned in time shares and not apportioned among the various time share owners according to their relative interests with the result that, upon default in payment of taxes by one time share owner, a tax lien will attach to the entire condominium unit and encumber the titles of all time share owners thereof.

(d) The section shall discuss the manner in which a lien for assessments will be enforced. The discussion shall indicate the extent to which enforcement of the lien for assessments against one time share owner of a condominium unit will affect the interests of other time

# Proposed Regulations

share owners of the condominium unit.

(e) The section shall indicate the number of condominium units which are or may be owned in time shares and the number of condominium units which are or may be owned outright by an individual unit owner.

(f) In the case of a time share condominium in which one or more condominium units is owned as a tenancy in common, the section shall indicate that (1) a federal tax lien arising from default in payment of federal taxes by a time share owner will be imposed on the entire condominium unit and encumber the title of all time share owners thereof and (2) a suit to partition a condominium unit owned in time shares may be brought by any unit owner, unless applicable law prohibits such a suit.

18.26 § 5.25. Documents from other jurisdictions.

A. A substituted disclosure document is a document originally prepared in compliance with the laws of another jurisdiction and modified in accordance with the provisions of this paragraph in order to fulfill the disclosure requirements established for public offering statements by § 55-79.90(a) and, if applicable, § 55-79.94(a) of the Code of Virginia. A substituted disclosure document shall not be employed in the case of a condominium located in Virginia.

B. The substituted disclosure document 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 which is untrue, inaccurate or misleading with respect to marketing, offers or disposition of condominium units in Virginia.

C. The substituted disclosure document shall incorporate all information not otherwise included which is necessary to effect fully and accurately the disclosures required by §§ 55-79.90(a) and, if applicable, 55-79.94(a) of the Code of Virginia. The substituted disclosure document shall clearly explain any nomenclature which is different from the definitions provided in § 55-79.41 or which, for any other reason, may confuse purchasers in Virginia. Any information not required by §§ 55-79.90(a) and 55-79.94(a) of the Code of Virginia may be deleted, provided that such deletion does not render the required information misleading.

D. The first page of the substituted disclosure document shall be prepared to conform as closely as possible to the specimen appended as Appendix E A to these regulations and made a part hereof. The three blanks in the first

sentence of the third paragraph of the specimen shall be completed by insertion of the following information: (i) the designation by which the original disclosure document is identified in the jurisdiction pursuant to whose laws it was prepared; (ii) the governmental agency of such other jurisdiction with which the original disclosure document is or will be filed; and (iii) the jurisdiction of such filing.

E. No portion of the substituted disclosure document may be underscored, italicized or printed in larger, heavier or different color type than the remainder of the substituted disclosure document, except: (i) as required by subparagraph subsection D hereof; (ii) as required or permitted in the original disclosure document by the laws of the jurisdiction pursuant to which it was prepared; and (iii) as provided by order of the Commission board in cases in which it finds that the significance to purchasers of certain information requires that such information be disclosed more conspicuously than by regular presentation in the substituted disclosure document.

F. The provisions of §§ 55-79.88(c), 55-79.90, and 55-79.94(a) of the Code of Virginia and Regulations 18.1, 18.3, 18.4, 18.5, 18.24 and 18.25 §§ 5.1, 5.3, 5.4, 5.5, 5.24 and Part 11 of these regulations shall apply to substituted disclosure documents in the same manner and to the same extent that they apply to public offering statements.

18.27 § 5.26. Condominium securities.

A prospectus 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 Regulation 18.24 § 5.24. Such prospectus shall be deemed to satisfy all of the disclosure requirements of Regulations 18.6 §§ 5.6 through 18.25 5.24 and Part 7 of these regulations. In the case of a conversion condominium, the prospectus shall have attached thereto, in suitable form the information required by Regulations 18.4, 18.5 (e) and (d), 18.6 and 18.7 §§ 6.4, 6.5 C and D, 6.6 and 6.7 of these regulations to be disclosed in public offering statements for conversion condominiums. The provisions of § 55-79.88(c) 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.

## SECTION 10

### PART 6.

#### CONVERSION CONDOMINIUMS.

18.1 § 6.1. 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 Regulations 18.1 §§ 5.1 through 18.27 5.26 and Part 7 of these regulations. In addition, the public offering statement for a conversion condominium shall (i) contain special disclosures in the narrative sections

## Proposed Regulations

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 **Regulations 10.3 §§ 6.3 through 10.7 6.7 of these regulations .**

**10.2 § 6.2.** Public offering statement for conversion condominium; special definitions.

As used in this paragraph and in **Regulations 10.3 §§ 6.3 through 10.7 6.7 :**

(a) "Structural component" shall mean means a component constituting any portion of the structure of a unit or common element and in which a defect would reduce the stability or safety of all or a part of the structure below accepted standards or restrict the normal intended use of all or a part of the structure.

(b) "Major utility installation" shall mean means a utility installation or portion thereof which is a common element or serves more than one unit.

(c) "Physical asset" is a generic term and shall mean means either a structural component or a major utility installation.

(d) "Present condition" shall mean means condition as of the date of the inspection by means of which condition is determined.

(e) "Structural defect" shall have the meaning given in § 55-79.79(b) of the Code of Virginia.

(f) "Class of physical assets" shall mean means two or more physical assets which are substantially alike in function, manufacture, date of construction or installation and history of use and maintenance.

(g) "Expected useful life" shall mean 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.

(h) "Replacement cost" shall mean means the expenditure which 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 removing the physical asset to be replaced, of obtaining its replacement and of erecting or installing the replacement.

**10.3 § 6.3.** Description of conversion condominium.

In addition to the information required by **Regulation 10.10 § 5.10 of these regulations** 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 which 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.

**10.4 § 6.4.** Terms of offering, conversion condominium. In addition to the information required by **Regulation 10.14 § 5.14 of these regulations** , the section captioned "Terms of the Offering" shall contain a specific statement of the amount of any initial or special condominium fee due from the purchaser on or before settlement of the purchase contract and the basis of such fee. Such fees include, without limitation, a required contribution to (i) the payment of costs of conversion in any manner other than through payment of the unit offering price; and (ii) a reserve for capital expenditures.

**10.5 § 6.5.** Financial matters, conversion condominium.

A. The provisions for capital reserves described in the section captioned "Financial Matters" shall be supplemented by the information set forth in **subparagraphs subsections B and C** hereof.

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 **subparagraph subsection** , an expected useful life which is stated as being within a range of years pursuant to **Regulations 10.7(e) § 6.7 E** 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 which 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 which will be accumulated by the unit owners' association during the period of declarant's 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 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 **Regulation 10.10(e) § 5.19 subsection C of these regulations** . Distinction shall be made between expenditures which would have constituted regular common expenses and expenditures which would have been borne by unit owners individually if the property had been converted to condominium prior to the commencement of the three-year period. To the extent that it is impossible or

# Proposed Regulations

---

impracticable to so distinguish the expenditures it shall be assumed that they would have constituted regular common expenses.

Both types of expenditures shall be cumulatively broken down on a per unit bases in the same proportion that common expenses are or will actually be assessed against the condominium units. The three-year period to which this ~~subparagraph~~ 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 for the maximum period the property was occupied. The "Financial Matters" section shall direct the purchaser's attention to the expenditure information.

## ~~10-6~~ § 6.6. 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; of (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 which 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 ~~subparagraphs~~ subsections D, E and F hereof, 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 ~~subparagraph~~ subsection F hereof applies, such statement shall include a separate reference to the present condition of any physical asset within the class which 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 reasonable reliable sample and that the total number of physical assets within the class and the number selected are disclosed.

## ~~10-7~~ § 6.7. Replacement requirements in conversion condominium.

A. Subject to the exceptions provided in ~~subparagraphs~~ subsections B and H hereof, 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 which 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

# Proposed Regulations

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 hereof, 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 which is significantly greater than the replacement cost indicated for the representative member of the class.

F. Distinction shall be made between replacement costs which will be common expenses and replacement costs which 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 or 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 which have both (i) the same expected useful lives and (ii) replacement costs which 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.

## ~~10.8~~ § 6.8. Notice to tenants.

No notice to terminate a tenancy provided for by § 55-79.94(b) of the Code of Virginia shall be given prior to the registration of the condominium unit as to which the tenancy is to be terminated.

## PART 7. TIME-SHARE CONDOMINIUMS.

### § 7.1. Public offering statement for time-share condominiums; general instructions.

The public offering statement for a time-share

condominium shall conform in all respects to the requirements of §§ 6.1 and 6.3 through 6.26 of these regulations. In addition, the public offering statement for a time-share condominium shall (i) contain special disclosures in the narrative sections captioned "Condominium Concept," "Description of Condominium," "Declarant," "Terms of Offering," "Encumbrances," "Unit Owners' Association," "Financial Matters," "Insurance," and "Taxes," and (ii) contain a narrative section entitled "Exchange Program."

### § 7.2. Summary of important considerations.

In addition to the information required by § 5.6 in the case of a time-share program, summary statements shall be made of the substance of the following facts and circumstances. Specific information shall be substituted for the general information indicated by brackets. Appropriate modifications shall be made to reflect facts and circumstances varying from those indicated herein:

1. The time-share program will [will not] be governed by a time-share owners' association.
2. Decisions affecting the time-share project will be made by the developer.
3. Each time-share owner cannot reduce the amount of his assessment by refraining from use of his time-share or the projects' facilities.
4. If a time-share owner fails to pay an assessment when due, the developer may impose certain sanctions or penalties, including the forfeiture of the time-share.
5. The developer, its principals, officers, directors, partners, or trustees have undergone [a debtor's relief proceeding].
6. A managing agent may perform routine operations for the operation, maintenance and upkeep of the time-share project, as determined by the developer. The managing agent is [affiliated with] the [developer, or a director or officer thereof].
7. The developer may rent on a transient basis, unsold time-shares. The right of a time-share use owner to rent his time-share is subject to [restrictions].
8. The right of a time-share owner to resell his time-share is subject to [restrictions].
9. The time-shares are restricted to residential use.
10. The time-share owner may not alter the structure or exterior of the unit in which his time-share is located.
11. The developer will obtain certain insurance benefiting the time-share use owner, but the time-share use owner should obtain additional



## Proposed Regulations

---

insurance on his own.

12. The time-share owner may be required to pay applicable taxes imposed on the project similar in scope and design to taxes applicable to hotels, motels or other transient type accommodations.

13. Marketing and sale of time-shares will be conducted in accordance with Virginia Fair Housing Law (§ 36-85 et seq. of the Code of Virginia).

14. A time-share purchaser is required to make certain disclosures to purchasers in the resale of his time-share.

### § 7.3. Condominium concept, time-share condominium.

In addition to the information required by § 5.8 of these regulations, this section shall consist of discussion of the time-share form of ownership and shall include a detailed explanation of the type of time-share arrangement employed in the project.

### § 7.4. Description of condominium, time-share condominium.

In addition to the information required by § 5.10 of these regulations, this section shall consist of a general description of the time-share program, the units, amenities and type of time-shares being made available to purchasers. The section shall include, without limitation, statements indicating:

1. The land area of the time-share project;
2. The number of units in the project;
3. The number of units in the project to be organized on a time-share basis;
4. An identification of units that are subject to time-sharing and the type of time-shares being offered;
5. The duration of the time-shares;
6. The different types of units available;
7. Provisions, if any, that have been made for public utilities in the time-share project, including water, electricity, telephone, and sewerage facilities;
8. Restrictions, if any, as to what changes a time-share owner may make to his unit in which his time-share is located; and
9. Whether or not the units are restricted solely to residential use.

### § 7.5. Declarant/developer, time-share condominium.

In addition to the information required by § 9.13 of

these regulations, the following information shall be stated with regard to every director, partner or trustee of the declarant/developer: (i) name and address; and (ii) principal occupation. The name and address of each person owning or controlling an interest of 20% or more in the time-share project shall also be indicated.

### § 7.6. Terms of offering, time-share condominium.

In addition to the information required by § 5.14, subsection A of these regulations, this section shall set forth provisions with respect to the purchaser's right to cancel his purchase contract. Such disclosure shall be consistent with the applicable statutory provision, § 55-79.88(c) or § 55-376 of the Code of Virginia. Special escrow requirements of § 55-375 of the Code of Virginia shall be likewise described in this section.

### § 7.7. Encumbrances, time-share condominium.

In addition to the information required by § 5.15 of these regulations, regardless of the form of time-share project, the section shall describe the extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit. The section shall discuss the consequences that the filing of federal tax liens would have on the project.

### § 7.8. Unit owners' association, time-share condominium.

A. In addition to the information required by § 5.17 of these regulations, this section shall contain either a section captioned "Administration of Time-Share Estate Program" or a section captioned "Administration of Time-Share Use Program," depending upon the form of time-shares being offered by the developer. The section shall discuss the manner in which the time-share program will be governed and administered.

#### B. "Administration of time-share estate program."

1. The section shall describe the functions and the organization's structure of the time-share estate owners' association formed pursuant to the Virginia Nonstock Corporation Act. The description shall indicate:

(a) the existence or provisions for a board of directors and officers;

(b) the manner of their election or appointment;

(c) the assignment or delegation of responsibility for performance of the functions of the unit owners' association and

(d) those items outlined in § 55-368, numbered 2 through 10, of the Code of Virginia.

2. The section shall describe the allocation of voting power among the time-share estate owners and will

## Proposed Regulations

explain how votes will be cast. Any provision in the time-share instruments for regular meetings of the estate owners shall be mentioned.

3. The significant terms of any lease of recreational areas or similar contract or agreement affecting the use, maintenance or access of all or any part of the time-share shall be stated. A brief narrative statement of the effect of each of any such agreement shall be included.

4. Rules and regulations for the use, enjoyment, and occupancy of units, and the authority to promulgate and amend such rules shall be discussed. Included shall be a description of the method, if any, to be employed to assign or reserve occupancy periods for the time-share owners. Methods for providing alternate use periods or monetary compensation to a time-share owner if his contracted-for unit cannot be made available for the period to which the owner is entitled by schedule or by confirmed reservation shall be discussed.

5. Any standing committees established or to be established to perform functions of the time-share estate owners' association shall be discussed. Such committees include, without limitation, executive committees, architectural control committees and committees having the authority to interpret time-share instruments or rules and regulations.

6. Any power of the developer or of the time-share estate owners' association to enter units shall be discussed. To the extent each is applicable, the following facts shall be stated:

a. a unit may be entered without notice to the time-share owners;

b. the developer or representatives of the time-share estate owners' association are empowered to take actions or perform work in a unit without the consent of the units owners; and

c. the time-share owners may be required to bear the costs of actions so taken or work so performed.

7. The section shall describe any routine janitorial procedures that are to occur between occupancy periods of time-share owners, as well as any maintenance program that is to take place on an annual or semi-annual basis.

8. 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 developer or a member of the board of directors or an officer of the time-share estate owners' association. The duration of any management agreement shall be

stated.

9. The section shall discuss any retention by the developer of control over the time-share estate owners' association. The association's power to pass special assessments against and raise the annual assessments of the time-share owners upon the termination of the developer control shall also be discussed.

C. "Administration of time-share use program." The section shall provide the information required by § 55-371 of the Code of Virginia.

### § 7.9. Financial matters, time-share condominium.

A. In addition to the information required by § 5.19 of these regulations, this section shall contain either a section captioned "Finances of Time Share Estate Ownership" or a section captioned "Finances of Time-Share Use Ownership," depending upon the form of time-share development used in the projects. The section shall discuss the expenses incident to the ownership of a time-share in the manner provided in subsections B through H hereof.

B. The section shall describe the nature of the costs and expenses of operating the time-share program and shall distinguish between those to be paid by the developer and those to be paid by the time-share owners. The section shall explain how the responsibilities for payment of operating costs will be apportioned among the time-share owners. In the case of a time-share estate program, this section shall describe and distinguish between developer expenses and time-share estate occupancy expenses as well as the meaning of the "Developer Control Period" as outlined in § 55-369 of the Code of Virginia, and when it commences and ends. Mention shall be made of the developer's right to collect a periodic fee from the time-share estate owner for the payment of the latter expenses; the method of apportionment between time-share estate owners shall be explained.

C. The section shall contain a statement describing any current or expected fees or charges to be paid by time-share owners for the use and enjoyment of any facilities related to the project. This shall include, without limitation, any fee attributable to the use of recreational facilities mentioned in any of the time-share documents or during the marketing activities.

D. The section shall contain a statement describing the extent to which financial arrangements, if any, have been provided for completion of any time-share unit offered for sale.

E. The section shall describe any services which the developer provides or expenses it pays which may become at any subsequent time a time-share expense of the time-shares, and the projected time-share expense liability attributable to each of those services or expenses for each time-share.

# Proposed Regulations

F. The section shall contain the latest annual balance sheet and a projected budget for the program for one year after the date of the first transfer to a purchaser. After that one-year period, a current budget shall be included in lieu of the projected budget and annual balance sheet mentioned above. All budgets shall be accompanied by a statement indicating the name of the preparer of the budget, and a statement explaining all budgetary assumptions concerning occupancy and inflation. All budgets must include, without limitation: (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacements; and (ii) a statement of any other reserves. If the project is a time-share estate project and if the developer control period has not ended, the budget shall also include: (i) the projected common expense liability for all time-share owners; (ii) the projected common expense liability by category of expenditures; and (iii) a statement of the amount included in the budget reserved for repairs to and refurbishing of the project and the replacement of the personalty situated therein.

G. The "Finances of Time-Share Use Ownership" section shall, where the developer's equity in the project is less than \$250,000, include a current audited financial statement disclosing the developer's net worth. Such statement shall specifically state the amount of equity in the project.

H. The section shall discuss the effect of failure of a time-share owner to pay when due the assessments, fees or charges levied against his time-share. Such discussion shall indicate provisions for penalties to be applied in the case of overdue assessments including the lien authorized by § 55-370 B of the Code of Virginia, and for the acceleration of unpaid assessments.

## § 7.10. Insurance, time-share condominium.

In addition to the information required by § 5.20 of these regulations, this section shall describe the insurance coverage provided for the benefit of time-share owners. Included shall be a discussion of the comprehensive general liability insurance for death, bodily injury, and property damage arising out of, or in connection with, the use and enjoyment of units by time-share estate owners or time-share use owners or their guests. It shall be made clear that in the case of a time-share estate project the costs associated with this liability insurance will be borne by the developer during the developer control period, and thereafter, the costs will be assumed by the time-share estate owners' association; and that in the case of a time-share use project, the costs associated with securing and maintaining such insurance shall be borne by the developer.

Depending on the time-share organization employed by the developer, §§ 55-368(7) or 55-371(7) of the Code of Virginia shall be included in this discussion.

## § 7.11. Taxes, time-share condominium.

In addition to the information required by § 5.21 of these regulations, this section shall describe all existing or proposed taxes to be levied against time-shares individually including, without limitation, real property taxes, transient taxes and other special assessments.

## § 7.12. Exchange program, time-share condominium.

The public offering statement shall contain a section captioned "Exchange Program." if, at the time of purchase of a time-share, the purchaser is permitted or required to become a member of or a participant in an exchange program. An "exchange program" is a program offered by the developer or an independent exchange agent for the exchange of occupancy rights with the owners of time-shares of other time-share projects. This section shall contain the information required by § 55-374 B of the Code of Virginia.

## SECTION 20

### PART 8.

#### POST-REGISTRATION PROVISIONS.

##### ~~20.1~~ § 8.1. Material change defined.

As used in Regulations ~~20.2~~ §§ 8.2 through ~~20.5~~ 8.5 of these regulations, "material change" shall mean a change which renders inaccurate, incomplete or misleading, any information or document disclosed in or attached to a public offering statement whose form and content are designated for use pursuant to Regulations ~~15.3(e)~~ §§ 2.4 G or ~~20.3(b)~~ 8.3 B. Without limiting the generality of the preceding sentence, a material change shall be whenever (i) information or a document required to be disclosed in or attached to a public offering statement but not so disclosed or attached by reason of its previous unavailability or nonexistence becomes available or comes into existence and (ii) a new budget is adopted.

##### ~~20.2~~ § 8.2. Amendment of public offering statement.

A. Prior to or upon the occurrence of a material change, the declarant shall amend the public offering statement to disclose the modified or additional information or to include the modified or additional document, as the case may be. The declarant may amend the public offering statement other than in connection with a material change.

B. Amendment of the public offering statement may be accomplished in any intelligible manner and, to the extent that strict compliance with any of the provisions of these regulations governing the form of presentation of information in the public offering statement would be unduly burdensome, the declarant 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 Regulations ~~18.3~~ §§ 5.3 and 5.8 of these regulations are strictly observed and (iii) the

## Proposed Regulations

presentation of information in the amended public offering statement is organized so as to facilitate reading and comprehension. Nothing contained herein shall authorize a deviation from strict compliance with a provision of these regulations governing the substance of disclosure in the public offering statement. If any information has become inaccurate or misleading by reason of the material change and is not deleted from the public offering statement in connection with its amendment, such fact shall be clearly noted.

C. Correction of spelling, grammar, omission or other similar errors not affecting the substance of a public offering statement shall not be deemed an amendment of the public offering statement for the purposes of these regulations; provided, however, that the declarant shall file with the Commission board a copy of a public offering statement so corrected.

### 20.3 § 8.3. Filing of amended public offering statement.

A. The declarant shall promptly file with the Commission board a copy of an amended public offering statement. Unless subparagraph subsection D hereof applies, the declarant shall, as part of such filing, update the application for registration on file with the Commission board either by filing a new application or by advising the Commission board of changes in the information contained in a previously filed application or file new or substitute documents. In the case of a public offering statement (i) amended other than in connection with a material change or (ii) presumed current pursuant to Regulation 20.5 § 8.5, the filing shall indicate the date of amendment.

B. Unless subparagraph subsection D hereof applies, the Commission board shall issue a notice of filing within five business days following receipt in proper form of the materials required by subparagraph subsection A hereof. The Commission board shall review the amended public offering statement and supporting materials to determine whether the amendment complies with Regulation 20.2 § 8.2 of these regulations. At such time as the Commission board affirmatively determines that the amendment complies with Regulation 20.2 § 8.2, but not later than the thirtieth 30th day following issuance of the notice of filing, it shall enter an order designating the amended form and content of the public offering statement to be used. Such order shall provide that previous orders designating the form and content of the public offering statement for use are superseded.

C. If the Commission board determines, pursuant to subparagraph subsection B hereof, that an amendment to the public offering statement does not comply with Regulation 20.2 § 8.2, it shall immediately, but in no event later than the thirtieth 30th day following issuance of the notice of filing enter an order declaring the amendment not in compliance with Regulation 20.2 § 8.2 and specifying the particulars of such noncompliance. In the case of a public offering statement amended other than in connection with a material change, the order shall

relate back to the date of amendment. If neither of the orders provided for by this subparagraph subsection and subparagraph subsection B hereof are entered within the time allotted, the amendment shall be deemed to comply with Regulation 20.2 § 8.2, except that the thirty 30-day period may be extended in the manner provided for extension of the correction period by Regulation 15.3(d) § 2.3, subsection D of these regulations. The declarant may, at any time correct and refile an amended public offering statement; provided, however, that if an order of noncompliance has been entered with respect to the amendment, all of the provisions of subparagraphs subsections A and B hereof and this subparagraph subsection shall apply to such refiling.

D. If the material change which resulted in amendment of the public offering statement was an expansion of the condominium or the formation of units out of convertible land or convertible space, the declarant shall file a complete application for registration of the additional units, provided, that no such application need be filed for units previously registered. Such application for registration shall be subject to all of the provisions of Regulations 15.1 §§ 2.1 through 16.3 3.3 and the Commission board shall observe the procedures of Regulation 15.3 § 2.3 in regard to the application. Documents then on file with the Commission board and not changed in connection with the creation of additional units need not be refilled, provided that the application indicates that such documents are unchanged.

E. In each case in which an amended document is filed pursuant to this paragraph 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.

### 20.4 § 8.4. Current public offering statement.

A. A public offering statement is current if its form and content are designated for use pursuant to Regulations 15.3(g) §§ 2.3 G or 20.3(b) 8.3 B of these regulations and remains current so long as no material change occurs and any amendment of the public offering statement other than in connection with a material change is made in compliance with Regulation 20.2 § 8.2.

B. A public offering statement ceases to be current upon the occurrence of a material change and, subject to the exception provided in Regulation 20.5 § 8.5, does not thereafter become current unless and until (i) it is amended pursuant to Regulation 20.2 § 8.2 and (ii) the Commission board, with respect to such amendment, enters an order pursuant to Regulation 15.3(g) §§ 2.3 G or 20.3(b) 8.3 B or fails to enter, within the times allotted therefor, any of the orders provided for by Regulations 15.3(e) §§ 2.3 E and G or 20.3(b) 8.3, subsections B and C of these regulations.

C. If the Commission board determines that the public offering statement amended other than in connection with

## Proposed Regulations

---

a material change fails to comply with ~~POR 9-1071~~ § 8.2, that public offering statement ceases to be current as of the date of amendment. Such cessation shall be affected retroactively by the ~~Commission board's~~ entry of an order of noncompliance and nothing contained herein shall limit the declarant's right to use the public offering statement as current prior to the entry of an order of noncompliance. The public offering statement does not thereafter become current unless and until it is corrected and refiled and the ~~Commission board~~, with respect to such amendment, enters an order pursuant to ~~Regulation 20-3(b)~~ § 8.3 B or fails to enter either of the orders provided for by ~~20-3(b)~~ § 8.3, subsection B or C of these regulations.

D. Upon issuance of a public offering statement amended because of the occurrence of a material change as defined by § 8.1, the purchaser's 10-day rescission right afforded by § 55-79.88(c) of the Code of Virginia is renewed. The declarant shall deliver the public offering statement so amended and give the purchaser notice of his renewed rescission right as required by § 8.6 of these regulations.

~~20-5~~ § 8.5. Certain amended public offering statements presumed current.

A. A public offering statement amended by the declarant to disclose any material change which is an aspect or result of the orderly development of the condominium or the normal functioning of the unit owners' association shall be presumed current immediately upon its amendment, subject, however, to the condition that the ~~Commission board~~ shall subsequently determine that the amendment was made in compliance with ~~POR 9-2071~~ § 8.2. An amended public offering statement presumed current pursuant to this subsection shall be referred to elsewhere in these regulations as a presumptively current public offering statement.

B. The declarant shall file with the ~~Commission board~~ a copy of a presumptively current public offering statement and all of the provisions of ~~Regulation 20-3~~ § 8.3 shall apply to such filing except that, in addition: (i) filing shall be made not later than 10 business days following the occurrence of the material change which necessitated the amendment, and (ii) the filing shall indicate the declarant's plans, if any, to deliver the presumptively current public offering statement to purchasers pursuant to § 55-79.88(c) of the Code of Virginia.

C. A ~~Commission board~~ order declaring that an amendment which resulted in a presumptively current public offering statement is not in compliance with ~~Regulation 20-2~~ § 8.2 shall render ineffective the presumption that the public offering statement is current. In that event, the public offering statement shall be deemed to have ceased being current upon the occurrence of the material change which necessitated the amendment. Nothing contained herein shall limit the declarant's right to use a presumptively current public offering statement

prior to entry of the order of noncompliance. A presumptively current public offering statement also ceases being current upon the declarant's failure to file within the time provided in ~~subparagraph~~ subsection B hereof, but such cessation shall have no retroactive effect. A presumptively current public offering statement which ceases to be current pursuant to this ~~subparagraph~~ subsection does not thereafter become current unless and until it is filed or refiled with the ~~Commission board~~ pursuant to ~~Regulation 20-3~~ § 8.3 and the ~~Commission board~~, with respect to such public offering statement, enters an order pursuant to ~~Regulations 15-3(e)~~ § 2.3 G or ~~20-3(b)~~ § 8.3 B or fails to enter, within the times allotted therefor, any of the orders provided for in ~~15-3(e)~~ § 2.3 E and ~~(e)~~ G or ~~20-3(b)~~ §§ 8.3, subsections B and C of these regulations.

~~20-6~~ § 8.6. Public offering statement not current; notification of purchasers.

The declarant shall notify every purchaser to whom has been delivered a public offering statement which was subsequently determined not to have been current at the time of its delivery. Such notification shall indicate that any contract for disposition of a condominium unit is ~~cancelable~~ may be cancelled unless and until the declarant complies with the provisions of § 55-79.88(c) of the Code of Virginia. The declarant shall file a copy of the notification with the ~~Commission board~~ and provide proof that such notification has been delivered to all purchasers under contract.

~~20-7~~ § 8.7. Annual report by declarant.

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 and include a copy thereof in the 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, consist of filing complying with the requirements of ~~Regulation 20-3~~ § 8.3. In addition, the annual report shall indicate the number of condominium units (i) conveyed, (ii) under contract for disposition, (iii) being rented by the declarant and (iv) still being offered. The annual report shall indicate the status of declarant's control retained pursuant to § 55-79.74 of the Code of Virginia. The annual report may be in any form suitable for compliance with the provisions of this paragraph and § 55-79.93.

~~20-8~~ § 8.8. Provisions applicable to substituted disclosure document, prospectus.

A. The provisions of ~~Regulations 20-1~~ §§ 8.1 through ~~20-7~~ 8.7 shall apply to a substituted disclosure document in the same manner and to the same extent that they apply to public offering statements.

# Proposed Regulations

B. The provisions of Regulations ~~20.1~~ §§ 8.1 through 20.5 8.5 shall apply to a prospectus only to the extent that amendment of the information or documents attached to the prospectus pursuant to ~~18.27~~ § 5.26 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 ~~Commission~~ board any amendments to the body of the prospectus and, upon receipt thereof, the ~~Commission~~ board shall enter an order designating the form and content of the prospectus to be used and providing that previous orders designating the form and content of the prospectus for use are superseded. A prospectus is current so long as it is effective under applicable securities law and the information and documents attached thereto are current under the provisions of Regulations ~~20.4~~ §§ 8.4 and 20.5 8.5 of these regulations. The declarant shall immediately notify the ~~Commission~~ 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 ~~Commission~~ board pursuant to Regulation 20.3 § 8.3.

C. The provisions of Regulation 20.6 § 8.6 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 Regulation 20.7 § 8.7 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.

## SECTION 21

### PART 9.

#### HORIZONTAL PROPERTY REGIMES.

##### ~~21.1~~ § 9.1. Horizontal property regime; special definitions.

The definitions provided in § 55-79.2 of the Code of Virginia, as they may be supplemented herein, shall apply to Regulations ~~21.1~~ §§ 9.1 through ~~21.7~~ 9.7 of these regulations. A condominium established in Virginia prior to July 1, 1974, shall be referred to in Regulations ~~21.1~~ §§ 9.1 through ~~21.7~~ 9.7 as a "horizontal property regime."

##### ~~21.2~~ § 9.2. Horizontal property regime; provisions applicable.

A horizontal property regime and ~~Commission~~ board action with respect thereto shall be subject to:

- (a) 1. All of the provisions of Regulations ~~14.1~~ §§ 1.1 through 14.6 2 and
- (b) 2. All of the provisions of Regulations ~~17.1~~ §§ 4.1 through 17.4 4.4 except ~~17.3(b)~~ § 4.3 B of these regulations, provided that each reference therein to

registration shall be deemed to refer also to the issuance of a final public report.

##### ~~21.3~~ § 9.3. Notice of intention.

A developer shall notify the ~~Commission~~ board of its intention to offer apartments in a horizontal property regime in Virginia by completing and filing at the offices of the ~~Commission~~ board a notice of intention containing substantially all of the information and documents required by the standard notice of intention, a copy of which is appended as Appendix F to these regulations and made a part hereof. The notice of intention may request issuance of a preliminary, final, substitute or supplementary public report.

##### ~~21.4~~ § 9.4. Inspection by ~~Commission~~ board.

Upon receipt of a notice of intention requesting issuance of a final, substitute or supplementary public report the ~~Commission~~ board shall determine whether an inspection of the horizontal property regime is necessary. If the ~~Commission~~ board determines that inspection is necessary, it shall so notify the developer within 10 days following receipt of the notice of intention. The developer shall pay an inspection fee of \$75 plus the reasonable expenses of first class travel incurred in such inspection. The duty of conducting the inspection and preparing the public report is delegated to the Condominium property registration administrator. Inspection fees shall be placed to the credit of the special fund established by § 55-79.31 of the Code of Virginia.

##### ~~21.5~~ § 9.5. Public report.

Five copies of each public report issued by the ~~Commission~~ board shall be furnished to the developer without charge. Additional copies may be secured by the developer at its own expense. A developer shall not represent or cause a purchaser to believe that the ~~Commission's~~ board's issuance of a public report is an approval of any horizontal property regime. The public report shall be used only in its entirety. The developer shall not cause any portion of a public report to be underscored, italicized or printed in larger, heavier or different color type than the remainder of the public report unless the original issued by the ~~Commission~~ board is so prepared.

##### ~~21.6~~ § 9.6. Supplementary public report.

A. Whenever, following the first filing of a notice of intention with the ~~Commission~~ board, a material change in the setup, value or use of a horizontal property regime occurs, the developer shall so notify the ~~Commission~~ board. If the ~~Commission~~ board has issued a final, substitute or supplementary public report relative to the horizontal property regime, the notification provided for in the preceding sentences shall be accomplished by the filing of a notice of intention requesting issuance of a supplementary report. Previously issued final, substitute or

## Proposed Regulations

---

supplementary public reports shall not be delivered to purchasers following the occurrence of a material change in the setup, use or value of the horizontal property regime.

B. For the purposes of this paragraph, a material change in the setup, use or value of a horizontal property regime shall include, without limitation, a change in the number of apartments, a change in the land area, a change in the percentage of ownership of the common elements by any co-owner including the developer as owner of unsold apartments, a change in common elements constituting amenities and a change of the developer whereby a party other than the developer identified in the most recently issued public report succeeds to the rights and interests of such original developer in the horizontal property regime. Upon the request of a developer in a specific case, the ~~Commission~~ board shall determine whether a particular change constitutes a material change in the setup, use or value; provided, however, that the presentation of information to the ~~Commission~~ board in connection with such request shall not relieve the developer of any requirement for filing a notice of intention in the event that the ~~Commission~~ board determines that a material change in the setup, use or value has occurred or will occur.

C. Upon receipt of a notice of intention filed pursuant to this paragraph, the ~~Commission~~ board shall issue a supplementary public report and the developer shall deliver a true copy thereof to all purchasers who have executed but not settled contracts for acquisition of an apartment in the horizontal property regime.

D. The developer may amend a final, substitute or supplementary public report to reflect changes not constituting material changes in the setup, value or use, provided that a copy thereof is filed with the ~~Commission~~ board prior to its delivery to any prospective purchaser.

21.7 § 9.7. Horizontal property regime constituting conversion condominium.

A. A notice of intention requesting issuance of a final public report on a horizontal property regime which is a conversion condominium shall have attached thereto the information required by Regulations 10.4 §§ 6.4, 10.5(b) 6.5, subsections B, C and D, 10.6 6.6 and 10.7 6.7 of these regulations to be disclosed in public offering statements for conversion condominiums. Such information shall be prepared by the developer and submitted in a form suitable for presentation in the final public report. The ~~Commission~~ board shall make any revisions in such information as are necessary to effect full compliance with the applicable regulations and shall incorporate the information into the final public report.

B. A notice of intention requesting issuance of a final public report on a horizontal property regime which is a conversion condominium shall have attached thereto a copy of the notice to be given to tenants pursuant to §

55-79.94(b) of the Code of Virginia. The declarant shall certify that such notice to tenants shall be, at the time of issuance of the final public report, mailed or delivered to each of the tenants in the building or buildings in the horizontal property regime. No such notice shall be mailed or delivered to a tenant prior to the issuance of the final public report on the horizontal property regime.

For Office Use Only:

Check No.		Amount		Class		Date			

Department of Commerce  
3600 West Broad Street  
Richmond, Virginia 23230



Make checks payable to  
"Treasurer of Virginia"

please print or  
type clearly

**APPLICATION FOR REGISTRATION  
OF CONDOMINIUM**

In accordance with §55-79.89, Code of Virginia, 1950, as amended, the undersigned requests registration of the following styled condominium and, herewith, submits a registration fee in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_).

REGISTRATION NO. \_\_\_\_\_ Declarant \_\_\_\_\_

Date \_\_\_\_\_ by \_\_\_\_\_ Authorized Officer or Agent

I. NAME OF PROJECT \_\_\_\_\_

II. ADDRESS OF PROJECT \_\_\_\_\_

III. DECLARANT:

A. NAME OF DECLARANT \_\_\_\_\_

B. ADDRESS OF PRINCIPAL PLACE OF BUSINESS OF DECLARANT: \_\_\_\_\_

(Telephone Number: AREA CODE \_\_\_\_\_ NUMBER \_\_\_\_\_)

**EXHIBIT A:** If Declarant is a corporation, attach copy of Certificate of Incorporation or Certificate of Authority to Transact Business in Virginia issued by State Corporation Commission. If Declarant is a partnership or joint venture, attach recording data for any partnership or joint venture agreement recorded. Otherwise, attach a certified statement of explanation. (Mark "EXHIBIT A.")

C. ADDRESS, TELEPHONE NUMBER AND NAME OF MANAGER OF EACH OFFICE OF DECLARANT LOCATED WITHIN THE BOUNDS OF VIRGINIA:

(Address)	(Phone)	(Manager)
_____	_____	_____

(If additional space is required, complete on separate sheet of paper, attach and mark "Schedule III C.")

D. Name, address and principal occupation for past five years of every officer of the Declarant or person occupying a similar status performing similar functions; the extent and nature of his interest in the Declarant or subject condominium as of the date of filing of this application. (List principal officer first.)

Name (Principal Officer): \_\_\_\_\_ Title \_\_\_\_\_

Residence Address: \_\_\_\_\_

Principal occupation for past five years: \_\_\_\_\_

Extent and nature of interest in Declarant: \_\_\_\_\_

Role in development of condominium: \_\_\_\_\_

(Continue to extent necessary in similar format on separate sheet of paper, attach and mark "Schedule III D.")

E. If other than the persons identified in "D" above, identify the principal officers of the Declarant and provide the same information requested in "D" other than their roles in the development of the condominium. (Attach separate sheet and mark "Schedule III E.")

F. List the name and address and the type and extent of interest of each holder of any ownership interest of 10% or more in the Declarant. If any holder is other than an individual, name the type of entity. (Attach separate sheet and mark "Schedule III F.")

G. If the Declarant does not entirely own the project, list the name and address of each individual or entity having an ownership interest of 10% or more in the condominium project (Attach separate sheet and mark "Schedule III G.")

H. List states or jurisdictions in which Declarant has filed application for registration or similar document relating to this or any other condominium project and date of each such filing:

(Continue to extent necessary on separate sheet of paper, attach and mark "Schedule III H.")

I. If the Declarant is an organization, state whether the Declarant was organized for the sole purpose of developing the condominium and, if not, provide a general description of the other activities engaged in by the Declarant. Provide a brief history of the Declarant including formation, merger, subsidiary relationships and the like. (Attach separate sheet and mark "Schedule III I.")

J. State whether the Declarant owns any assets other than the condominium property and, if so, provide a general description of such assets.

(Continue to extent necessary on separate sheet of paper, attach and mark "Schedule III J.")

IV. VIOLATIONS, BANKRUPTCIES, AND LITIGATIONS:

A. State whether any of the individuals or entities named in III above or entities in which individuals named in III above were principals have been subject to an adverse judgment or decree of a court or order of an administrative agency, have been indicted or convicted by any court for violation of a federal, state, local or foreign country law or regulation, or have been disciplined, disbarred or suspended by any governmental body or agency in connection with activities relating to condominium sales, land sales, land investments, security sales, construction or sale of homes or home improvements or any similar or related activity. State also whether any such individuals or entities are currently defendants or respondents, either primarily or by counterclaim or cross claim, in any action which could result in a judgment, decree, order, indictment, conviction, disciplining, disbarment or suspension contemplated by the preceding sentence. (If so, on a separate sheet marked "Schedule IV A" describe the action, including the names of the parties, the type and date of the action, and the status or disposition thereof.)



- B. State whether, during the preceding ten years, the Declarant or any parent or predecessor organization, and, during the preceding three years, any individual identified in III above, has been adjudicated a bankrupt or has undergone any proceeding for the relief of debtors. If so, describe the action on a separate sheet marked "Schedule IV B."
- C. List all current litigation, other than that described in "A" and "B" above, of which the Declarant is aware which, individually or in the aggregate, may have a material effect upon the Declarant and/or project. Describe each action in detail, identifying the court of record, action number, and full identity of the parties involved. (Attach separate sheet and mark "Schedule IV C.")

V. ENCUMBRANCES:

- A. List in order of priority mortgages or deeds of trust against property giving date of instrument, lender secured, amount and purpose of loan and recording data including date of recordation:
  - (1) \_\_\_\_\_
  - (2) \_\_\_\_\_
  - (3) \_\_\_\_\_
  - (4) \_\_\_\_\_
  - (5) \_\_\_\_\_
  - (6) \_\_\_\_\_
  - (7) \_\_\_\_\_
- B. List in order filed, mechanic's and materialman's liens against property stating identity of contractor, subcontractor or supplier secured, amount claimed and recording data including date of recordation:
  - (1) \_\_\_\_\_
  - (2) \_\_\_\_\_
  - (3) \_\_\_\_\_
  - (4) \_\_\_\_\_
  - (5) \_\_\_\_\_
  - (6) \_\_\_\_\_
  - (7) \_\_\_\_\_
- C. Will obligations secured by above encumbrances be paid and satisfied of record at or prior to conveyance of any affected condominium unit? Identify encumbrances not to be paid and satisfied of record.
  - (1) \_\_\_\_\_
  - (2) \_\_\_\_\_
  - (3) \_\_\_\_\_
  - (4) \_\_\_\_\_
  - (5) \_\_\_\_\_
  - (6) \_\_\_\_\_
  - (7) \_\_\_\_\_
- D. With respect to each obligation not to be paid and satisfied as indicated in "C" above, attach copy of document(s), if any, embodying or setting forth commitment of lienholder to release lien at or prior to conveyance of affected unit, provide statement of explanation. (Mark document "Exhibit V D (1), (2), (3), etc." Indicate location within each document of release provisions.)

VI. TERMS OF OFFERING:

- A. Type of financing available to purchaser: \_\_\_\_\_  
\_\_\_\_\_
- B. Minimum cash down payment required: \_\_\_\_\_
- C. Type of deed for conveying to purchaser: \_\_\_\_\_

VII. TITLE TO LAND:

- A. Name and address of current owner of land: \_\_\_\_\_  
  
(If Declarant is not record owner of land, attach a copy of any contract he has executed to purchase the land, any option he holds for purchase of the land or any lease under which he holds the land. Mark "Schedule VII A.")
- B. Recording reference for current deed for land: \_\_\_\_\_

EXHIBIT B.: Attach a current title opinion issued within the preceding thirty days by a licensed attorney who is not a salaried employee, officer or director of the Declarant or owner showing the condition of the title to the condominium including all encumbrances against it. If the legal description of the land contained in the opinion is not identical to the legal description of the submitted land contained in the condominium instruments, attach also a certification executed by a registered land surveyor or a licensed attorney that the submitted land described in the condominium instruments is the same land as or lies wholly within the boundaries of the land described in the opinion. (Mark "EXHIBIT B.")

VIII. BUILDING STATUS:

- A. Are all improvements depicted on plats or a site plan filed as part of EXHIBIT B hereto completed? \_\_\_\_\_
- B. If answer to "A" above is affirmative, give approximate completion date and state that all current zoning and other government regulations concerning such improvements have been complied with or attach a statement giving particulars of any instance in which such regulations have not been met. (Mark such statement "Schedule VIII B.")
- C. If answer to "A" above is negative:
  - (1) Give the status of the following matters including the dates of any approvals or applications if not approved:
    - (a) Zoning compliance: \_\_\_\_\_
    - (b) Site plan: \_\_\_\_\_
    - (c) Building permit: \_\_\_\_\_
    - (d) Site preparation and building construction: \_\_\_\_\_

(2) Provide the information requested below with regard to proposed improvements (define in REG. 16.1(c) of the Virginia Real Estate Commission Rules and Regulations):

- (a) Anticipated cost of completion of improvements: \_\_\_\_\_
- (b) Contract price, if any, with general contractor: \_\_\_\_\_
- (c) Source of construction funds and amount from each source: \_\_\_\_\_

(d) If construction funds are or will be borrowed, state amount(s) for which loan commitment has been obtained from construction lender and amount(s) of loan proceeds not yet disbursed: \_\_\_\_\_

(e) Attach copy of construction loan commitment. (Mark "EXHIBIT VIII C (2)(e).") \_\_\_\_\_

(f) State whether construction loan has been funded and, if not, state reasons: \_\_\_\_\_

(g) If any construction loan is to be obtained or if any construction funds are to be obtained by a capital contribution to the Declarant, provide a financial statement or other evidence of the availability to such lender or contributor of the funds to be lent or the capital to be contributed. (Mark "EXHIBIT VIII C (2)(g).") \_\_\_\_\_

(h) If any construction funds are to be obtained other than through a construction loan or a capital contribution, provide a financial statement or other evidence of availability to the Declarant of the necessary funds. (Mark "EXHIBIT VIII C (2)(h).") \_\_\_\_\_

**D. Taxes and Assessments:**

(1) Give details of real estate tax, personal property tax or other tax or special assessment on property: \_\_\_\_\_

(2) Give details of any proposed special tax or assessment which affect this condominium: \_\_\_\_\_

(3) Will unit purchaser be required to pay any property taxes or special assessments to any municipal or other governmental agency after signing the contract to purchase and prior to or at time of delivery of executed deed? If so, explain: \_\_\_\_\_

F. Will unit purchaser be required to pay any assessments due or any other payments to unit owner's association, the developer or any other organization or entity for the maintenance of common facilities or other purposes after signing contract to purchase and prior to or at time of delivery of executed deed? If so, explain: \_\_\_\_\_

**IX. INSURANCE:**

A. List types and amounts of insurance to be carried by unit owners association, or the executive organ or managing agent on behalf of such association. \_\_\_\_\_

B. Are minimum ratings specified for companies providing insurance? If so, specify: \_\_\_\_\_

**X. ADDITIONAL EXHIBITS:**

**EXHIBIT C.** Attach copies of the instruments which will be delivered to unit purchaser to evidence his interest in the unit and of contracts and other agreements which a purchaser will be required to agree to or sign. Attach also a copy of any non-binding reservation agreement used or to be used. (Mark "EXHIBIT C.")

**EXHIBIT D.** Attach a narrative description of the promotional plan for disposition of condominium units and include (1) the identity of the real estate broker(s), if any, who will market the condominium units in Virginia and/or a statement that marketing of condominium units in Virginia will be conducted by the Declarant's regular employees; (2) the Declarant's plan for use of advertising media and distribution of offering literature in Virginia; (3) the Declarant's plan for making direct contact with individual prospective purchasers in Virginia, and (4) the Declarant's plan for use of model units or other devices by which prospective purchasers will be acquainted with the physical features of the condominium units. (Mark "EXHIBIT D.") Attach copies of all offering literature not previously filed pursuant to REG. 17.4(c) of the Virginia Real Estate Commission Rules and Regulations. (List each item on separate sheet designating it as "EXHIBIT D(1), (2), (3), etc." with items attached thereto appropriately marked.)

**EXHIBIT E.** Attach for review plats and plans which comply with §§55-79.58 and 55-79.89(a)(10), Code of Virginia, 1950, as amended and REG. 16.2 of the Virginia Real Estate Commission Rules and Regulations. Alternatively, attach for review materials which comply with REG. 16.2(c) of the Virginia Real Estate Commission Rules and Regulations.

**EXHIBIT F.** Attach with all required and permitted exhibits, a copy of (1) a proposed public offering statement complying with REG. 18.1, through REG. 18.27, and, if applicable, REG. 19.1, through REG. 19.8 of the Virginia Real Estate Commission Rules and Regulations. (2) a substituted disclosure document complying with REG. 18.26 of the Virginia Real Estate Commission Rules and Regulations, or (3) a prospectus complying with REG. 18.27 of the Virginia Real Estate Commission Rules and Regulations. (Mark "EXHIBIT F.")

**EXHIBIT G:** Attach a copy of any management, employment or other contract, lease or agreement currently in effect or being negotiated affecting the use, maintenance or access of all or part of the condominium. If any such contract, lease or agreement is being negotiated, indicate status of negotiations. Include statement of any relationship which exists between the Declarant and the parties to such contracts, leases or agreements. (Mark "EXHIBIT G.")

**EXHIBIT H:** Attach the irrevocable appointment of the Real Estate Commission to receive service of any lawful process in any non-criminal proceeding arising under provisions of §§55-79.39 through 55-79.103, Code of Virginia, 1950, as amended, against the Declarant or his personal representative using the form provided for this purpose by the Commission. (Mark "EXHIBIT H.")

**EXHIBIT I:** If a substituted disclosure document is attached as EXHIBIT F, attach an outline setting forth the manner in which the substituted disclosure document complies with the disclosure requirements of the Condominium Act. The outline shall be sufficiently detailed to indicate the location within the substituted disclosure document of the various categories of information that, in a public offering statement, would be required to be disclosed by §§55-79.90(a) and, if applicable, 55-79.94(a), Code of Virginia, 1950, as amended. The outline shall contain the following statement: "In the opinion of the undersigned, the substituted disclosure document prepared for filing with the Virginia Real Estate Commission in connection with the application for registration of [name and location of condominium] complies with REG. 18.26 of the Virginia Real Estate Commission Rules and Regulations." The statement shall be executed by an attorney licensed to practice in Virginia. (Mark "EXHIBIT I.")

**EXHIBIT J:** If the condominium is a conversion condominium, attach a copy of any inspection report made by or for the Declarant in connection with a determination of the matters required to be disclosed by §§55-79.94(a)(4), Code of Virginia, 1950, as amended. (Mark "EXHIBIT J.")

**EXHIBIT K:** If the condominium is a conversion condominium, attach a notice and certified statement as required in §§55-79.94(c), Code of Virginia, 1950, as amended. (Mark "EXHIBIT K.")

**EXHIBIT L:** Attach bonds required to be filed pursuant to Virginia Code §§55-79.58-1, 55-79.84-1.

**NOTICE**

Section 55-79.89(c), Code of Virginia, 1950, as amended, provides that the Declarant shall immediately report any material changes in the information contained in an Application for Registration to the Commission.

STATE OF \_\_\_\_\_ )  
 COUNTY OF \_\_\_\_\_ ) ss.  
**AFFIDAVIT**

\_\_\_\_\_, being duly sworn deposes and says: That the statements herein contained, and the documents herewith submitted are full, true and complete as of the date of execution hereof, and that he is the Declarant of the condominium project for which application for registration is being made, or that he is the officer or agent authorized by the Declarant to affix his signature hereto.

Affiant further deposes and says: That nothing done or planned in connection with the marketing of the condominium units for which application for registration is hereby made is or will be, to the best of his knowledge, contrary to the provisions of § 59.1-44, Code of Virginia, 1950, as amended, or REG. 17.1 through REG. 18.4 of the Virginia Real Estate Commission Rules and Regulations.

\_\_\_\_\_  
 Authorized Signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_  
 City or County and State

\_\_\_\_\_  
 Officer Administering Oath

Notary Public in County/City of \_\_\_\_\_ State of \_\_\_\_\_

My Commission expires \_\_\_\_\_

**PENALTIES**

§55-79.103. Penalties — Any person who willfully violates any provision of §§55-79.87, 55-79.88, 55-79.89, 55-79.90, 55-79.93, 55-79.94, 55-79.95, or any rule adopted under or order issued pursuant to §§55-79.98, or any person who willfully in an application for registration makes any untrue statement of a material fact or omits to state a material fact shall be guilty of a misdemeanor and may be fined not less than one thousand dollars or double the amount of gain from the transaction, whichever is the larger but not more than fifty thousand dollars; or he may be imprisoned for not more than six months; or both, for each offense.

EXHIBIT H

IRREVOCABLE APPOINTMENT OF THE VIRGINIA REAL ESTATE COMMISSION TO RECEIVE SERVICE OF ANY LAWFUL PROCESS IN ANY NONCRIMINAL PROCEEDING ARISING UNDER PROVISIONS OF SECTIONS 55-79.39 THROUGH 55-79.103, CODE OF VIRGINIA, 1950, AS AMENDED.

Name of Applicant: \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

WHEREAS, the above-named Applicant has made application for registration of a condominium project known as \_\_\_\_\_ under provisions of Section 55-79.83, Code of Virginia, 1950, as amended.

WHEREAS, under provisions of said Section, it is required that each and every applicant for registration file an Irrevocable Appointment of the Virginia Real Estate Commission to Receive Service of Any Lawful Process in Any Noncriminal Proceedings Arising Incident to Any Condominium Submitted for Registration by the Applicant with the Commission.

NOW, THEREFORE, I, the above-named applicant or authorized agent for the applicant, hereby execute and file with the Secretary of the Virginia Real Estate Commission on behalf of the Applicant full and irrevocable authority to receive service of any lawful process in any noncriminal proceeding arising under Sections 55-79.39 through 55-79.103, Code of Virginia, 1950, as amended, in the name of the applicant, either individually, or co-partners or members of the applicant in any of the courts of record of the State of Virginia, and it is hereby stipulated and agreed that such service of such process on said Secretary shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant, its partners and members personally within the State of Virginia.

IN WITNESS WHEREOF, I \_\_\_\_\_, have hereunto signed

my name this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Applicant

by \_\_\_\_\_ Authorized Agent or Officer

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

at \_\_\_\_\_ (City or county and state)

Officer Administering Oath

Notary public in County/City of \_\_\_\_\_ State of \_\_\_\_\_

My commission expires \_\_\_\_\_

BOND

TO INSURE PAYMENT OF ASSESSMENTS

KNOW ALL MEN BY THESE PRESENTS THAT \_\_\_\_\_, of \_\_\_\_\_, (the "Principal") and \_\_\_\_\_, (the "Surety"), are held and firmly bound unto \_\_\_\_\_ Unit Owners' Association having its principal office at \_\_\_\_\_ (the "Obligee"), in the sum of \_\_\_\_\_ to the payment of such sum, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assignees jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas, the Principal has caused to be filed with the Virginia Real Estate Commission a Declaration, Bylaws and Plats and Plans pursuant to the Virginia Condominium Act, proposing to register certain property located in the City/County of \_\_\_\_\_ under the Condominium Act as \_\_\_\_\_ Condominium; and

WHEREAS, the Principal, in accordance with the terms, covenants and conditions of the Declaration, Bylaws and Plats and Plans of \_\_\_\_\_ Condominium and pursuant to the provisions of Section 55-79.83 of the Code of Virginia, as amended, has an obligation to the Obligee to pay all common expenses assessed on condominium units owned by the Principal;

NOW THEREFORE, if the Principal shall save harmless the Obligee from any pecuniary loss resulting from the breach of any of the terms, covenants and conditions of the obligation to

pay common expenses assessed against condominium units owned by the Principal in \_\_\_\_\_ Condominium, then this obligation shall be void; otherwise, it shall remain in full force and effect in law; provided, however, that this bond is issued subject to the following conditions and privileges:

1. That no liability shall be attached to the Surety unless, in the event of any default on the part of the Principal in the performance of any of the terms, covenants and conditions of its obligation to pay, the Obligee shall promptly and in any event not later than thirty (30) days after knowledge of such default, deliver to the Surety written notice, with a statement of the principal facts showing such default to the date of the notice.

2. That, in no event, shall the Surety be liable for a greater sum than the penalty of this Bond.

3. (a) That the Surety shall not be liable for damages to the person of anyone, under, or by authority of, in a statutory provision for damages or compensation to any employee, or otherwise; and

(b) That the Surety shall not be obligated to furnish any bond or obligation, other than the one executed.

4. When the Principal has sold and conveyed condominium units in \_\_\_\_\_ Condominium so that Principal owns no more than \_\_\_\_\_ of the condominium units in \_\_\_\_\_ Condominium upon which the Principal is liable for the payment of common expenses to Obligee this Bond shall become null and void and no further liability shall be attached to the Surety.

IN WITNESS WHEREOF, The said \_\_\_\_\_ Principal has hereunto affixed his or her signature and seals, and the Surety has caused these presents to be executed by \_\_\_\_\_, its duly authorized Attorney-in-Fact, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

Individual Principal \_\_\_\_\_ (Seal) Individual Surety \_\_\_\_\_ (Seal)

Corporate Principal \_\_\_\_\_ Corporate Surety \_\_\_\_\_

Business Address \_\_\_\_\_ Business Address \_\_\_\_\_

Corporate Seal \_\_\_\_\_ Corporate Seal \_\_\_\_\_

By \_\_\_\_\_ By \_\_\_\_\_

Title \_\_\_\_\_ Title \_\_\_\_\_

ACKNOWLEDGEMENT OF PRINCIPAL

STATE OF VIRGINIA,

\_\_\_\_\_ of \_\_\_\_\_, To Wit:

I, \_\_\_\_\_, a Notary Public in and for the \_\_\_\_\_  
\_\_\_\_\_ aforesaid, in the State of Virginia, do certify  
that \_\_\_\_\_, whose name is signed to the above  
bond, bearing date on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally  
appeared before me in my \_\_\_\_\_ aforesaid, and  
acknowledge the same.

I further certify that my term of office expires on the \_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public

AFFIDAVIT AND ACKNOWLEDGEMENT OF SURETY

STATE OF \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_, To Wit:

I, \_\_\_\_\_, a Notary Public in and for the \_\_\_\_\_  
\_\_\_\_\_ aforesaid, in the State aforesaid, do certify that

\_\_\_\_\_ personally appeared before me in my \_\_\_\_\_  
\_\_\_\_\_ aforesaid and made oath that he is \_\_\_\_\_  
\_\_\_\_\_ of the \_\_\_\_\_, that he is duly authorized  
to execute the foregoing bond by virtue of a certain power of attorney of said company,  
dated \_\_\_\_\_, and recorded in the Clerk's office of the \_\_\_\_\_  
\_\_\_\_\_ of \_\_\_\_\_ in Deed Book  
No. \_\_\_\_\_, Page \_\_\_\_\_, that said power of attorney has not been revoked; that  
the said company has complied with all requirements of law regulating the admission of such  
companies to transact business in the State of Virginia; the said company is solvent and  
fully able to meet promptly all of its obligations; and the said \_\_\_\_\_  
thereupon, in the name and on behalf of the said company, acknowledged the foregoing writing  
as its act and deed.

My term of Office expires \_\_\_\_\_, 19\_\_\_\_.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_.

\_\_\_\_\_  
Notary Public

BOND

TO INSURE COMPLETION OF IMPROVEMENTS

KNOW ALL MEN BY THESE PRESENTS THAT \_\_\_\_\_ of \_\_\_\_\_, Principal, and \_\_\_\_\_, Surety, are held and firmly bound unto the \_\_\_\_\_ Unit Owners' Association, Obligee having its principal office at \_\_\_\_\_ in the sum of \_\_\_\_\_ to the payment of such sum, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has caused to be filed with the Virginia Real Estate Commission a Declaration Bylaws, and Plans and Plans pursuant to the provisions of the Virginia Condominium Act, proposing to register certain property located in the city/county of \_\_\_\_\_ state of \_\_\_\_\_ under the Condominium Act as \_\_\_\_\_ Condominium; and

WHEREAS, the Principal, in accordance with the terms, covenants and conditions of the Declaration of \_\_\_\_\_ Condominium has an obligation to the Obligee to complete certain improvements in strict conformity with the plans and specifications for the same as described in the Declaration;

NOW THEREFORE, if the Principal shall complete said improvements in strict conformity with the plans and specifications for the same as described in the Declaration, then this obligation shall be void; otherwise, it shall remain in full force and effect in law, subject, however, to the following conditions:

1. That no liability shall be attached to the Surety unless, in the event of failure of the Principal to complete said improvements in strict conformity with the plans and specifications for the same as described in the Declaration, the Obligee shall promptly and in any event not later than sixty (60) days after knowledge of such failure, deliver to the Surety written notice, with a statement of the principal facts showing such failure to the date of the notice.

2. That in no event shall the Surety be liable for a greater sum than the penalty of this Bond.

IN WITNESS WHEREOF, The said \_\_\_\_\_ Principal has hereunto affixed his or her signature and seals, and the Surety has caused these presents to be executed by \_\_\_\_\_ its duly authorized Attorney-in-Fact, this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Individual Principal	Individual Surety
_____ (Seal)	_____ (Seal)
Corporate Principal	Corporate Surety
Business Address _____	Business Address _____
_____ Corporate Seal	_____ Corpo Seal
By _____	By _____
Title _____	Title _____

ACKNOWLEDGEMENT OF PRINCIPAL

STATE OF VIRGINIA,

\_\_\_\_\_ of \_\_\_\_\_, To Wit:

I, \_\_\_\_\_, a Notary Public in and for t  
\_\_\_\_\_ aforesaid, in the State of Virgi  
do certify that \_\_\_\_\_, whose name  
is signed to the above bond, bearing date on the \_\_\_\_ day of  
\_\_\_\_\_, 19 \_\_\_\_, personally appeared before me in my  
\_\_\_\_\_ aforesaid, and acknowledge the same.

I further certify that my term of office expires on the \_\_\_\_ day of  
\_\_\_\_\_, 19 \_\_\_\_.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Notary Public

AFFIDAVIT AND ACKNOWLEDGEMENT OF SURETY

STATE OF \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_, To

Wit:

I, \_\_\_\_\_, a Notary Public in and for  
\_\_\_\_\_ aforesaid, in the State aforesa.  
do certify that \_\_\_\_\_ personally appeared before  
in my \_\_\_\_\_ aforesaid and made oat  
that he is \_\_\_\_\_ of the \_\_\_\_\_  
that he is duly authorized to execute the foregoing bond by virtue of  
certain power of attorney of said company, dated \_\_\_\_\_  
and recorded in the Clerk's office of the \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_ in Deed Book No. \_\_\_\_\_, Page \_\_\_\_\_

that said power of attorney has not been revoked; that the said compar  
has complied with all requirements of law regulating the admission of  
companies to transact business in the State of Virginia; the said comp  
is solvent and fully able to meet promptly all of its obligations, and  
the said \_\_\_\_\_ thereupon, in the name and on behal  
the said company, acknowledged the foregoing writing as its act and d

My term of Office expires \_\_\_\_\_,  
Given under my hand this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Notary Public



# Proposed Regulations

\* \* \* \* \*

Title of Regulation: VR 585-01-3. Time-Share Regulations.

Statutory Authority: § 55-396 A of the Code of Virginia.

Public Hearing Date: January 16, 1987 - 10:30 a.m.  
(See Calendar of Events section  
for additional information)

## Summary:

*Proposed amendments to the regulations generally include revisions to the rules for registration application submission, marketing activities, preparation of the public offering statement and disclosures therein, and post registration provisions.*

*Proposed amendments also include provisions for registration application fees. Statutory amendment specifically granted such authority to the board. New regulations have been proposed for the registration of time-share exchange companies. Again, these proposed - regulations reflect statutory amendment.*

*All amendments proposed are consistent with statutory disclosure requirements and board policy.*

VR 585-01-3. Time-Share Regulations.

## SECTION 22

### PART 1. TIME-SHARE REGULATIONS.

#### GENERAL.

#### ~~22-1~~ § 1.1. Purpose.

These time-share regulations govern the exercise of powers granted to and the performance of duties imposed upon the Virginia Real Estate Commission Board by the Virginia Real Estate Time-Share Act, § 55-360 et seq. of the Code of Virginia. Such regulations apply to all time-share projects, wherever situate, which apply to said Act by virtue of § 55-361, unless exempt pursuant to § 55-396.

#### ~~22-2~~ § 1.2. 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 these time-share regulations. Each reference in these regulations to a "developer", "purchaser", and "time-share owner" or to the plural of those terms shall be deemed to refer, as appropriate, to the masculine and the feminine, to the singular and the plural and to natural persons and organizations.

#### ~~22-3~~ § 1.3. Time-share advisory committee.

A time-share advisory committee, appointed by the Commission board, shall advise the Committee board in the exercise of its powers and the performance of its duties and under the Virginia Real Estate Time-Share Act and shall function as a subordinate of the Commission within the meaning of Virginia Code § 9-6.14.4(g) in such cases as the Commission may direct.

#### ~~22-4~~ § 1.4. Property registration administrator.

A Time-Share property registration administrator, employed and designated as such by the Director of the Department of Commerce, shall function as a subordinate of the Commission board within the meaning of § 9-6.14.4(g) of the Code of Virginia for the purpose of carrying out the routine daily operations of the Commission board with respect to time-share regulations, including, without limitation, the entry of any orders provided for in these time-share regulations, the issuance of public reports and the administration of oaths and affirmations in connection with investigations or other proceedings. The Time-Share property registration administrator shall act as secretary of the time-share advisory committee.

## SECTION 23

### PART 2. APPLICATION FOR REGISTRATION.

#### ~~23-1~~ § 2.1. Application for registration.

Application for registration of time-share units shall be filed at the offices of the Commission board. The application shall contain all of the documents and information required by § 55-391.1 of the Code of Virginia. Each application for registration shall be submitted on the standard application form a specimen of which is appended as Appendix A to these regulations and made a part hereof, which is furnished by the board.

#### § 2.2. Form of the application; submission of documents.

The board may establish specific guidelines which establish the form for preparation of time-share documents. These guidelines shall set forth reasonable requirements which assure uniformity in disclosures made to prospective purchasers.

#### ~~23-2~~ § 2.3. Procedure upon receipt of application for registration.

A. Upon receipt of an application for registration, the Commission board shall issue a "notice of filing" and shall within twenty (20) days of receipt of the application conduct an inquiry and investigation review the application and supporting documents to determine whether the prerequisites for registration set out in § 55-391.1 of the Code of Virginia have been met. In making such a determination, the Commission board shall take cognizance of any may rely upon reliable information concerning the

# Proposed Regulations

developer of the project or the project coming to the Commission's board's attention. However, this does not excuse the developer's obligation to complete the registration application accurately and truthfully.

B. If the Commission board determines that any prerequisite for registration has not been met, the Commission board shall so notify the developer prior to the date of the effectiveness of the registration. This notification shall serve to suspend the effective date of registration until the twentieth day after the developer files additional or supplemental information satisfactory to the Commission.

Upon receipt of an application for registration not in proper form, the Commission board shall return the application to the developer with a statement specifying the deficiencies in its form; provided, however, that, if the Commission board has reason to believe that the application may readily be put into proper form, it may retain the application and notify the developer of the steps that must be taken to put the application in proper form.

C. At such time as the Commission board affirmatively determines that the prerequisites for registration have been met, the Commission board shall so notify the developer.

## § 2.4. Filing fees.

1. The filing fee for an original application for registration 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. Unless identified above, no other filing fee shall be assessed.

## PART 3. REGISTRATION.

### § 3.1. Prerequisites for registration.

The following provisions are prerequisites for registration and are supplementary to the provisions of § 55-391.1 of the Code of Virginia.

1. The developer shall own or have the right to acquire an estate in the land constituting or to constitute the time-share project which is of at least as great a degree and duration as the estate to be

conveyed in the time-shares.

2. The time-share instruments must be in a form which complies with the requirements of the Act and sufficient to bring a time-share into existence upon recordation of the instruments.

3. The developer shall have filed with the board evidence of its ability to complete all proposed improvements to the time-share project. Such evidence shall consist of the bond or letter of credit as required by § 55-386 of the Code of Virginia. If such bond or letter of credit is voided subsequent to registration, effectiveness of registration shall cease immediately.

4. The current and planned marketing activities of the developer shall comply with §§ 59.1-44 and 55-374.1 of the Code of Virginia and, §§ 5.1 and 5.2 of these regulations.

5. The developer shall have filed with the board (i) a proposed public offering statement which complies with § 55-374 of the Code of Virginia and §§ 5.1 through 5.20 of these regulations and, if applicable §§ 6.1 through 6.7; or (ii) a substitute public offering statement which complies with § 5.21 of these regulations.

## SECTION 24

### PART 4. MARKETING.

#### 24.1 § 4.1. 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 which 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.

24.2 (a) Time share marketing activities shall include any act whereby a person is given an opportunity to acquire a time share. Such act may be personal, by radio, television, newspaper, magazine, mail or by advertisement. A promise, assertion, representation or statement of fact or opinion made in connection with a time share marketing activity may be oral, written or graphic.

(b) No sales agent, whether an employee of, affiliate of, or independent contractor working for a developer shall engage in any time share marketing activity unless registered with the Commission as required by Virginia

# Proposed Regulations

Code § 55-300 B.

(e) The developer shall maintain records of the names and addresses of current independent contractors employed by it for time-share sales purposes, and make such records available to the Commission upon request.

## 24.3 § 4.2. 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 which 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. There shall be no indication that an improvement will be built or placed in the time-share project unless the developer has sufficient financial assets and a bona fide intention to complete the improvement as represented.

(e) 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 prospective purchaser to leave Virginia for the purpose of executing a contract for sale or performing some other act which would create or purport to create a legal or equitable interest in the time-share other than a security interest in a non-binding reservation of the time-share, when to do so would circumvent the provisions of this Act.

## 24.4. § 4.3. Offering literature.

A. "Offering literature" is any written promise, assertion, representation or statement of fact or opinion made in connection with a time-share marketing activity mailed or delivered directly to a prospective purchaser and which originates in this Commonwealth.

B. Offering literature mailed or delivered prior to the effectiveness of the registration of the time-share project which is the subject of the offering literature shall bear a conspicuous legend containing the substance of the following language:

[Identity of the time-share project] has not been effectively registered with the Virginia Real Estate Commission board. A time-share may be reserved on a nonbinding reservation agreement, but no contract of sale may be entered prior to the effectiveness of the developer's registration. Any deposit given at the time of the reservation is refundable at the purchaser's option at any time and must be placed in an escrow account with a financial institution having trust powers within the Commonwealth of Virginia, whose accounts are insured by a governmental agency or instrumentality.

C. A copy of every item of offering literature other than a personal communication shall be filed with the Commission prior to use. A personal communication is one directed to a prospective purchaser which has not been and is not intended to be directed to any other prospective purchaser. The developer shall file a narrative description of the promotional plan for the time-share development with the registration application.

24.5 Exemption from marketing regulations. Nothing in Regulations 24.1, 24.2, 24.3 (b) and (e), and 24.4 shall apply in the case of a time share project exempted from registration by Virginia Code § 55-305.

## SECTION 25

### PART 5. PUBLIC OFFERING STATEMENT.

#### 25.1 § 5.1. Scope of public offering statement.

The provisions of this section outlining the contents of the public offering statement supplement the requirements of § 55-374 of the Code of Virginia. A public offering statement shall make disclosures relative to a single offering and to the entire time-share program in which the time-shares being offered are located. Not more than one version of a public offering statement shall be authorized for use at any given time with respect to a particular time-share program.

25.2 Offering defined. - As used in these time share regulations, the word "offering" shall mean any act of the developer to sell, solicit, induce or advertise, whether by radio, television, newspaper, magazine or mail, whereby a person is given an opportunity to acquire a time-share.

#### 25.3 § 5.2. Preparation and distribution of public offering statement.

A. The public offering statement shall be clear and legible with pages numbered sequentially. Only a blank cover or a cover bearing identifying information may be used. Except as elsewhere provided, no portion of the public offering statement may be underscored, italicized or printed in larger, heavier or different color type than the remainder of the public offering statement. The first page (s) of the public offering statement shall conform to the specimen appended as Appendix B A to these regulations and made a part hereof.

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 purchaser and authorized receipt page in proper form shall be evidence that the public offering statement was delivered.

## Proposed Regulations

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.

### 25-4 § 5.3. Nature of information to be included.

A. The provisions of § 55-374 .1 of the Code of Virginia and Regulations 24-1 §§ 5.1 through 26-6 6.6 of these regulations shall be strictly construed to promote full and accurate disclosure in the public offering statement and, thereby, to protect the interests of purchasers.

B. The requirements for disclosure are not exclusive. In addition to expressly required information, the developer shall disclose all other available information which 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 which 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 which 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. Disclosure shall be made of pertinent facts, events, conditions or other states of affairs which the developer has reason to believe will occur or exist in the future or which the developer intends to cause to occur or to exist in the future. Disclosure relating to future facts, events, or conditions shall be limited by the provisions of subparagraph subsection F hereof.

E. 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.

F. Expressions of opinion in the public offering statement shall be deemed inconsistent with full and accurate disclosure unless there is ample foundation in fact for the opinion; 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 program's operation.

G. Except for brief excerpts therefrom, the public offering statement shall not incorporate verbatim portions

of the time-share instruments or other documents. The purchaser's attention may be directed to pertinent portions of the instruments or documents attached to the public offering statement which are too lengthy to incorporate verbatim.

H. Maps, photographs and drawings may be utilized in the public offering statement, provided that such utilization promotes full and accurate disclosure.

### 25-5 § 5.4. Readability.

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 Real Estate Time-Share Act and these regulations is included in a clear and understandable manner. Determination as to compliance with the standards of this paragraph are within the exclusive discretion of the Commission board.

### 25-6 § 5.5. Summary of important considerations.

A. Immediately following the first page and before the table of contents, the public offering statement shall include a summary of important considerations consisting of particularly noteworthy items of disclosure. Certain summary statements are required by subsections D and E hereof. Other summary statements may be proposed by the declarant developer or included by order of the Commission board for the purpose of reinforcing the disclosure of significant information not otherwise included in the summary of important considerations. No summary statement shall be included for the major purpose of enhancing the sales appeal of the time-shares.

B. 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 time-share. They are highlights only. The narrative sections should be examined to obtain detailed information." Each summary statement shall include a reference to pertinent portions, if any, of the public offering statement for details respecting the information summarized. Each summary statement, exclusive of any reference to other portions of the public offering statement, shall be limited to no more than three sentences except that the Commission board may, by order, permit or require additional sentences.

C. Whenever the Commission board finds that the significance to purchasers of certain information requires that it be disclosed more conspicuously than by regular presentation in the summary of important considerations, it may provide, by order, that a summary statement of the information shall be underscored, italicized or printed in a larger or heavier type than the remainder of the public offering statement.

D. In the case of a TIME-SHARE ESTATE PROGRAM, summary statements shall be made of the substance of the

## Proposed Regulations

---

following facts and circumstances. Specific information shall be substituted for the general information indicated by brackets. Appropriate modifications shall be made to reflect facts and circumstances varying from those indicated herein:

1. The time-share estate program will be governed by a time-share owners' association formed under the [Virginia Non-Stock Corporation Act or law of the situs state as appropriate]. A time-share owner may have voting rights as outlined in Articles of Incorporation of the association or bylaws thereof and such owner will be bound by all decisions of the association including those with which he disagrees.

2. Decisions affecting the business and affairs of the time-share estate owners' association shall be made by its board of directors or, in most instances, an executive committee thereof.

3. The expenses of operating the time-share estate owners' association will be paid on the basis of a [periodic] budget. Each time-share estate owner will pay a [periodic] assessment. A time-share estate owner cannot reduce the amount of his assessment by refraining from use of his time-share or the project's facilities.

4. If a time-share estate owner fails to pay an assessment when due, the time-share estate owners' association may levy a lien against his time-share. Certain other penalties may be applied.

5. The developer may pay assessments on unsold time-shares in addition to time-share estate occupancy expenses.

6. The developer, its principals, officers, directors, partners, or trustees have undergone [a debtor's relief proceeding].

7. The developer will retain control of the time-share estate owners' association until at least the end of the "Developer Control Period." See § 55.369 of the Code of Virginia.

8. A managing agent may perform routine operations of the time-share estate owners' association. The managing agent is [affiliated with] the [developer, a director or an officer of the time-share estate owners' association].

9. The developer may rent unsold time-shares. The right of a time-share estate owner to rent his time-share is subject to [restrictions].

10. The right of the time-share estate owner to resell his time-share is subject to [restrictions].

11. The time-shares are restricted to residential use.

12. The time-share estate owner may not alter the structure or exterior of the unit in which his time-share is located.

13. The time-share estate owners' association will obtain certain insurance benefiting the time-share owner, but the time-share estate owner should obtain additional insurance on his own.

14. The time-share estate owner will pay real estate taxes on his time-share.

15. The time-share estate owner will be required to pay the real estate taxes applicable to his time-share; failure to pay such taxes may result in the loss of the time-share unit.

16. Failure on the part of the time-share estate owners' association to pay the real estate taxes on the time-share project or cause to be paid the underlying liens on the project could result in foreclosure thereon by the appropriate creditor.

17. *Marketing and sale of time-shares shall comply with Virginia Fair Housing Law (§ 36-85 et seq. of the Code of Virginia); and*

18. A time-share purchaser is required to make certain disclosures to purchasers in the resale of his time-share.

E. In the case of a TIME-SHARE USE PROGRAM, summary statements shall be made of the substance of the following facts and circumstances. Specific information shall be substituted for the general information indicated by brackets. Appropriate modifications shall be made to reflect facts and circumstances varying from those indicated herein:

1. The time-share use program will not be governed by a time-share owners' association.

2. Decisions affecting the time-share use project will be made by the developer.

3. Each time-share use owner cannot reduce the amount of his assessment by refraining from use of his time-share or the projects' facilities;

4. If a time-share use owner fails to pay an assessment when due, the developer may impose certain sanctions or penalties, including the forfeiture of the time-share;

5. The developer, its principals, officers, directors, partners, or trustees have undergone [a debtor's relief proceeding];

6. A managing agent may perform routine operations for the operation, maintenance and upkeep of the time-share project, as determined by the developer.

## Proposed Regulations

The managing agent is [affiliated with] the [developer, or a director or officer thereof];

7. The developer may rent on a transient basis, unsold time-shares. The right of a time-share use owner to rent his time-share is subject to [restrictions];

8. The right of a time-share use owner to resell his time-share is subject to [restrictions];

9. The time-shares are restricted to residential use;

10. The time-share use owner may not alter the structure or exterior of the unit in which his time-share is located;

11. The developer will obtain certain insurance benefiting the time-share use owner, but the time-share use owner should obtain additional insurance on his own; (12) The time-share use owner may be required to pay applicable taxes imposed on the project similar in scope and design to taxes applicable to hotels, motels or other transient type accommodations; (13) *Marketing and sale of time-shares shall comply with Virginia Fair Housing Law (§ 36-85 et seq. of the Code of Virginia); and (14) A time-share purchaser is required to make certain disclosures to purchasers in the resale of his time-share.*

### 25-7 § 5.6. Narrative sections.

The information to be presented in the public offering statement shall be broken down into sections in order to facilitate reading and comprehension. Certain sections are required by Regulations 25-8 §§ 5.7 through 25-10 5.19 of these regulations. Supplementary sections may be included whenever necessary to incorporate information which cannot properly be placed within one of the required sections. Supplementary section captions which indicate the nature of the material presented thereunder shall be utilized. The sections may be set out in any order which lends itself to the organized presentation of information. Section captions may be underscored, italicized or printed in larger or heavier type than the remainder of the public offering statement. A table of contents shall be utilized.

### 25-8 § 5.7. Time-share concept.

The Public Offering Statement shall contain a section captioned "The Time-Share Concept." The section shall consist of a discussion of the time-share form of ownership and shall include a detailed explanation of the type of time-share arrangement employed in the project. See Appendix C.

### 25-9 § 5.8. Creation of the time-share program.

The public offering statement shall contain a section captioned "The Creation of the Time-Share Program." The section shall explain the manner in which the time-share

program was or will be created and shall describe each of the time-share instruments, their functions, and the procedure for their amendment. The section shall indicate where each of the time-share instruments or copies thereof may be found. The section shall state that the purchaser will receive copies of the recorded time-share instruments prior to or simultaneously with settlement.

### 25-10 § 5.9. Description of the time-share program.

The public offering statement shall contain a section captioned "Description of the Time-Share Program." The section shall consist of a general description of the time-share program, the units, amenities and type of time-shares being made available to purchasers. The section shall include, without limitation, statements indicating:

1. The land area of the time-share project;
2. The number of units in the project;
3. The number of units in the project to be organized on a time-share basis;
4. An identification of units that are subject to time-sharing and the type of time-shares being offered;
5. The duration of the time-shares;
6. The different types of units available;
7. Provisions, if any, that have been made for public utilities in the time-share project, including water, electricity, telephone, and sewerage facilities;
8. Restrictions, if any, as to what changes a time-share owner may make to his unit in which his time-share is located;
9. Whether or not the units are restricted solely to residential use;
10. The availability of vehicular parking spaces including the number of spaces available per unit and restrictions on or charges for the use of spaces ; and
11. *If the time-share project is subject to development rights, a brief description of those development rights including the land area and the maximum number of units and the maximum number of time-shares which may be created in those units.*

### 25-11 § 5.10. Developer.

A. The public offering statement shall contain a section captioned "The Developer". The section shall provide the name and principal address of the developer and shall contain a brief history of the developer with emphasis on its experience in time-share development.

## Proposed Regulations

---

B. The following information shall be stated with regard to every director, partner or trustee of the developer: (i) name and address; and (ii) principal occupation. The name and address of each person owning or controlling an interest of 20% or more in the time-share project shall also be indicated.

(c) If any sales agent employed or used by the developer in its sales effort has been convicted within the past ten years of a crime involving time-share disposition, condominium unit disposition, or any aspect of real estate business in this Commonwealth, the United States, or in any other state or foreign country, or has been the recipient of any permanent injunction or final administrative order pertaining to false or misleading promotional plans involving land dispositions, then the particulars of such conviction, injunction, or order shall be included in this section.

C. If applicable, this section shall disclose the particulars of any indictment, conviction, judgment, decree or order of any court or administrative agency against the developer for violation of a federal, state, local or foreign county law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements or any similar or related activity.

D. This section shall also include a description of any pending suit against the developer the outcome of which would materially affect the time-share project, unsatisfied judgments against the developer, the status of any pending suits involving the sale or management of real estate to which the developer or any general partner, executive officer, director, or majority stockholder thereof, is a defending party, and the status of any pending suits of significance to the time-share project.

E. The section shall include the name and address of the developer's agent for service of process who is authorized to accept notice of cancellation pursuant to § 55-376 of the Code of Virginia.

### 25-12 § 5.11. Terms of offering.

A. The public offering statement shall contain a section captioned "Terms of Offering". The section shall discuss the expenses to be borne by a purchaser in acquiring a time-share and present information regarding the settlement of purchase agreements as provided in subparagraphs subsection B through G hereof.

B. The section shall indicate the offering prices for time-shares or a price range for time-shares if either are established. The information required by this subsection will illustrate the relationship between time-share price and the season of the year during which the purchaser owns or has the right to use his time-share.

C. The section shall provide a general description of any financing offered the purchaser by or through the

developer. This discussion shall indicate that financing is subject to additional terms and conditions stated in the loan commitment. This section shall also include a statement that the developer's lien holder shall have its lien rights preserved as against a time-share purchaser who claims the time-share instrument is invalid, void or voidable, 30 days after written notice has been given by the developer to the purchaser. The section must further state that should the developer assign his receivables from purchaser, the time-share purchaser has 30 days in which to object to the validity of the time-share instrument or the assignment or be forever barred from raising such objection in any subsequent enforcement of the collection of the receivables from purchaser.

D. The section shall discuss in detail any settlement costs associated with the time-share purchase transaction including, without limitation, any contribution to the initial or working capital of the time-share program, title insurance premiums, and attorney's fees. A description of the purpose and method of calculating any such initial or special fee shall also be provided.

E. The section shall discuss any penalties or forfeitures which may be incurred by a time-share purchase upon the purchaser's default of his purchase agreement.

F. The section shall discuss the right of the developer to cancel a purchase agreement upon failure of the developer to obtain purchase agreements on a given number or percentage of time-shares being offered or upon failure of the developer to meet conditions precedent to obtaining necessary financing.

G. The section shall include the following statement: "If you as a time-share purchaser received the current offering statement on this project less than five business days prior to signing your contract or agreement for the purchase and sale of your time-share, you have the automatic right until midnight of the fifth business day following the signing of the contract to revoke or cancel this transaction by notice to the developer. Otherwise, you have no automatic right to revoke this transaction. 'Purchasers have a nonwaivable right to cancel the purchase contract for seven calendar days after execution of the purchase contract or receipt of a current public offering statement, whichever is later. Cancellation is without penalty, and all payments made by you before cancellation must be refunded within 30 45 days after receipt of the notice of cancellation. If you elect to cancel this contract, you shall do so by hand-delivering the cancellation notice or mailing it by certified United States mail, return receipt requested, to the developer or to his agent for service of process, [name and address of agent for service of process]'.

H. The section shall discuss escrow of the manner in which deposits made are escrowed when a purchase or reservation of a time-share occurs. The section shall contain a statement that an escrow requirement exists only where the right of rescission is applicable to the sale. The

## Proposed Regulations

section shall include a statement that any such deposit shall be placed in escrow and held in this Commonwealth until it is (i) delivered to the developer at the expiration of the rescission cancellation period, if applicable, or any later time specified in the contract of sale; provided the sold time-share is within a unit completed or the developer or its contractor provides a payment or performance bond, with surety or letter of credit guaranteeing the completion thereof, (ii) delivered to the developer because of the purchaser's default under his a contract, to purchase a time-share, such default being determined by an order of a court of competent jurisdiction or by a written agreement signed by the parties; or (iii) refunded to the purchaser. The section shall also state that a fidelity bond has been posted with the board to protect the deposit while in escrow, but that the protection of escrowed deposits is limited. The developer is responsible to monitor and maintain a bond in the proper amount. Should the amount of the bond become inadequate, the developer shall file a bond in the correct amount.

### 25-13 § 5.12. Administration of time-share program.

A. The public offering statement shall contain either a section captioned "Administration of Time-Share Estate Program" or a section captioned "Administration of Time-Share Use Program", depending upon the form of time-shares being offered by the developer. The section shall discuss the manner in which the time-share program will be governed and administered.

#### B. "Administration of time-share estate program".

1. The section shall describe the functions and the organization's structure of the time-share estate owners' association formed pursuant to the Virginia Non-Stock Corporation Act. The description shall indicate: (i) the existence or provisions for a board of directors and officers; (ii) the manner of their election or appointment; (iii) the assignment or delegation of responsibility for performance of the functions of the unit owners' association and (iv) those items outlined in § 55-368, numbered 2 through 10 of the Code of Virginia.

2. The section shall describe the allocation of voting power among the time-share estate owners and will explain how votes will be cast. Any provision in the time-share instruments for regular meetings of the estate owners shall be mentioned.

3. The significant terms of any lease of recreational areas or similar contract or agreement affecting the use, maintenance or access of all or any part of the time-share, shall be stated. A brief narrative statement of the effect of each of any such agreements shall be included.

4. Rules and regulations for the use, enjoyment, and occupancy of units, and the authority to promulgate

and amend such rules shall be discussed. Included shall be a description of the method, if any, to be employed to assign or reserve occupancy periods for the time-share owners. Methods for providing alternate use periods or monetary compensation to a time-share owner if his contracted-for unit cannot be made available for the periods to which the owner is entitled by schedule or by confirmed reservation shall be discussed.

5. Any standing committees established or to be established to perform functions of the time-share estate owners' association shall be discussed. Such committees include, without limitation, executive committees, architectural control committees and committees having the authority to interpret time-share instruments or rules and regulations

6. Any power of the developer or of the time-share estate owners' association 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 time-share owners; (ii) the developer or representatives or the time-share estate owners' association are empowered to take actions or perform work in a unit without the consent of the units' owners; and (iii) the time-share owners may be required to bear the costs of actions so taken or work so performed.

7. The section shall describe any routine janitorial procedures that are to occur between occupancy periods of time-share owners, as well as any maintenance program that is to take place on an annual or semi-annual basis.

8. 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 developer or a member of the board of directors or an officer of the time-share estate owners' association. The duration of any management agreement shall be stated.

9. The section shall discuss any retention by the developer of control over the time-share estate owners' association. The association's power to pass special assessments against and raise the annual assessments of the time-share owners upon the termination of the developer control shall also be discussed.

C. "Administration of time-share use program". The section shall provide the information required by § 55-371 of the Code of Virginia. In addition, the section shall discuss, to the extent relevant, the matters raised by Regulation 25-13 (b) § 5.12 subsection B., paragraphs 3 through 8 of these regulations.



## Proposed Regulations

---

D. With respect to the managing entity of time-share projects under either a time-share estate program or time-share use program, if applicable, this section shall disclose:

1. The particulars of any indictment conviction, judgment, decree or order of any court or administrative agency against the managing entity for violation of a federal state, local or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements or any similar or related activity; and

2. The particulars of any unsatisfied judgments against the managing entity, the status of any pending suits involving the sale or management of real estate to which the managing entity is a defending party.

### 25-14 § 5.13. Finances.

A. The public offering statement shall contain either a section captioned "Finances of Time-Share Estate Ownership" or a section captioned "Finances of Time-Share Use Ownership", depending upon the form of time-share development used in the projects. The section shall discuss the expenses incident to the ownership of a time-share in the manner provided in subsections B through H hereof.

B. The section shall describe the nature of the costs and expenses of operating the time-share program and shall distinguish between those to be paid by the developer and those to be paid by the time-share owners. The section shall explain how the responsibilities for payment of operating costs will be apportioned among the time-share owners. In the case of a time-share estate program, this section shall describe and distinguish between developer expenses and time-share estate occupancy expenses as well as the meaning of the "Developer Control Period" as outlined in § 55-369 of the Code of Virginia, and when it commence and ends. Mention shall be made of the developer's right to collect a periodic fee from the time-share estate owner for the payment of the latter expenses; the method of apportionment between time-share estate owners shall be explained.

C. The section shall contain a statement describing any current or expected fees or charges to be paid by time-share owners for the use and enjoyment of any facilities related to the project. This shall include, without limitation, any fee attributable to the use of recreational facilities mentioned in any of the time-share documents or during the marketing activities.

D. The section shall contain a statement describing the extent to which financial arrangements, if any, have been provided for completion of any time-share unit offered for sale. The section shall also contain, to the extent the developer has an obligation to complete, a statement and description of all planned improvements to the project

whether begun or not yet begun.

E. The section shall describe any services which the developer provides or expenses it pays which may become at any subsequent time a time-share expense of the time-shares, and the projected time-share expense liability attributable to each of those services or expenses for each time-share.

F. In a time-share estate program where the developer control period has not yet terminated, the section shall contain the latest annual balance sheet and a projected budget for the program for one year after the date of the first transfer to a purchaser. After that one year period, a current budget shall be included in lieu of the projected budget and annual balance sheet mentioned above. All budgets shall be accompanied by a statement indicating the name of the preparer of the budget, and a statement explaining all budgetary assumptions concerning occupancy and inflation. All budgets must include, without limitation: (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacements; and (ii) a statement of any other reserves. If the project is a time-share estate project and if the developer control period has not ended, the budget shall also include; (iii) the projected common expense liability for all time-share owners; (iv) the projected common expense liability by category of expenditures; and (v) a statement of the amount included in the budget reserved for repairs to and refurbishing of the project and the replacement of the personality situated therein.

G. The "Finances of Time-Share Use Ownership" section shall, where the developer's equity in the project net worth is less than \$250,000, include a current audited financial balance sheet or a statement disclosing the developers net worth. Such statement shall specifically state the amount of equity in the project, by such developer that its equity in such program exceeds such amount.

H. The section shall discuss the effect of failure of a time-share owner to pay when due the assessments, fees or charges levied against his time-share. Such discussion shall indicate provisions for penalties to be applied in the case of overdue assessments including the lien authorized by § 55-370 B of the Code of Virginia, and for the acceleration of unpaid assessments.

### 25-15 § 5.14. 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 time-share instruments or the rules and regulations which affect the time-share estate owners' or the time-share use owners' right to resell, lease or otherwise transfer an interest in his time-share estate or use.

## Proposed Regulations

### 25-16 § 5.15. Insurance.

The public offering statement shall contain a section captioned "Insurance". The section shall describe the insurance coverage provided for the benefit of time-share owners. Included shall be a discussion of the comprehensive general liability insurance for death, bodily injury, and property damage arising out of, or in connection with, the use and enjoyment of units by time-share estate owners or time-share use owners or their guests. It shall be made clear that in the case of a time-share estate project the costs associated with this liability insurance will be borne by the developer during the developer control period, and thereafter, the costs will be assumed by the time-share estate owners' association; and that in the case of a time-share use project, the costs associated with securing and maintaining such insurance shall be borne by the developer.

Depending on the time-share organization employed by the developer, *comprehensive, general liability insurance required by §§ 55-368(7) or 55-371(7) of the Code of Virginia* shall be included in this discussion.

### 25-17 § 5.16. Encumbrances.

A. Where the project is a time-share estate program, The public offering statement shall contain a section captioned "Encumbrances". The section shall contain a description of any liens, defects, or encumbrances on and adversely affecting the title of the project and the individual time-share estate units, and shall provide the information called for in ~~subparagraphs~~ *subsections C* through G below.

B. Regardless of the form of time-share organization, The section shall describe the extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit. The section shall discuss the consequences that the filing of federal tax liens would have on the project.

C. The section shall describe every mortgage, deed of trust, other perfected lien or ~~estate~~ mechanics' or materialman's lien affecting all or any portion of the time-share project other than those placed on time-share estate units by their purchasers. The description shall identify the lender secured or the lienholder, shall state the nature and original amount of the obligation secured, shall identify the party having primary responsibility for performance of the obligation secured, and shall indicate the practical effect upon unit owners of failure of said party to perform the obligation.

D. 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.

E. Easements reserved to the developer to facilitate expansion or sales shall be briefly described.

F. Easements reserved to the developer or to the time-share estate owners' association or its representatives or agents for access to a unit shall be described. In the event that access to a unit may be had without notice to the unit owner, such fact shall be stated.

G. Easements across the time-share project reserved to the owners or occupants of land located in the vicinity of the project including, without limitation, easements for the use of recreational areas shall be described.

### 25-18 § 5.17. Exchange program.

The public offering statement shall contain a section captioned "Exchange Program", if, at the time of purchase of a time-share, the purchaser is permitted or required to become a member of or a participant in an exchange program. An "exchange program" is a program offered by the developer or an independent exchange agent for the exchange of occupancy rights with the owners of time-shares of other time-share projects. This section shall contain the information required by § 55-374 B of the Code of Virginia.

### 25-19 § 5.18. Taxes.

A. The public offering statement shall contain a section captioned "Taxes". The section shall describe all existing or proposed taxes to be levied against time-shares individually including, without limitation, real property taxes, transient taxes and other special assessments. Taxes levied against the entire time-share project shall be disclosed pursuant to ~~Regulation 25-14 § 5.13 of these regulations.~~ *The section shall state who will be responsible for payment of taxes.*

B. With respect to local real property taxes and with reference to a time-share estate project, the section shall state the assessed valuations of the time-shares and the tax rate currently in effect. If assessed valuations have not yet been determined, the section shall state a procedure or formula by means of which the taxes may be estimated once assessed value has been determined. The section shall indicate the basis upon which the assessed value will be or was calculated, as set forth in § 55-363 C of the Code of Virginia.

### 25-20 § 5.19. Surrounding area.

The public offering statement shall contain a section captioned "Surrounding Area". This section shall briefly describe the zoning of the immediate neighborhood of the time-share project. The section may indicate the existence and proximity of community facilities available to time-share owners.

### § 5.20. Additional information.

*The public offering statement may include additional information as required by the Real Estate Board to assure full and accurate disclosure.*

# Proposed Regulations

---

## § 5.21. Substitute public offering statement.

A. A substitute public offering statement is a document originally prepared in compliance with the laws of another jurisdiction and modified in accordance with the provisions of this section in order to fulfill the disclosure requirements established for public offering statements by § 55-374 of the Code of Virginia. A substitute public offering statement shall not be employed in the case of a time-share project located in Virginia.

B. The substitute 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 time-share project; (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 which is untrue, inaccurate or misleading with respect to marketing offers or disposition of time-share units in Virginia.

C. The substitute public offering statement shall incorporate all information not otherwise included which is necessary to effect fully and accurately the disclosures required by § 55-374 of the Code of Virginia. The substitute public offering statement shall clearly explain any nomenclature which is different from the definitions provided in § 55-362 of the Code of Virginia or which, for any other reason, may confuse purchasers in Virginia. Any information not required by § 55-374 may be deleted, provided that such deletion does not render the required information misleading.

D. The first two pages of the substitute public offering statement document shall be prepared to conform as closely as possible to the specimen appended as Appendix A to these regulations and made a part of hereof. The three blanks in the first sentence of the third paragraph of the specimen shall be completed by insertion of the following information: (i) the designation by which the original disclosure document is identified in the jurisdiction pursuant to whose law it was prepared; (ii) the governmental agency of such other jurisdiction with which the original disclosure document is or will be filed; and (iii) the jurisdiction of such filing.

E. No portion of the substitute public offering statement may be underscored, italicized or printed in larger, heavier or different color type than the remainder of the substitute public offering statement disclosure document, except, (i) as required by subparagraph D hereof; (ii) as required or permitted in the original disclosure document by the laws of the jurisdiction pursuant to which it was prepared; and (iii) as provided by order of the board in cases in which it finds that the significance to purchasers of certain information requires that such information be

disclosed more conspicuously than by regular presentation in the substitute public offering statement.

## SECTION 26

### PART 6. CONVERSION PROJECT.

~~26-1~~ § 6.1. Public offering statement for conversion project; general instructions. provisions.

The public offering statement for a conversion project shall conform in all ways to the requirements of Regulations ~~26-1~~ §§ 5.1 through ~~26-10~~ 5.20 of these regulations. In addition, the public offering statement for a conversion project shall: (i) contain special disclosures in the narrative sections captioned "Description of the Time-Share Project", "Terms of Offering", and "Finances of Time-Share (Use or Estate) Ownership" and (ii) incorporate narrative sections captioned "Present Condition of the Time-Share Project" and "Replacement Requirements". Provisions for such additional disclosure are set forth in Regulations ~~26-3~~ §§ 6.3 through ~~26-20~~ 6.7 of these regulations.

~~26-2~~ § 6.2. Same; special definitions.

As used in this paragraph and in Regulations ~~26-3~~ §§ 6.3 through ~~26-7~~ 6.7 of these regulations:

"Structural component" shall mean a component constituting any portion of the structure of a time-share unit or any other structure located in the time-share project and in which a defect would reduce the stability or safety of all or part of the structure below accepted standards or restrict the normal intended use of all or a part of the structure.

~~26-3~~ § 6.3. Description of the time-share project, conversion project.

In addition to the information required by Regulation ~~26-10~~ § 5.9 of these regulations, the section captioned "Description of the time-share project" shall indicate that the time-share project is a conversion project. The term "conversion" shall be defined and the particular circumstances which bring the time-share project within the definition shall be stated. The nature and dates of prior occupancy of the property being converted shall be stated.

~~26-4~~ § 6.4. Terms of offering, conversion project.

In addition to the information required by Regulation ~~26-12~~ § 5.11 of these regulations, the section captioned "Terms of Offering" shall contain a specific statement of the amount of any initial or special fee due from the purchaser of a time-share on or before settlement of the purchase contract and the basis for such fee. Such fees include, without limitation, a required contribution to: (i) the payment of costs of conversion in any manner other

## Proposed Regulations

than through payment of the time-share offering price; and (ii) a reserve for capital expenditures.

### 26.5 § 6.5. Finances, conversion project.

A. In addition to the information required by Regulation 26.14 § 5.13 of the regulations, the section captioned "Finances of Time-Share [Use or Estate] ownership" shall contain the information set forth in subparagraphs subsections B and C hereof.

B. The actual expenditures made on operation, maintenance, repair or upkeep of the building or buildings within the last three years shall be set forth in tabular form as a form of the proposed budget of the project. The expenditures shall be cumulatively broken down on a per time-share unit basis and on a per time-share basis in proportion to the relative voting strengths allocated to the time-shares by the bylaws. If the building or buildings have not been occupied for the entire three-year period, then the information shall be set forth for the maximum period the building or buildings have been occupied during the three-year period.

C. The section shall include a description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves. If any part of the capital reserves will or may be obtained other than through regular assessments such fact shall be stated. If no provisions is made in the budget for these reserves, a statement to that effect shall be included. In the case of a time-share estate program, the section shall state the amount of capital reserves which will be accumulated by the time-share estate owners' association during the developer control period together with any provisions of the time-share documents specifying the rate at which reserves are to be accumulated thereafter.

### 26.6 § 6.6. Present condition of time-share project.

A. The section captioned "Present Condition of Time-Share Project" shall contain a statement of the approximate dates of original construction or installation of all physical assets in the time-share project. A single construction or installation date may be stated for all of the physical assets; (i) in the time-share projects; (ii) within a distinctly identifiable portion of the time-share projects; 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 which 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 a 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 subparagraphs subsections B, E and F hereof, the section captioned "Present Condition of the Time-Share Project" shall contain a description of the present condition of all physical assets within the time-share project. 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 inspection 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 relationships 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 subparagraph subsection E hereof applies, such statement shall include a separate reference to the present condition of any physical asset within the class which 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 time-share project 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 the total number of physical assets within the class and the number selected are disclosed.

### 26.7 § 6.7. Replacement requirements.

A. Subject to the exception provided in subparagraphs subsection B hereof, the section captioned "Replacement requirements" shall state the useful lives of all physical assets in the time-share project. The section shall state that expected useful lives run from the date of 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

# Proposed Regulations

---

physical asset within such class which 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 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 state qualifications 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.

D. The section shall state the replacement costs of all physical assets in the time-share project including those whose expected useful lives are stated as being indefinite. The replacement costs shall be broken down on a per unit basis or a per time-share basis. A statement of the replacement costs 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 which is significantly greater than the replacement cost indicated for the representative member of the class.

## SECTION 27

### PART 7.

#### POST-REGISTRATION PROVISIONS.

##### ~~27-1~~ § 7.1. Material change defined.

As used in ~~Regulations 27-2~~ §§ 7.2 through ~~27-5~~ 7.5 "material change" shall mean a change in any information or document disclosed in or attached to a public offering statement whose form and content are designated for use pursuant to ~~Regulations 27-2(e)~~ §§ 2.3 subsection C or ~~27-2(b)~~ 7.3 subsection B, which renders such information or document substantially inaccurate, incomplete or misleading. Any changes occurring in the real estate tax assessment or rate, utility charges, common maintenance fees, association dues, assessments or other similar recurring expense items shall not be deemed a material charge; provided, however, such information shall be then current when the public offering statement is prepared and submitted to the ~~Commission board~~ and shall be updated at least on an annual basis.

The issuance of the updated exchange agent's company's annual report shall not constitute a material change; except, however, upon receipt thereof by the developer, it shall commence distribution of same in lieu of all others in order to satisfy § 55-374(b) of the Code of Virginia.

Without limiting the generality of the preceding sentence, a material change shall be deemed to occur whenever (i) information or a document required to be disclosed in or attached to a public offering statement but not so disclosed or attached by reason of its previous unavailability or nonexistence becomes available or comes into existence and (ii) a new budget is adopted in a project where time-share estates are sold.

##### ~~27-2~~ § 7.2. Amendment of public offering statement.

A. Prior to or upon the occurrence of a material change, or as soon thereafter as possible, the developer shall amend the public offering statement to disclose the modified or additional information and ~~for~~ to include that modified or additional document, as the case may be. The developer may amend the public offering statement other than in connection with a material change.

B. Amendment of the public offering statement may be accomplished in any intelligible manner and, to the extent that strict compliance with any of the provisions of these regulations 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 ~~Regulations 25-2~~ §§ 5.2 and ~~25-8~~ 5.7 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 herein shall authorize a deviation from strict compliance with a provision of these regulations governing the substance of disclosure in the public offering statement. If any information has been inaccurate or misleading by reason of the material change and is not deleted from the public offering statement in connection with its amendment, such fact shall be clearly noted.

C. Correction of spelling, grammar, omission, or other similar errors not affecting the substance of a public offering statement shall not be deemed an amendment of the public offering statement for the purposes of these regulations; provided, however, the developer shall file with the ~~Commission board~~ a copy of a public offering statement so corrected.

##### ~~27-3~~ § 7.3. Filing of amended public offering statement.

A. The developer shall promptly file with the ~~Commission board~~ a copy of an amended public offering statement. Unless ~~subparagraph~~ subsection D hereof applies, the developer shall, as a part of such filing, update the application for registration on file with the ~~Commission board~~ either by filing a new application or by advising the ~~Commission board~~ of changes in the information contained in a previously filed application ~~and/~~ or file new or substitute documents. In the case of a public offering statement (i) amended other than in connection with a material change or (ii) presumed

## Proposed Regulations

current pursuant to **Regulations 27-5 § 7.5** , the filing shall indicate the date of amendment.

B. Unless **subparagraph subsection D** hereof applies, the **Commission board** shall issue a notice of filing within five business days following receipt in proper form of the materials required by **subparagraph subsection A** hereof. The **Commission board** shall review the amended public offering statement and supporting materials to determine whether the amendment complies with **Regulation 27-2 § 7.2** . At such time as the **Commission board** affirmatively determines that the amendment complies with **Regulation 27-2 § 7.2** , but not later than the 30th day following issuance of the notice of filing, it shall enter an order designating the amended form and content of the public offering statement to be used. Such order shall provided that previous orders designating the form and content of the public offering statement for use are superseded.

C. If the **Commission board** determines, pursuant to **subparagraph subsection B** hereof, that an amendment to the public offering statement does not comply with **Regulation 27-2 § 7.2** , it shall immediately, but in no event later than the 20th day following issuance of the notice of filing enter an order declaring the amendment not in compliance with **Regulation 27-2 § 7.2** and specifying the particulars of such noncompliance. In the case of a public offering statement amended other than in connection with a material change, the order shall relate back to the date of amendment. If neither of the orders provided for by this **subparagraph subsections C** and **subparagraph B** hereof are entered within the time allotted, the amendment shall be deemed to comply with **Regulation 27-2 § 7.2** . The developer may, at any time, correct and refile an amended public offering statement; provided, however, that if an order of noncompliance has been entered with respect to the amendment, all of the provisions of **subparagraphs subsections A** and **B** hereof and this **subparagraph subsection C** shall apply to such refileing.

D. If the material change which resulted in amendment of the public offering statement was an expansion of the time-share project, the developer shall file a complete application for registration of the additional units, provided, that no such application need be filed for units previously registered. Such application for registration shall be subject to all of the provisions of **Section 23 Part 2** and the **Commission board** shall observe the procedures of **Regulation 23-2 § 2.3** in regard to the application. Documents then on file with the **Commission board** and not changed in connection with the creation of additional units need not be refiled, provided that the application indicates that such documents are unchanged.

E. In each case in which an amended document is filed pursuant to this paragraph and the manner of its amendment is not apparent on the face of the document, the developer shall provide an indication of the manner and extent of amendment.

**27-4 § 7.4. Current public offering statement.**

A. A public offering statement is current if its form and content are designated for use pursuant to **Regulations 23-2(e) § 2.3 subsection C** or **27-3(b) § 7.3 subsection B**, and remains current so long as no material change occurs and any amendment of the public offering statement other than in connection with a material change is made in compliance with **Regulation 27-2 20.2** .

B. A public offering statement ceases to be current upon the occurrence of a material change, and subject to the exception provided in **Regulation 27-5 § 8.5** , does not thereafter become current unless and until (i) it is amended pursuant to **Regulation 27-2 § 7.2** and (ii) the **Commission board** , with respect to such amendment, enters an order pursuant to **Regulation 23-2(e) § 2.3 C** or **27-3(b) § 7.3 B** or fails to enter, within the times allotted therefor, any of the orders provided for by **Regulations 27-3(b) § 7.3 subsections B** and **C**.

C. If the **Commission board** determines that a public offering statement amended other than in connection with a material change fails to comply with **Regulation 27-2 § 7.2** , that public offering statement ceases to be current as of the date of amendment. Such cessation shall be affected retroactively by the **Commission's board's** entry of an order of noncompliance and nothing contained herein shall limit the developer's right to use the public offering statement as current prior to the entry of an order of noncompliance. The public offering statement does not thereafter become current unless and until it is corrected and refiled and the **Commission board** , with respect to such amendment, enters an order pursuant to **Regulation 27-3(b) § 7.3 B** or fails to enter either of the orders provided for by **27-3(b) Regulations § 7.3 subsections B** or **C**.

**27-5 § 7.5. Certain amended public offering statements presumed current.**

A. A public offering statement amended by the developer to disclose any material change which is an aspect or result of the orderly development of the time-share project or the normal functioning of the time-share estate owners' association shall be presumed current immediately upon its amendment, subject, however, to the condition that the **Commission board** shall subsequently determine that the amendment was made in compliance with **Regulation 27-2 § 7.2** . An amended public offering statement presumed current pursuant to this subsection shall be referred to elsewhere in these regulations as a presumptively current public offering statement.

B. The developer shall file with the **Commission board** a copy of a presumptively current public offering statement and all of the provisions of **Regulations 27-3 § 7.3** shall apply to such filing except that, in addition, (1) the filing shall be made no later than ~~ten~~ **20** business days following the occurrence of the material change which

## Proposed Regulations

---

necessitated the amendment and (ii) the filing shall indicate the developer's plans, if any, to deliver the presumptively current public offering statement to purchasers pursuant to § 55-376 of the Code of Virginia .

C. A Commission board order declaring that an amendment which resulted in a presumptively current public offering statement is not in compliance with Regulation 27-2 § 7.2 shall render ineffective the presumption that the public offering statement is current. In that event, the public offering statement shall be deemed to have ceased being current upon the occurrence of the material change which necessitated the amendment. Nothing contained herein shall limit the developer's right to use a presumptively current public offering statement prior to entry of the order of noncompliance. A presumptively current public offering statement also ceases being current upon the developer's failure to file within the time provided in subparagraph subsection B hereof, but such cessation shall have no retroactive effect. A presumptively current public offering statement which ceases pursuant to this subparagraph subsection does not thereafter become current unless and until it is filed or refilled with the Commission board pursuant to Regulation 27-3 § 7.3 and the Commission board with respect to such public offering statement, enters an order pursuant to Regulation 27-3(b) § 7.3.B. or fails to enter, within the times allotted therefor, any of the orders provided for in 27-3(b) § 7.3 subsections B and C.

27-6 § 7.6. *Public offering statement not current; notification of purchasers.*

When ordered by the Commission board , the developer shall notify every time-share purchaser to whom has been delivered a public offering statement which was subsequently determined not to have been current at the time of its delivery. Such notification shall indicate that any contract for disposition of a time-share is ~~cancellable~~ *may be cancelled* unless and until the developer complies with the provisions of § 55-376(c) of the Code of Virginia . The developer shall file a copy of the notification with the Commission board . The provisions of this section shall apply only to those purchasers who had the right of rescission applicable to their transaction, and provide proof that all purchasers then under contract were given the opportunity to cancel their contracts to purchase a time-share.

27-7 § 7.7. *Annual report by developer.*

At least annually, the developer shall review the public offering statement then being delivered to purchasers. If such public offering statement is not current, the developer shall amend the public offering statement in compliance with the requirements of Regulation 27-3.

A. Within 30 days prior to each anniversary date of the effective date of registration the developer shall file with the board an annual report in the form required by the board.

B. The report shall reflect any material change in the information contained in the original application for registration or supplemental registration application and shall be accompanied by the required fee.

C. If the time-share project is a time-share estate project and the developer control period is still in effect for any portion of the project, the developer shall append to the annual report the time-share owners' association annual report required by § 55-370.1 of the Code of Virginia.

27-8 Provisions applicable to substituted disclosure document, prospectus. - (a) The provisions of Regulations 27-1 through 27-7 shall apply to a substituted disclosure document in the same manner and to the same extent that the apply to public offering statements.

(b) The body of the prospectus shall be amended only as provided in applicable securities law. The developer shall immediately file with the Commission any amendments to the body of the prospectus and, upon receipt thereof, the Commission shall enter an order designating the form and content of the prospectus to be used and providing that previous orders designating the form and content of the prospectus for use are superseded. A prospectus is current so long as it is effective under applicable securities law and the information and documents attached thereto are current under the provisions of Regulations 27-4 and 27-5. The developer shall immediately notify the Commission if the prospectus ceases being effective. If no prospectus is effective and the developer proposes to continue offering time-shares, the developer shall file a public offering statement with the Commission pursuant to Regulation 27-3

(c) The provisions of Regulation 27-6 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 review involving a prospectus the developer shall comply with all of the provisions of Regulation 27-7 applicable to public offering statements and, in addition, shall certify that an effective prospectus is available for delivery to purchasers and shall indicate that developer's plans or expectations regarding the continuing effectiveness of the prospectus.

§ 7.8. *Termination of registration.*

A. At any time, upon petition filed by the developer the board shall enter an order of termination, which order shall become effective upon issuance of the order by the board.

B. In a time-share estate project, if the annual report or petition of the developer filed with the board indicates that the developer has transferred to the time-share owners' association title to all or any portion of the time-share project and that no further development rights exist therein by the developer, the board shall forthwith issue an order terminating the registration of such portion as a time-share project.

## Proposed Regulations

C. Prior to termination of registration, all bonds filed with the board in compliance with the Real Estate Time-Share Act must be released.

### PART 8. EXCHANGE PROGRAMS.

#### § 8.1. Application for registration.

Application for registration of time-share exchange companies shall be filed at the offices of the board. The application shall contain all of the documents and information required by § 55-374.2 of the Code of Virginia. Each application for registration shall be submitted on the standard application form. The application shall be accompanied by the fee established by § 2.4 D.

#### § 8.2. Disclosure document.

The exchange company shall prepare and file with the board a disclosure document which will be distributed to all time-share purchasers who opt to participate in the exchange program. Not more than one version of the disclosure document shall be authorized for use at any given time with respect to a particular exchange program.

#### § 8.3. Preparation of the disclosure document; readability.

The disclosure document shall be clear, understandable and as brief as is consistent with full and accurate disclosure. In no event shall the disclosure document be made so lengthy or detailed to discourage close examination. Determination as to compliance with the standards of this section are within the exclusive discretion of the board.

#### § 8.4. Nature of information to be included.

A. The provisions for the contents of the disclosure document as required by § 55-374.2 A of the Code of Virginia shall be strictly construed to promote full and accurate disclosure.

B. The requirements for disclosure are not exclusive. In addition to expressly required information, the applicant shall disclose all other available information which may reasonably be expected to affect the decision of the ordinarily prudent time-share purchaser to accept or reject membership in the exchange program. The exchange company 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 misrepresentation of the facts or otherwise to mislead a prospective member of the exchange program.

C. No information shall be incorporated by reference to an extrinsic source which is not readily available to the prospective member. Whenever required information is not known or not reasonably available, such fact shall be stated in the disclosure document with a brief explanation.

Whenever special circumstances exist which would render required disclosure inaccurate or misleading, the required disclosure shall be omitted, provided that such modification or omission promotes full and accurate disclosure.

D. The disclosures required by § 55-374.2 A (1) through (18) of the Code of Virginia may be in any order selected by the applicant and may be in a supplement to a larger brochure published by the exchange company, provided nothing in the larger brochure is in variance to that information contained in such supplement.

#### § 8.5. Annual report.

On or before July 1 of each year, an exchange company whose exchange program has been registered by the board must file an annual report which updates the registration and disclosure document filed with the board. Such report shall be accompanied by the fee established by § 2.3 subsection D of these regulations.



For Office Use Only:

Check No.

Date

DEPARTMENT OF COMMERCE  
3600 WEST BROAD STREET, 5TH FLOOR  
RICHMOND, VIRGINIA 23230

please print or type clearly



APPLICATION FOR REGISTRATION OF TIME-SHARE PROJECT

Make checks payable "Treasurer of Virginia"

In accordance with §55-391, Code of Virginia, 1950, as amended, the undersigned requests registration of the following styled time-share project and, herewith, submits a registration fee in the amount of \_\_\_\_\_ (\$\_\_\_\_\_).

REGISTRATION NO. \_\_\_\_\_

Date \_\_\_\_\_ by \_\_\_\_\_ Authorized Officer or Agent

- I. NAME OF PROJECT \_\_\_\_\_
- II. ADDRESS OF PROJECT \_\_\_\_\_
- III. DEVELOPER:
  - A. NAME OF DEVELOPER \_\_\_\_\_
  - B. ADDRESS OF PRINCIPAL PLACE OF BUSINESS OF DEVELOPER: \_\_\_\_\_

(Telephone Number: AREA CODE \_\_\_\_\_ NUMBER \_\_\_\_\_)  
EXHIBIT A: If Developer is a corporation, attach copy of Certificate of Incorporation or Certificate of Authority to Transact Business in Virginia issued by State Corporation Commission. If Developer is a partnership or joint venture, attach recording data for any partnership or joint venture agreement recorded. Otherwise, attach a certified statement of explanation. (Mark "EXHIBIT A.")

- C. ADDRESS, TELEPHONE NUMBER AND NAME OF MANAGER OF EACH OFFICE OF DEVELOPER LOCATED WITHIN THE BOUNDS OF VIRGINIA:
 

(Address)	(Phone)	(Manager)

(If additional space is required, complete on separate sheet of paper, attach and mark "Schedule III C.")

- D. Name and address of each principal, officer, director, partner or trustee of the developer:
  - Name: \_\_\_\_\_ Title \_\_\_\_\_
  - Residence Address: \_\_\_\_\_  
(continue to extent necessary in similar format on separate sheet of paper, attach and mark "Schedule III D.")

- IV. VIOLATIONS, BANKRUPTCIES, DISCIPLINARY AND LITIGATIONS:
  - A. State whether, during the preceding five years, any of the individuals or entities named in III D above are or have been involved as defendants in any action before a federal, state, or foreign court or administrative agency, including a disciplinary proceeding before any governmental body or agency;
  - B. State whether, during the preceding five years, any of the individuals or entities named in III D above have been adjudicated a bankrupt or have undergone any proceeding for the relief of debtors.  
(Attach descriptive material and mark as "Schedule IV A or B", as applicable.)

- V. DESCRIPTION OF THE PROJECT:
  - A. TITLE TO LAND:
    - A. Name and address of current owner of land: \_\_\_\_\_
    - (If Developer is not record owner of land, attach a copy of any contract he has executed to purchase the land, any option he holds for purchase of the land or any lease under which he holds the land. Mark "Schedule V A.")
    - B. Recording reference for current deed for land: \_\_\_\_\_

EXHIBIT B: Attach a current title insurance policy or opinion issued within the preceding thirty days by a licensed attorney who is not a salaried employee, officer or director of the Developer or owner showing the condition of the title to the Time-Share project including all encumbrances against it. If the legal description of the land contained in the title insurance policy or opinion is not identical to the legal description of the land contained in the time-share project instruments, attach also a certification executed by a registered land surveyor or a licensed attorney that the submitted land described in the time-share project instruments is the same land as or lies wholly within the boundaries of the land described in the title insurance policy or opinion. (Mark "EXHIBIT B.")

- B. BUILDING STATUS:
  - 1. Are all improvements on land filed as part of EXHIBIT B hereto completed?  
\_\_\_\_\_
  - 2. If answer to "A" above is affirmative, give approximate completion date and state that all current zoning and other government regulations concerning such improvements have been complied with or attach a statement giving particulars of any instance in which such regulations have not been met. (Mark such statement "Schedule V.B.2.")
  - 3. If answer to "A" above is negative:
    - (A) Give the status of the following matters including the dates of any approval or applications if not approved:
      - (1) Zoning compliance: \_\_\_\_\_
      - (2) Site plan: \_\_\_\_\_
      - (3) Building permit: \_\_\_\_\_
      - (4) Site preparation and building construction: \_\_\_\_\_

- (B) Provide the information requested below with regard to proposed improvements:
- (1) Anticipated cost of completion of improvements: \_\_\_\_\_
  - (2) Contract price, if any, with general contractor: \_\_\_\_\_
  - (3) Source of construction funds and amount from each source: \_\_\_\_\_
  - (4) If construction funds are or will be borrowed, state amount(s) for which loan commitment has been obtained from construction lender and amount(s) of loan proceeds not yet disbursed: \_\_\_\_\_
  - (5) Attach copy of construction loan commitment. (Mark "Schedule V.B.3 (B) (5).") \_\_\_\_\_
  - (6) State whether construction loan has been funded and, if not, state reasons: \_\_\_\_\_
  - (7) If any construction loan is to be obtained or if any construction funds are to be obtained by a capital contribution to the Developer, provide a financial statement or other evidence of the availability to such lender or contributor of the funds to be lent or the capital to be contributed. (Mark "Schedule V.B.3 (B) (7).") \_\_\_\_\_
  - (8) If any construction funds are to be obtained other than through a construction loan or a capital contribution, provide a financial statement or other evidence of availability to the Developer of the necessary funds. (Mark "Schedule V.B.3 (B) (8).") \_\_\_\_\_

**C. PROJECT INFORMATION**

1. Number of units in the entire project: \_\_\_\_\_
2. Number of units in the entire project which will be offered on a time-share basis: \_\_\_\_\_
3. Will the purchasers of time-shares be offered membership in an exchange program? \_\_\_\_\_ If so, is the exchange service an affiliate of the developer? \_\_\_\_\_  
Name and address of exchange service: \_\_\_\_\_
4. Is the program a conversion project? \_\_\_\_\_ If so, has the building(s) been occupied within the last three years? \_\_\_\_\_

**VI. ADDITIONAL EXHIBITS**

- EXHIBIT C:** Attach with all required and permitted exhibits, a copy of the proposed public offering statement complying with § 55-374 of the Virginia Code.
- EXHIBIT D:** Attach copies of time-share instruments and any documents referred to therein.
- EXHIBIT E:** Attach the irrevocable appointment of the Real Estate Commission to receive service of any proceeding arising under the provisions of §§ 55-360 through 55-400 of the Code of Virginia, 1950, as amended, against the Developer or his agent using the form provided for this purpose by the Commission.
- EXHIBIT F:** If the project is a conversion project, attach a notice and certified statement as required by § 55-374 (D), Code of Virginia, 1950, as amended.

**NOTICE**

Section 55-394, Code of Virginia, 1950, as amended, provides that the Developer shall immediately report any material changes in the information initially submitted to the Commission in the Application for Registration.

**AFFIDAVIT**  
STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

\_\_\_\_\_ being duly sworn deposes and says: That the statements herein contained, and the documents herewith submitted are full, true and complete as of the date of execution hereof, and that he is the Developer of the time-share project for which application for registration is being made, or that he is the officer or agent authorized by the Developer to affix his signature hereto.

Affiant further deposes and says: That nothing done or planned in connection with the marketing of the time-share project for which application for registration is hereby made is or will be, to the best of his knowledge, contrary to the provisions of § 18.2-216, Code of Virginia, 1950, as amended.

\_\_\_\_\_  
Authorized Signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_  
City or County and State

\_\_\_\_\_  
Officer Administering Oath

Notary public in County/City of \_\_\_\_\_ State of \_\_\_\_\_

My Commission expires \_\_\_\_\_

**PENALTIES**

Section 55-400. Penalties — Any person violating any of the provisions of §§ 55-374, 55-375, 55-376, 55-379, 55-381, 55-385 or any order issued pursuant to §§ 55-396 through 55-399 shall be guilty of a Class 2 misdemeanor. Each violation shall be deemed a separate offense.

EXHIBIT E:

IRREVOCABLE APPOINTMENT OF THE VIRGINIA REAL ESTATE COMMISSION TO RECEIVE SERVICE OF ANY LAWFUL PROCESS IN ANY PROCEEDING ARISING UNDER PROVISIONS OF SECTIONS 55-360 THROUGH 55-400, CODE OF VIRGINIA, 1950, AS AMENDED.

Name of Applicant: \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

WHEREAS, the above-named Applicant has made application for registration of a time-share project known as \_\_\_\_\_ under provisions of Section 55-391, Code of Virginia, 1950, as amended.

WHEREAS, under provisions of said Section, it is required that each and every applicant for registration file an Irrevocable Appointment of the Virginia Real Estate Commission to Receive Service of Any Lawful Process in Any Proceedings Arising Incident to Any Time-Share Project Submitted for Registration by the Applicant with the Commission.

NOW, THEREFORE, I, the above-named applicant or authorized agent for the applicant, hereby execute and file with the Secretary of the Virginia Real Estate Commission on behalf of the Applicant full and irrevocable authority to receive service of any lawful process in any proceeding arising under Sections 55-360, Code of Virginia, 1950, as amended, in the name of the applicant, either individually, or co-partners or members of the applicant in any of the courts of record of the State of Virginia, and it is hereby stipulated and agreed that such service of such process on said Secretary shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant, its partners and members personally within the State of Virginia.

IN WITNESS WHEREOF, I \_\_\_\_\_ have hereunto signed by name this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Applicant

by \_\_\_\_\_ Authorized Agent or Officer

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

at \_\_\_\_\_ (City or county and state)

Officer Administering Oath

Notary Public in County/City of \_\_\_\_\_ State of \_\_\_\_\_

My commission expires \_\_\_\_\_

FIDELITY BOND TO INSURE ESCROW DEPOSITS

\_\_\_\_\_ ("Principal") has applied to the Real Estate Board of Virginia for registration of a time-share development to be called \_\_\_\_\_ located at \_\_\_\_\_ (Address), in the city of \_\_\_\_\_ (City), \_\_\_\_\_ (State).

1. It is hereby established that \_\_\_\_\_ ("Principal") and \_\_\_\_\_ ("Surety"), a surety company authorized to do business in the Commonwealth of Virginia ("Surety"), are held and firmly bound unto any person purchasing a time-share in Virginia from the Principal, his agents, employees or independent contractors in an amount equal to \_\_\_\_\_ in accordance with and subject to the provisions of § 55-375, Code of Virginia, as amended, and as may be amended from time to time.
2. Upon proper cancellation of the Purchase Agreement pursuant to the provisions of § 55-376, Code of Virginia, as amended, and upon default on the part of the Principal in the performance of any of the terms, covenants or conditions of its obligation to return to a purchaser the deposit held pursuant to § 55-375, Code of Virginia, as amended, the Surety shall become liable to the purchaser in the amount of his deposit towards the purchase of the time-share (not to exceed the amount of this Bond) to be paid not later than thirty days after notice to the Surety of its liability.
3. This Bond shall remain in full force and effect for a period of one (1) year from the date hereof and shall automatically renew itself from year to year thereafter unless and until \_\_\_\_\_ (Surety), \_\_\_\_\_ (City), \_\_\_\_\_ (State), shall have given thirty (30) days prior written notice to the purchaser and the Virginia Real Estate Board by certified mail, return receipt requested, of its intent to terminate the Bond at the expiration of said thirty (30) day period. During said thirty (30) day notice period, this Bond shall remain in full force and effect.
4. This Bond shall be maintained so long as the developer offers time-shares in the project for which this Bond is established.

6. In the event of any conflict between the terms of this Bond and the Virginia Real Estate Time-Share Act, the Time-Share Act shall prevail.

Signed and Sealed this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(Developers Name and Address)

\_\_\_\_\_  
\_\_\_\_\_ [Seal]

Principal \_\_\_\_\_ Surety \_\_\_\_\_

# Proposed Regulations

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-70-5. Health Care Coverage.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Public Hearing Date: N/A  
(See Calendar of Events section  
for additional information)

### Summary:

Under the provisions of state and federal law, the Division of Child Support Enforcement shall include provisions in support obligations for the establishment and enforcement of health care coverage and shall secure health care information.

Section 63.1-25 of the Code of Virginia provides the State Board of Social Services with the authority to make such rules and regulations as necessary to carry out the intent of the department's programs.

VR 615-70-5. Health Care Coverage.

### PART I DEFINITIONS.

The following words and terms, when used in this regulation, shall have the following meaning, unless the context clearly indicates otherwise.

"Aid to Dependent Children (ADC)" means a category of public assistance paid on behalf of children who are deprived of one or both of their parents by reason of death, disability, or continued absence (including desertion) from the home.

"Aid to Dependent Children/Foster Care (ADC/FC)" means a program intended to provide maintenance and care for children, otherwise eligible for ADC, for whom the local welfare agency has been given the responsibility for placement and care by the court.

"Custodial parent" means the person who has physical and legal custody of the child or children.

"Division of Child Support Enforcement (DCSE)" means the single and separate organizational unit within the Department of Social Services which carries out the responsibility for the Title IV-D Child Support Enforcement Programs in Virginia.

"Department" means the State Department of Social Services.

"Department of Medical Assistance Services (DMAS)" means the single state agency designated to administer or supervise the administration of the Medicaid program under Title XIX of the Social Security Act.

"Health care coverage" means an insurance plan providing hospital, medical and surgical care coverage for dependent children provided such coverage is available and can be obtained by a responsible person (as defined below) at a reasonable cost.

"Medicaid" means the program for paying certain medical expenses for persons who are eligible for ADC.

"Notice and Finding of Financial Responsibility" means the document which (1) makes an administrative support determination legally enforceable in noncourt ordered cases, and (2) makes legal use of administrative enforcement remedies in court ordered cases.

"Public assistance (PA)" means a grant of money by the state for those who qualify.

"Reasonable cost" means employment related health insurance.

"Responsible person (RP)" means any person obligated under Virginia law for the support of a dependent child or the caretaker or parent of such child.

### PART II PROPOSED REGULATION.

§ 2.1. The Division of Child Support Enforcement (DCSE) shall include provisions in support obligations for the establishment and enforcement of health care coverage and shall secure health care support information.

§ 2.2. DCSE shall include provisions for the administrative establishment and enforcement of health care coverage in support obligations for all nonpublic assistance cases. But these provisions shall not be enforced if the responsible person is unable to obtain such coverage at a reasonable cost or if the nonpublic assistance client does not consent to these provisions.

§ 2.3. In all Aid to Dependent Children (ADC) cases, Aid to Dependent Children/Foster Care (ADC/FC) cases and Medicaid cases, DCSE shall include a provision for health care coverage in support obligations. This provision shall not, however, be enforced if the responsible person is unable to obtain such coverage at a reasonable cost.

§ 2.4. For all DCSE cases which have court ordered support obligations, DCSE shall address the inclusion of health care coverage in such orders at the next court hearing on any matter. A separate court hearing is not necessary to solely address the inclusion of health care coverage in support orders.

§ 2.5. The responsible person and the custodial parent have the right to appeal the inclusion of health care coverage in support obligations by appealing the Notice and Finding of Financial Responsibility to the State Hearing Officer as part of the normal appeal process of the Notice and Finding of Financial Responsibility.

## Proposed Regulations

§ 2.6. DCSE will request employers to notify DCSE of lapses in the health care coverage.

§ 2.7. The Department of Social Services will provide health care coverage information to the Department of Medical Assistance Services (DMAS) on all ADC, ADC/FC and Medicaid cases where health care coverage is in effect. In addition, information regarding health care coverage for dependents for nonpublic assistance cases may also be provided to DMAS provided that DCSE has the consent of the nonpublic assistance client.

### DEPARTMENT OF THE TREASURY

**Title of Regulation:** VR 640-02. Virginia Security for Public Deposits Act Regulations.

**Statutory Authority:** § 2.1-364 of the Code of Virginia

**Public Hearing Date:** January 8, 1987 - 10 a.m.  
(See Calendar of Events section for additional information)

#### **Summary:**

*These regulations amend and supersede the Emergency Regulations adopted 5/15/86.*

*Upon its effective date of January 1, 1974, the Act superseded all other existing statutes concerning security for public deposits and established a single body of law to provide a procedure for securing such deposits that is uniform throughout the Commonwealth. The Act does not, of itself, require security for any public deposit, and thus the statutes previously existing continue in effect insofar as they require certain deposits to be secured. All deposits that are required to be secured, whether by statute, by charter provision, or by the custodian of the fund, must be secured pursuant to the Act. No alternate method of securing such deposits may be utilized.*

*The primary responsibility for determining that the Act is being complied with rests upon the financial institutions that accept and hold public deposits. If a financial institution officer is unable to ascertain whether a particular deposit is a "public deposit" for purposes of the Act he should obtain the essential details and communicate with the public depositor, the financial institution's counsel, or the State Treasurer's office. If the deposit is a "public deposit" the pertinent inquiry is whether the deposit either must be secured pursuant to the Code of Virginia, or whether the public depositor elects to require security for the deposit.*

*All moneys deposited by the State Treasurer must be secured pursuant to §§ 2.1-210 and 2.1-211 of the Code of Virginia. All county, and city moneys deposited by*

*a county or city treasurer or other public depositor must be secured pursuant to § 58.1-3158 of the Code of Virginia.*

*If security is not required by law, but the deposit is within the statutory definition of a public deposit, the treasurer or custodian of the moneys may elect to require security. If the amount of the deposit is less than the maximum amount of deposit insurance applicable, there is no need for the treasurer or custodian to require security because the financial institution will deduct the maximum amount of deposit insurance applicable to the account as provided by the Federal Deposit Insurance Corporation (FDIC) or Federal Savings and Loan Insurance Corporation (FSLIC) and secure only the excess which is not covered by the insurance. If the deposit exceeds the amount of insurance, the treasurer or custodian may decide that the deposit should be secured. In such event, he must communicate his election to the proper officer of the financial institution holding the deposit, who may require the election to be manifested in writing on a form approved by the Treasury Board. A copy of the form will be retained by the treasurer and the financial institution, and a copy will be forwarded to the State Treasurer.*

#### **Definition of participants.**

*The three major participants in the scheme of activities required by the Act are defined as follows:*

*1. Qualified public depositories. Any national banking association, federal savings and loan association or federal savings bank located in Virginia and any bank, trust company or savings and loan association organized under Virginia law that receives or holds public deposits which are secured pursuant to the Act.*

*2. Treasurers or public depositors. The State Treasurer, a county, city, or town treasurer or director of finance or similar officer and the custodian of any other public deposits secured pursuant to the Act.*

*3. Treasury Board. The Treasury Board of the Commonwealth created by § 2.1-178 of the Code of Virginia consisting of the State Treasurer, the Comptroller, the State Tax Commissioner and two members appointed by the Governor.*

#### **Treasury Board duties, powers and responsibilities.**

*The Treasury Board is granted authority to make and enforce regulations necessary and proper to the full and complete performance of its functions under the Act pursuant to § 2.1-364. The board may require additional collateral of any and all depositories, may determine within the statutory criteria what securities shall be acceptable as collateral, and may fix the percentage of face value or market value of such*

# Proposed Regulations

securities that can be used to secure public deposits. The board may also require any public depository to furnish information concerning its public deposits and fix the terms and conditions with respect to security under which public deposits may be held. In the event of a default or insolvency of a public depository holding secured public deposits, the board may take such action as it may deem advisable for the protection, collection, compromise or settlement of any claim.

## Administration.

The Treasury Board has designated the State Treasurer to be the chief administrative officer with respect to the provisions of the Act. Inquiries and correspondence concerning the Act should be directed to:

Treasurer of Virginia  
P.O. Box 6-H  
Richmond, Virginia 23215

**Effective Date:** The Act became effective January, 1974, and was amended effective July 1, 1984.

## VR 640-02. Virginia Security for Public Deposits Act

### § 1. General.

The definitions provided by § 2.1-360 of the Code of Virginia, shall be used throughout these regulations unless the context requires otherwise.

### § 2. Effective date.

These regulations, as amended, shall be effective on and after May 21, 1986 March 18, 1987 .

### § 3. Required collateral for banks .

In the case of a bank: A. The required collateral of a national or state chartered bank to secure public deposits shall consist of securities qualifying as eligible collateral pursuant to these regulations which have a value for collateralization purposes not less than:

(a) 1. Fifty percent of the average daily balance for each month of all public deposits held by the bank during the twelve calendar months immediately preceding the current month, or Fifty percent of the actual public deposits held at the close of business on the last banking day in the preceding calendar month, or the average balance of all public deposits for the preceding month, whichever is greater;

(b) 2. Seventy-five percent of the bank's average daily balance for each the preceding month or the actual public deposits held as aforesaid, whichever is greater, in the event that the bank's average daily public deposits for the preceding month exceed one-fifth of

its average daily total deposits;

(c) 3. One hundred percent of the bank's average daily balance for each the preceding month or the actual public deposits held, as aforesaid, whichever is greater, in the event that the bank's average daily public deposits for the preceding month exceed one-fifth of its average daily total deposits and the bank has not been actively engaged in the commercial banking business for at least three years;

(d) 4. One hundred percent of the bank's average daily balance for each the preceding month or the actual public deposits held, as aforesaid, whichever is greater, in the event that the bank's average daily public deposits for the preceding month exceed one-third of its average daily total deposits;

(e) 5. One hundred percent of the bank's average daily balance for each the preceding month or the actual public deposits held, as aforesaid, whichever is greater, in the event the bank has not been actively engaged in the commercial banking business for at least one year;

(f) 6. Or, in the event that the bank has repeatedly violated the pledging statutes and regulations or for other reasons deemed sufficient, to the Treasury Board may increase the bank's ratio of required collateral to one hundred 100% of its actual public deposits.

### § 4. Required collateral for savings and loan associations or savings banks .

In the case of a savings and loan association or savings bank: The required collateral of a savings and loan association shall mean a sum equal to 100% of the average daily balance for each month of all public deposits held by such depository during the twelve calendar months immediately preceding the date of any computation of such balance, but shall not be less than 100% of the public deposits then held by such depository at the close of business on the last banking day in the preceding month .

### § 5. Average daily balance computation.

The average daily balance for each any month of all public deposits held during the month shall be derived by dividing the total of the daily balances of such deposits for the month by the number of calendar days in the month. The amount so derived shall be calculated for each month of the twelve months preceding the current month and shall be averaged by dividing the totals by twelve. The resulting amount shall be the financial institution's average daily balance for each month of all public deposits held by the bank during the twelve preceding calendar months.

In computing the actual amount of public deposits to be collateralized held during any month, there shall be

## Proposed Regulations

excluded the amount of each deposit which is insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation.

In the event that a financial institution is unable to determine its average daily balance of public deposits held during the preceding twelve months, it shall make such determination for the number of months possible and use the amount so determined as if it were its average daily balance for the preceding twelve months for purposes of ascertaining its required collateral.

### § 6. Eligible collateral.

A. Securities eligible for collateral are limited to:

(a)(i) Obligations included in §§ 2.1-327, 2.1-328 and 2.1-328-1, Code of Virginia (1950), as amended, or authorized as legal investments for the public sinking funds or other public funds by other Virginia statutes, and;

(a)(ii) Obligations acceptable for collateralizing United States Treasury Tax and Loan Accounts pursuant to § 203.8 of Subchapter A, Chapter II, Title 31, of the Code of Federal Regulations, as amended, except:

(1) Notes representing loans to students;

(2) Obligations (including revenue bonds) of states, other than Virginia, and their municipalities or political subdivisions unless rated A or better by Moody's Investors Service, Inc., or Standard & Poor's Corporation;

(3) Any Commercial Paper and Banker's Acceptances;

(4) Any Certificates of Deposit.

1. *Obligations of the Commonwealth. Bonds, notes and other evidences of indebtedness of the State of Virginia, and securities unconditionally guaranteed as to the payment of principal and interest by the State of Virginia.*

2. *Obligations of the United States, etc. Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof.*

3. *Obligations of Virginia counties, cities, etc. Bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body of the State of Virginia upon which there is no default; provided that such bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body are either direct legal obligations of, or those unconditionally guaranteed as to the payment of principal and interest*

*by the county, city, town, district, authority or other public body in question; and revenue bonds issued by agencies or authorities of the State of Virginia or its political subdivisions upon which there is no default, and which are rated BBB or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation.*

4. *Obligations of International Bank for Reconstruction and Development and Asian Development Bank, Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction and Development and bonds and other obligations issued, guaranteed or assumed by the Asian Development Bank.*

5. *Obligations partially insured or guaranteed by any U.S. Government Agency.*

6. *Obligations (including revenue bonds) of states, other than Virginia, and their municipalities or political subdivisions rated A or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation.*

B. No security which is in default as to principal or interest shall be acceptable as collateral.

C. No financial institution shall utilize securities issued by itself, its holding company, or any affiliate for purposes of collateralizing its public deposits.

D. Securities excluded by action of the Treasury Board pursuant to § 2.1-364(d) shall not be acceptable.

### § 7. Valuation of collateral.

Each financial institution shall value its securities for reporting purposes at their current asset value in accordance with the following method:

At the market value as of the close of business on the last banking day in the preceding month, except that any extraordinary decline in value between such day and the date of mailing the monthly report to the Treasury Board shall be considered and used for reporting purposes. Securities that are eligible collateral but for which the market value is not readily ascertainable, e.g., private placements of nonrated industrial revenue bonds, will be valued after consultation with the State Treasurer.

### § 8. Substitution of collateral.

A substitution of collateral may be made by the depository financial institution at any time provided that the face value of the securities substituted is equal to or greater than the face value of the securities withdrawn. The depository financial institution shall not make such substitution unless the market value of the securities substituted is not less than ninety-five percent of the market value of the securities withdrawn. A financial



## Proposed Regulations

---

institution desiring to substitute securities with a current asset value less than ninety-five percent of the current asset value of the securities sought to be withdrawn shall comply with § 8 of these Regulations relating to a withdrawal of securities.

At the time of making a substitution, the depository financial institution shall prepare a request for the substitution upon a form approved by the State Treasurer and deliver the original to the escrow bank and a copy to the State Treasurer. The escrow bank shall not be required to ascertain the accuracy of the amounts certified as the current asset value of the securities substituted or withdrawn, but shall not allow a substitution unless the face value of the securities to be substituted is equal to or greater than the face value of the securities to be withdrawn.

### § 8. § 8. Withdrawal or substitution of collateral.

A financial institution shall not be permitted to withdraw or substitute collateral previously pledged without the prior approval of the State Treasurer. The State Treasurer may grant such approval only if the financial institution certifies in writing that such withdrawal or substitution will not reduce its collateral below its required collateral as defined by these regulations, and this certification is substantiated by a statement of the financial institution's current public deposits which indicates that after withdrawal or substitution such deposits will continue to be secured to the full extent required by the law and regulations. A bank or trust company holding securities as collateral for another financial institution shall not permit the depositing financial institution to withdraw same or substitute without the written approval of the State Treasurer except in cases of a substitution as defined by these Regulations.

### § 9. § 9. Reports by qualified public depositories.

Within 10 business days after the end of each calendar month each qualified public depository shall submit to the State Treasurer a written report, under oath, indicating the total amount of public deposits held by it at the close of business on the last business day in the preceding month, and average daily balance for such month of all secured public deposits held by it during the month, and the average daily balance for each month of all public deposits held by the financial institution during the preceding twelve calendar months together with a detailed schedule of pledged collateral at its current asset value, determined pursuant to § 7 of these regulations, at the close of business on the last business day in such month. This report shall indicate the name of the escrow agent holding the collateral and its location and shall contain the amount of the financial institution's required collateral as of the close of business on the last business day in such month.

At the request of any public depositor for which it holds deposits, within 10 business days after the end of each

calendar any month, the qualified public depository shall submit a statement indicating the total secured public deposits in each account to the credit or such depositor on the last business day in the month and the total amount of all secured public deposits held by it upon such date.

Within the first 10 business days of each calendar quarter month the qualified public depository shall submit to the State Treasurer a report indicating the name of all public depositors for whom it holds secured public deposits, and the amount of deposit as of the close of business on the last banking day in the preceding quarter month. If a single depositor has more than one account with the depository it shall not be necessary to list each account unless all of the accounts to the credit of the depositor are not secured, in which event each secured account shall be listed by the title used to identify the account. If a single depositor has more than one account requiring collateralization with the depository it shall not be necessary to list each account unless only some of the accounts require the pledging of collateral, in which event all accounts shall be listed individually.

### § 10. § 10. Deposit of collateral.

No qualified public depository shall accept or retain any public deposit which is required to be secured unless it has previously executed a "Public Deposit Security Agreement", and deposited eligible collateral, as defined in these regulations, equal to its required collateral, determined as herein provided, with (i) the Federal Reserve Bank of Richmond, (ii) The Federal Home Loan Bank of Atlanta, (iii) a bank or trust company located within Virginia which is not a subsidiary of the depository's parent holding company, or (iv) a bank or trust company located outside Virginia which has been approved by the Treasury Board.

No qualified depository shall deposit more than three-fourths of its required collateral in a bank or trust company located outside of Virginia and no deposit of collateral shall be made in a bank or trust company located outside of Virginia unless the face value of the securities to be deposited is at least \$500,000.00.

Whether or not a depository has eligible collateral deposited as heretofore provided at the time it receives a public deposit, if such deposit would result in an increase of 10% or more in the depository's required collateral computed as of the day on which the deposit is received, such depository shall immediately deposit sufficient securities to increase its collateral to an amount equal to that determined pursuant to paragraphs (1) through (6) of § 3, or § 4, of these regulations, whichever is applicable, but utilizing the depository's actual public deposits held at the close of business on the day such deposit is received in lieu of those held at the close of business on the last banking day in the preceding calendar month.

Except as provided in the preceding paragraph, each qualified public depository shall increase its collateral

## Proposed Regulations

---

deposit on or before the day its monthly report is required to be submitted to the State Treasurer pursuant to § 10 9 of these regulations if such report indicates that the depository's required collateral is in excess of the collateral previously deposited in accordance with its preceding monthly report.

At the time of the deposit of registered securities, the qualified public depository owning the securities shall attach appropriate bond power forms as required to allow the State Treasurer to transfer ownership of such registered securities for the purpose of satisfying the depository's liabilities under the Act in the event the collateral needs to be liquidated.

### ATTACHMENT A

### VIRGINIA SECURITY FOR PUBLIC DEPOSITS ACT FORMS

#### ~~§ 12.~~ § 11. Reports by State Treasurer.

The State Treasurer shall report to the auditors of any public depositor, upon their request, the status of any public depository's collateral account and compliance with the reporting requirements of the Act. The State Treasurer shall notify any public depositor that maintains accounts with any bank or savings and loan of any irregularities, including, but not limited to, the late filing of the required monthly reports or of deficiencies in the financial institution's eligible collateral at any time. The Treasury Board shall be notified of the sending of any reports of irregularities required herein no later than at its next regularly scheduled meeting.

#### § 12. Reports by public depositors.

*Within the first 10 business days of each month all public depositors shall submit to the State Treasurer a report indicating the name of all public depositories with whom they have secured public deposits, and the amount of deposits as of the close of business on the last banking day in the preceding month.*

EXHIBIT 1

Form No. 1001 Trust.

PUBLIC DEPOSIT SECURITY AGREEMENT
To Secure Public Deposits Pursuant to the Virginia
Security for Public Deposits Act

THIS AGREEMENT, made \_\_\_\_\_ 19\_\_\_\_ by and among the TREASURY BOARD OF VIRGINIA

Hereinafter "Board", \_\_\_\_\_ of \_\_\_\_\_, Virginia

Hereinafter "Depository", and \_\_\_\_\_ of \_\_\_\_\_
Hereinafter "Escrow Agent"):

The Depository is a national banking association located in Virginia or a bank or trust company organized under Virginia law that receives or holds "public deposits" as defined in the Virginia Security for Public Deposits Act hereinafter "Act") and as security therefor and for its liabilities under the Act has deposited with the Escrow Agent "eligible collateral" equal to its "required collateral," both as defined in the Act and Regulations promulgated thereunder by the Board. The Escrow Agent acknowledges the receipt of said collateral and will segregate same from other securities, if any, held by it for the account of the Depository. The Depository from time to time may substitute other eligible collateral for the securities hereby deposited or increase its collateral deposit and the securities pledged hereunder together with the securities substituted or added, less those withdrawn with the consent of the Board, are hereinafter referred to as the "pledged securities." The term "Board" shall mean the Board or its designate. The term "Act" shall mean the Act and Regulations promulgated thereunder, as amended.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

- 1. The Depository warrants that at no time will the value of its assets pledged hereunder be less than its "required collateral" as defined by the Act and that it has and will deliver to the Escrow Agent only such securities as are within the definition of "eligible collateral" as thereby defined.
2. The Escrow Agent shall have no responsibility to ascertain whether the value and amount of the pledged securities is equal to or greater than the Depository's "required collateral" as defined by the Act, nor whether the pledged securities are "eligible collateral" as thereby defined.
3. The Escrow Agent shall permit the Depository to substitute securities for those held at the time of the substitution if the face value of the securities to be substituted is equal to or greater than the face value of the securities to be withdrawn.
4. The Escrow Agent shall not permit the Depository to withdraw pledged securities without the prior approval of the Board except in cases of a substitution in accordance with the preceding paragraph.
5. All interest, dividends, or other income from the pledged securities shall be the property of the Depository and shall be payable hereinafter provided the Escrow Agent has not received written notice from the Board that the Depository is in a condition of "default or insolvency" as defined in the Act, in which event the Escrow Agent shall hold such income subject to the order of the Board.
6. The Escrow Agent shall, upon notification of the default or insolvency of the Depository by the Board, deliver the pledged securities to the Board for disposition as provided in the Act, and take a receipt therefor, which shall relieve the Escrow Agent from any further liability to the Depository.
7. The responsibility of the Escrow Agent for the safekeeping of the pledged securities shall be limited to the exercise of that diligence and care usually accorded trust property by banking and trust institutions.
8. The Board shall have the right to examine the pledged securities at any time during the regular business hours of the Escrow Agent without cost to the Board.
9. This Agreement is to be executed in triplicate by the parties hereto each of which shall retain one copy hereof. IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the date first above written.

\_\_\_\_\_(Seal)
Treasury Board of Virginia

By: \_\_\_\_\_

ATTEST: \_\_\_\_\_(Seal)
Depository Bank

By: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_(Seal)
Escrow Agent

By: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

EXHIBIT 2

Form No. 1002 Trust.

PUBLIC DEPOSIT SAFEKEEPING AGREEMENT
To Secure Public Deposits Pursuant to the Virginia
Security for Public Deposits Act

THIS AGREEMENT, made \_\_\_\_\_ 19\_\_\_\_ by and among the TREASURY BOARD OF VIRGINIA

Hereinafter "Board", \_\_\_\_\_ of \_\_\_\_\_, Virginia,
a member bank of the Federal Reserve System (hereinafter "Depository"), and the FEDERAL RESERVE BANK OF RICHMOND (hereinafter "Reserve Bank"):

The Depository is a national banking association located in Virginia or a bank or trust company organized under Virginia law that receives or holds "public deposits" as defined in the Virginia Security for Public Deposits Act hereinafter "Act"), and as security therefor and for its liabilities under the Act, has deposited with the Reserve Bank "eligible collateral" equal to its "required collateral," both as defined by the Act and Regulations promulgated thereunder by the Board. The Depository from time to time may substitute other eligible collateral for the securities hereby deposited or increase its collateral deposit and the securities pledged hereunder together with the securities substituted or added, less those withdrawn with the consent of the Board, are hereinafter referred to as the "pledged securities." The term "Board" shall mean the Board or its designate and the term "Act" shall mean the Act and Regulations promulgated thereunder, as amended.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

- 1. The Board represents to the Depository and the Reserve Bank that (a) the Board consists of the Treasurer, the Comptroller, and the State Tax Commissioner of Virginia; and (b) the Board is duly authorized to enter into this agreement.
2. The Depository represents to the Board and the Reserve Bank that (a) all securities deposited with the Reserve Bank hereunder are, and shall be eligible for securing public deposits pursuant to the Act; (b) the Depository is a "qualified public depository" as defined in the Act and is duly authorized to enter into this agreement; and (c) at no time will the value of its assets pledged hereunder be less than its "required collateral" as defined by the Act.
3. The provisions of Operating Circular No. 14 dated January 1, 1953, and Amendment No. 1 thereto, revised effective June 6, 1973, as promulgated by the Reserve Bank, together with the signature form "Cud. 6" shall govern the deposit of securities hereunder and in the event of any conflict between the other provisions of this agreement and said circular, amendment and signature form, the latter shall control, and the former shall be regarded as surplusage and of no effect and shall be deemed severable without affecting the remainder of this agreement.
4. The Reserve Bank shall have no responsibility to ascertain whether the value and amount of the pledged securities is equal to or greater than the Depository's "required collateral" as defined by the Act, nor whether the pledged securities are "eligible collateral" as thereby defined.
5. The Reserve Bank shall permit the Depository to substitute other securities for those held at the time of the substitution if the face value of the securities to be substituted is equal to or greater than the face value of the securities to be withdrawn.
6. The Reserve Bank shall not permit the Depository to withdraw pledged securities without the prior approval of the Board except in cases of a substitution in accordance with the preceding paragraph.
7. The Board shall have the right to examine the pledged securities held in definitive form at any time during the regular business hours of the Reserve Bank without cost to the Board.
8. This agreement is to be executed in triplicate by the parties hereto each of which shall retain one copy hereof. IN WITNESS WHEREOF, the parties hereto have executed this agreement under seal as of the date first above written.

\_\_\_\_\_(Seal)
Treasury Board of Virginia

By: \_\_\_\_\_

ATTEST: \_\_\_\_\_(Seal)
Depository Bank

By: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_(Seal)
Reserve Bank

By: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

EXHIBIT 3

PUBLIC DEPOSITORY MONTHLY REPORT

TO: The Treasury Board, Commonwealth of Virginia  
P. O. Box 6-H, Richmond, Virginia 23215

DATE PREPARED \_\_\_\_\_

FROM: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 1) Total All Public Deposits on \_\_\_\_\_  
(Net of FDIC) (Month Ending) Demands\$ \_\_\_\_\_  
Time/Savings\$ \_\_\_\_\_ \$ \_\_\_\_\_
- Average Daily Balance All Public Accounts for:
- 2) 12 Months Ending \_\_\_\_\_ : Demands\$ \_\_\_\_\_  
(Net of FDIC) Time/Savings\$ \_\_\_\_\_
- 3) Month Ending \_\_\_\_\_ : Demands\$ \_\_\_\_\_  
(Net of FDIC) Time/Savings\$ \_\_\_\_\_
- 4) Average Daily Total Deposits month ending \_\_\_\_\_ \$ \_\_\_\_\_
- 5) Percentage of Item 3 to Item 4 above: . . . . . \$ \_\_\_\_\_
- 6) Required Collateral: \_\_\_\_\_ % of the larger of (1) or (2) above: . . . . . \$ \_\_\_\_\_
- 7) Pledged Collateral, month ending  
From Schedule A: Par Value: . . . . . \$ \_\_\_\_\_  
Current Asset Value: . . . . . \$ \_\_\_\_\_
- 8) Total Capital Accounts, month ending \_\_\_\_\_

I hereby certify that the foregoing information and attachments are true and correct to the best of my knowledge and belief and that at no time during the month has the financial institution pledged collateral been less than its required collateral.

FINANCIAL INSTITUTION \_\_\_\_\_ Signature: \_\_\_\_\_  
\_\_\_\_\_ Title: \_\_\_\_\_

State of Virginia, \_\_\_\_\_ of \_\_\_\_\_  
The foregoing officer acknowledged under oath before me, a Notary Public in and for the state and city/county aforesaid, that the statements and amounts herein are correct and true to the best of his/her knowledge and belief, this \_\_\_\_\_ day of \_\_\_\_\_

My commission expires: \_\_\_\_\_  
\_\_\_\_\_  
Notary Public

SCHEDULE "A"

Detailed schedule of pledged collateral at its current asset value, determined by the \_\_\_\_\_ method, as of \_\_\_\_\_ (date)  
(general or specific)

Attach list or describe, giving the following information:

Rating	Par Value	Description	Coupon	Maturity	Current Asset Value
--------	-----------	-------------	--------	----------	---------------------

Total Par Value \_\_\_\_\_ Total Current Asset Value \_\_\_\_\_

EXHIBIT 4

(Depository Letterhead)

The Treasury Board  
Commonwealth of Virginia  
P. O. Box 6-H  
Richmond, Virginia 23215

Gentlemen:

Listed below are Public Depositories for whom \_\_\_\_\_  
(Depository institution) held secured public deposits  
as of the close of business for the \_\_\_\_\_ Quarter in  
\_\_\_\_\_:

Sincerely ,

(Depository Institution)

EXHIBIT 5

(Letter #1)

(Depository Letterhead)

WITHDRAWAL OF COLLATERAL

The Treasury Board  
Commonwealth of Virginia  
P. O. Box 6-H  
Richmond, Virginia 23215

Gentlemen:

Enclosed are the original and two copies of our letter to \_\_\_\_\_  
requesting withdrawal of collateral.

The following data are submitted for your information:

Total All Public Deposits on \_\_\_\_\_ \$ \_\_\_\_\_  
Average Daily Balance 12 Months Ending \_\_\_\_\_

Pledged Collateral:

Current Asset Value \_\_\_\_\_ Method:

(1) \_\_\_\_\_  
(Date)

(2) Amount of collateral remaining if withdrawal  
is accomplished \_\_\_\_\_

Please indicate your approval by signing the original and sending it to  
the escrow agent or custodian and return one copy for our records.

Sincerely yours.

(Depository Institution)

EXHIBIT 6

(Depository Letterhead)

DEPOSIT OF COLLATERAL

TO: \_\_\_\_\_  
(Escrow Agent or Custodian)

We have a Public Deposit Security (Safeguarding) Agreement with you entitled \_\_\_\_\_ as escrow agent or custodian for the Treasury Board of the Commonwealth of Virginia to secure public deposits with \_\_\_\_\_ (Depository)

Please accept the following securities for this account to be held as set forth in the agreement:

Par Value	Description	Coupon	Maturity	Current Asset Value (Determined by _____)
_____	_____	_____	_____	_____

When this transaction has been completed, please send your usual advice to the Treasurer of Virginia, P. O. Box 6-H, Richmond, Virginia 23215.

Sincerely,  
(Depository Institution)

cc: Treasury Board  
Commonwealth of Virginia  
P. O. Box 6-H  
Richmond, Virginia 23215

EXHIBIT 5 cont.

(Letter #2)

(Depository Letterhead)

WITHDRAWAL OF COLLATERAL

TO: \_\_\_\_\_  
(Escrow Agent or Custodian)

You hold in the account entitled \_\_\_\_\_ as escrow agent or custodian for the Treasury Board of the Commonwealth of Virginia to secure public deposits with \_\_\_\_\_ the following securities:

Par Value	Description	Coupon	Maturity
_____	_____	_____	_____

Please release these securities from the above account and \_\_\_\_\_

When this transaction has been completed, please send your usual advice to the Treasurer of Virginia, P. O. Box 6-H, Richmond, Virginia 23215.

Sincerely,  
(Depository Institution)

Approved: Treasury Board  
Commonwealth of Virginia

By: \_\_\_\_\_

Date: \_\_\_\_\_

# Proposed Regulations

EXHIBIT 7

(Depository letterhead)

**REQUEST FOR SUBSTITUTION OF COLLATERAL**

TO: \_\_\_\_\_  
(Borrow Agent or Custodian)

You hold in the account entitled \_\_\_\_\_  
(Name of Escrow Agent or Custodian)  
as escrow agent or custodian for the Treasury Board of the Commonwealth of Virginia to secure public deposits with \_\_\_\_\_  
(Depository)  
the following securities:

Par Value	Description	Coupon	Maturity	Current Asset Value (Determined by method)
-----------	-------------	--------	----------	--

Please release these securities from the above account and \_\_\_\_\_  
(Provision of securities being released)  
and accept in substitution thereof the following securities to be held in the same manner as the securities being released:

Par Value	Description	Coupon	Maturity	Current Asset Value (Determined by method)
-----------	-------------	--------	----------	--

When this transaction has been completed, please send your usual notices to the Treasurer of Virginia, P. O. Box 6-H, Richmond, Virginia 23215.

Sincerely,

(Depository Institution)

cc: Treasury Board  
Commonwealth of Virginia  
P. O. Box 6-H  
Richmond, Virginia 23215

# FINAL REGULATIONS

For information concerning Final Regulations, see information page.

## Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulations.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTE: The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

**Title of Regulation:** VR 400-02-0003. Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

**Statutory Authority:** § 36-55.30:3 of the Code of Virginia.

**Effective Date:** December 10, 1986

NOTICE: Documents and forms referred to as exhibits have not been adopted by the authority as a part of the Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the amendments to Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income. Copies of such documents and forms are available upon request at the office of the authority.

### Summary:

*Under the current provisions of the authority's Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income, maximum allowable sales prices and maximum allowable adjusted incomes are established for the Northern Virginia portion of the Washington, DC-MD-VA MSA as well as other designated areas of the state. In order to reflect the increased housing costs and incomes of low and moderate income persons and families in this Northern Virginia portion of the Washington, DC-MD-VA MSA of the state, the amendments to the regulations make certain increases in the maximum allowable sales prices and maximum allowable adjusted incomes for this area.*

VR 400-02-0003. Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

### PART I. GENERAL.

§ 1.1. The following procedures, instructions and guidelines will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to persons and families of low and moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing units.

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the authority's rules and regulations) must have an "adjusted family income" (as determined in accordance with the authority's rules and regulations) which does not exceed the applicable income limitation established by the authority. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit established by the authority. Such income and sales price limitations shall be set forth in the Processing and Disbursing Guide described in § 1.2 C hereof.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any mortgage loan hereunder to waive or modify any provisions of these procedures, instructions and guidelines where deemed appropriate by him for good cause, to the extent not inconsistent with the authority's act, rules and regulations, and covenants and agreements with the holders of its bonds.

"Executive director" as used herein means the executive director of the authority or any other officer or employee of the authority who is authorized to act on behalf of the authority pursuant to a resolution of the board.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these procedures, instructions and guidelines shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the mortgagor under the agreements and documents executed in connection with the mortgage loan.

The procedures, instructions and guidelines set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of mortgage loans under the authority's single family housing program. These procedures, instructions and guidelines are subject to change at any time by the authority and may be



# Final Regulations

---

supplemented by policies, procedures, instructions and guidelines adopted by the authority from time to time.

## § 1.2. Processing/disbursing/servicing agents.

A. The processing of applications for the making or financing of mortgage loans hereunder, the disbursement of proceeds of mortgage loans and the servicing of mortgage loans shall be performed through commercial banks, savings and loan associations and private mortgage bankers approved as Processing/Disbursing/Servicing Agents ("PDS agents") of the authority. To be initially approved as PDS agents, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have a satisfactory rating from any state and/or federal agencies responsible for the regulation of the applicant;
3. Have a net worth equal to or in excess of \$100,000 or, in the case of a savings and loan association, have its deposits insured by the Federal Savings and Loan Insurance Corporation;
4. Have aggregate servicing and originating volume during the preceding five years at least equal to 10 times the principal amount of loans expected to be initially serviced and originated for the authority;
5. Have a staff with demonstrated ability and experience in mortgage loan origination and servicing;
6. Each branch office of the applicant that is to originate mortgage loans must have demonstrated experience in the origination of mortgage loans;
7. Have a delinquency rate on its portfolio of serviced mortgage loans not in excess of 5.1%;
8. Have a foreclosure rate on portfolio of serviced mortgage loans not in excess of 1.0% annually;
9. Have reasonable business hours - i.e. be open to the public at least five hours every banking day; and
10. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

If the applicant is to originate (but not service) mortgage loans, the applicant must satisfy the qualification set forth in (4) and (5) above only with respect to the origination of mortgage loans.

All PDS agents approved by the authority shall enter into Processing/Disbursing/Servicing Agreements ("PDS agreements") with the authority containing such terms and conditions as the executive director shall require with

respect to the processing, disbursing and servicing of mortgage loans hereunder. The PDS agents shall maintain adequate books and records with respect to such mortgage loans, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the PDS agent for originating and servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the PDS agreements.

## B. Allocation of funds.

The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to PDS agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;
2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;
3. The cost and difficulty of administration of the allocation of funds;
4. The capability, history and experience of any PDS agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and
5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;
2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and

# Final Regulations

3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

#### C. Processing and Disbursing Guide and Servicing Guide.

The Processing and Disbursing Guide attached hereto as Part II is incorporated into and made a part of these procedures, instructions and guidelines. The executive director is authorized to prepare and from time to time revise a Servicing Guide which shall set forth the accounting and other procedures to be followed by the PDS agents in the servicing of the mortgage loans under the PDS agreements. Copies of the Servicing Guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the Processing and Disbursing Guide and the Servicing Guide.

#### D. Making and purchase of new mortgage loans.

The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its PDS agents and (ii) agree to purchase individual mortgage loans from its PDS agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the PDS agreement, the Processing and Disbursing Guide, the Servicing Guide and the authority's act and rules and regulations.

#### E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1,

1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's PDS agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to PDS agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the PDS agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the PDS agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the authority's act and rules and regulations.

#### F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more PDS agents the responsibility for issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which PDS agents may qualify for such delegation. If such delegation has been made, the PDS agents shall submit all required documentation to the authority after closing of each mortgage loan. If the executive director determines that a mortgage loan does not comply with the Processing and Disbursing Guide, the PDS agreement or the authority's act or rules and regulations, he may require the PDS Agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

## PART II. VIRGINIA HOUSING DEVELOPMENT AUTHORITY PROCESSING AND DISBURSING GUIDE.

### Article I. Eligibility Requirements.

# Final Regulations

---

## § 2.1. Eligible persons and families.

### A. Person.

A one-person household is eligible, but the authority will restrict the number of loans that the PDS agent can originate for such persons and has established sales price limits for such households. An individual who is 62 or more years of age or who is handicapped or disabled shall not be deemed a one-person household for these purposes.

### B. Family.

A single family loan can be made to more than one person only if all such persons to whom the loan is made are related by blood, marriage or adoption and are living together in the dwelling as a single nonprofit housekeeping unit.

#### 1. Allocation to one-person households.

The maximum number of one-person households will be limited to 17% of all units financed. Units will be allocated by planning district with each planning district to receive funds based on its relative need. Allocation of one-person households to PDS agents and builders will be made based upon the dollar amount of their allocation and geographical location. The maximum number of one-person households allowed will be specified in the Forward Commitment Agreement and Builder Commitment Agreement.

## § 2.2. Compliance with certain requirements of the Mortgage Subsidy Bond Tax Act of 1980.

The federal Mortgage Subsidy Bond Tax Act of 1980 imposes certain new requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with this federal law, VHDA is establishing certain procedures which must be performed by the PDS agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The PDS agent will certify to the performance of these procedures and evaluation of a borrower's eligibility by completing, initialing and signing the "Checklist for certain requirements of the Mortgage Subsidy Bond Tax Act of 1980" (the "checklist") (Section II, Exhibit A) prior to VHDA approval of each loan. No loan will be approved by VHDA unless all of the federal eligibility requirements are met as well as the usual VHDA requirements set forth in other parts of this guide.

### § 2.2.1. Eligible borrowers.

#### A. General.

An applicant will be considered an eligible borrower for a VHDA mortgage loan, if the applicant meets all of the following federal criteria:

1. Has not had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan. (See B. Three-year requirement);

2. Agrees to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as defined in § 2.17) after the date of the closing of the mortgage loan. (See C. Principal residence requirement);

3. Will not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See D. New mortgage requirement);

4. Has contracted to purchase an eligible dwelling. (See § 2.2.2. Eligible dwelling);

5. Has executed a borrower affidavit at the time of loan application (to be confirmed on the date of loan closing); and

6. Agrees not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan without the prior written consent of VHDA.

#### B. Three-year requirement.

An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the borrower affidavit that at no time during the three years preceding the execution of the mortgage loan has he has a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.3. "Targeted areas"); however, even if the residence is located in a "targeted area," the prior tax returns described in 3. below must be obtained for the purpose of determining compliance with other requirements.

1. Definition of present ownership interest. "Present ownership interest" includes:

a. A fee simple interest,

b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,

c. The interest of a tenant shareholder in a cooperative,

d. A life estate,

e. A land contract, under which possession and the benefits and burdens of ownership are transferred

although legal title is not transferred until some later time, and

f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a "Present ownership interest" include:

- a. A remainder interest,
- b. An ordinary lease with or without an option to purchase,
- c. A mere expectancy to inherit an interest in a principal residence,
- d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and
- e. An interest in other than a principal residence during the previous three years.

2. Persons covered. This requirement applies to any person who will execute the mortgage or note and will have a present ownership interest (as defined above) in the eligible dwelling.

3. Prior tax returns. To verify that the eligible borrower meets the three-year requirement, the PDS agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three years preceding execution of the mortgage or certified copies of the returns. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return for such year is waived.

The PDS agent shall examine the tax returns particularly for any evidence that the eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. Review by PDS agent. The PDS agent must, with due diligence, verify the representations in the borrower affidavit regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and certify to VHDA that on the basis of its review, it is of the opinion that each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the loan closing.

## C. Principal residence requirement.

1. General. An eligible borrower must intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from VHDA. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of rehabilitation loan) after the closing of the mortgage loan on the borrower affidavit and as part of the attachment to the deed of trust.

2. Definition of principal residence. A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where any portion of the total living area is to be used primarily in a trade or business.

3. Land not to be used to produce income. The land financed by the mortgage loan may not provide, other than incidentally, a source of income to the eligible borrower. The eligible borrower must indicate on the borrower affidavit that, among other things:

a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);

b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and

c. He does not intend to subdivide the property.

4. Lot size. Only such land as is reasonably necessary to maintain the basic livability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres even in rural areas.

5. Review by PDS agent. The borrower affidavit must be reviewed by the PDS agent for consistency with the eligible borrower's federal income tax returns and the credit report in order to support an opinion that the eligible borrower is not engaged in any employment activity or trade or business which has been conducted in his principal residence. Also, the

# Final Regulations

---

PDS agent shall review the appraiser report of a VHDA-approved appraiser and the required photographs to determine based on the location and the structural design and other characteristics of the dwelling that the residence is suitable for use as a permanent residence and not for use primarily in a trade or business or for recreational purposes. Based on such review, the PDS agent shall certify to its opinions in the checklist at the time the loan application is submitted to VHDA for approval.

6. Post-closing procedures. The PDS agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower are the same and (ii) notify VHDA if such addresses are not the same. Subject to VHDA's approval, the PDS agent may establish different procedures to verify compliance with this requirement.

#### D. New mortgage requirement.

Mortgage loans may be made only to persons who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which the eligible borrower is liable or which was incurred on behalf of the eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. Definition of mortgage. For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes and any other form of owner-financing. Conditional land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. Temporary financing. In the case of a mortgage loan made to refinance a loan for the construction of an eligible dwelling, VHDA shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. Review by PDS agent. Prior to closing the mortgage loan, the PDS agent must examine the borrower affidavit, the seller affidavit, and related submissions, including (i) the eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Upon such review, the PDS agent shall

certify to VHDA that the agent is of the opinion that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

#### E. Multiple loans.

Any eligible borrower may not have more than one outstanding VHDA mortgage loan.

#### § 2.2.2. Eligible dwellings.

##### A. General.

In order to qualify as an eligible dwelling for which a VHDA loan may be made, the residence must:

1. Be located in the Commonwealth;
2. Be a one-family detached residence, a townhouse or one unit of a VHDA approved condominium; and
3. Satisfy the acquisition cost requirements set forth below.

##### B. Acquisition cost requirements.

1. General. The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases such federal limits equal or exceed the VHDA sales price limits shown in § 2.4. Therefore, the residence is an eligible dwelling if the acquisition cost is not greater than the VHDA sales price limit. In the event that the acquisition cost exceeds the VHDA sales price limit, the PDS agent must contact VHDA to determine if the residence is an eligible dwelling.

2. Definition of acquisition cost. Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

##### a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost

of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost. (See Acquisition Cost Worksheet, Section II Exhibit G, Item 4).

(3) Where the eligible dwelling is subject to a ground rent, the capitalized value of any ground rent calculated using a discount rate equal to the yield of the VHDA bonds from which the mortgage loan was made. VHDA will supply bond yield information to PDS agents on request for the purpose of calculating capitalized ground rent.

(4) The cost of land on which the eligible dwelling is located and which has been owned by the eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

(2) The imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence.

3. Acquisition cost worksheet. The PDS agent is required to obtain from each eligible borrower a completed acquisition cost worksheet which shall specify in detail the basis for the purchase price of the eligible dwelling, calculated in accordance with this Subsection B. The PDS agent shall assist the eligible borrower in the correct completion of the worksheet. The acquisition cost worksheet of the eligible borrower shall constitute part of the borrower affidavit required to be submitted with the loan

submission. The seller affidavit shall also certify as to the acquisition cost of the eligible dwelling on the worksheet.

4. Review by PDS agent. The PDS agent shall determine that the acquisition cost of the eligible dwelling does not exceed the authority's sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the PDS agent must contact VHDA to determine if the residence is an eligible dwelling. As part of its review, the PDS agent must review the acquisition cost worksheet submitted by each mortgage loan applicant, and the appraiser report, and must certify to VHDA that it is of the opinion that the acquisition cost of the eligible dwelling has been calculated in accordance with this Subsection B. In addition, the PDS agent must compare the information contained in the acquisition cost worksheet with the information contained in the seller affidavit and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

5. Independent appraisal. VHDA reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

§ 2.3. Targeted areas.

A. General.

In accordance with the Mortgage Subsidy Bond Tax Act of 1980, VHDA will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in targeted areas for at least one year following the issuance of a series of bonds. VHDA will exercise due diligence in making mortgage loans in targeted areas by advising PDS agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of such funds through advertising and/or news releases. The amount, if any, allocated to a PDS agent exclusively for targeted areas will be specified in the Forward Commitment Agreement.

B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement in § 2.2.1 B.

1. Definition of targeted areas.

a. A targeted area is an area which is a qualified census tract, as described in (1) below, or an area of chronic economic distress, as described in (2) below.

(1) A qualified census tract is a census tract in the Commonwealth in which 70% or more of the

# Final Regulations

families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury. Maps indicating the location of current qualified census tracts will be supplied to the PDS agents by VHDA.

(2) An area of chronic economic distress is an area designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury under criteria specified in the Mortgage Subsidy Bond Tax Act of 1980. PDS agents will be informed by VHDA as to the location of areas so designated.

## § 2.4. Sales price limits.

The authority's maximum allowable sales prices shall be as follows:

### MAXIMUM ALLOWABLE SALES PRICES

Applicable to all bond issues except 1981A (13.7%), 1982A (13.85%) and "blend" of 1982A and 1982B (11.75%)\*

	New Construction	Substantial Rehabilitation	Existing
Northern Virginia portion of Washington, DC-MD-VA MSA			
1/	\$104,200 \$120,000	\$104,200 \$120,000	\$90,300 \$110,000
Norfolk-Virginia Beach-Newport News MSA			
2/	\$78,500	\$78,500	\$68,300
North Piedmont/Richmond-Petersburg MSA/Roanoke MSA			
3/	\$71,000	\$71,000	\$67,500
Remainder of State			
4/	\$61,100	\$61,100	\$56,500

1/ Includes: Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Norfolk City, Portsmouth City, Suffolk City, Virginia Beach City, Hampton City, Newport News City, Poquoson City, Williamsburg City, Gloucester County, James City County, York County.

3/ Richmond-Petersburg MSA includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County,

Petersburg City, Powhatan County, Prince George County, Richmond City.

Roanoke MSA includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

North Piedmont includes: Albemarle County, Caroline County, Charlottesville City, Culpeper County, Fauquier County, Fluvanna County, Fredericksburg City, Greene County, King George County, Louisa County, Madison County, Orange County, Rappahannock County, Spotsylvania County.

4/ Any jurisdiction not a part of the Northern Virginia portion of the Washington, DC-MD-VA MSA, the Norfolk-Virginia Beach-Newport News MSA or the North Piedmont/Richmond Petersburg MSA/ Roanoke MSA.

\* NOTE: For information regarding maximum allowable sales prices of residences financed by the 1981A (13.7%), 1982A (13.85%) or "blend" of 1982A and 1982B (11.75%), please contact the VHDA Staff.

The applicable maximum allowable sales price for new construction shall be increased by the amount of any grant to be received by a mortgagor under the authority's Solar Home Grant Program in connection with the acquisition of a residence.

## § 2.5. Net worth.

To be eligible for VHDA financing, an applicant cannot have a net worth exceeding \$20,000 plus an additional \$1,000 of net worth for every \$5,000 of adjusted income over \$20,000.

Any income producing assets needed as a source of income in order to meet the minimum income requirements for an authority loan will not be included in the applicant's net worth for the purpose of determining whether this net worth limitation has been violated.

## § 2.6. Income requirements.

### A. Maximum income.

The maximum adjusted incomes for eligible borrowers shall be as follows:

### MAXIMUM ALLOWABLE ADJUSTED INCOMES

Applicable to all bond issues except 1981A (13.7%), 1982A (13.85%) and "blend" of 1982A and 1982B (11.75%)\*

	New Construction	Substantial Rehabilitation	Existing
Northern Virginia portion of Washington, DC-			

# Final Regulations

MD-VA MSA			
1/	\$41,200	\$41,200	\$36,500
	\$46,600	\$46,600	\$43,200
Norfolk-Virginia Beach Newport News MSA			
2/	\$34,300	\$34,300	\$29,000
Northern Piedmont/ Richmond-Petersburg MSA/Roanoke MSA			
3/	\$29,900	\$29,900	\$28,700
Remainder of State			
4/	\$29,400	\$29,400	\$27,200

1/ Includes: Alexandria City, Fairfax City, Falls Church City, Manassas City, Manassas Park City, Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Norfolk City, Portsmouth City, Suffolk City, Virginia Beach City, Hampton City, Newport News City, Poquoson City, Williamsburg City, Gloucester County, James City County, York County.

3/ Richmond-Petersburg MSA includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

Roanoke MSA includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

North Piedmont includes: Albemarle County, Caroline County, Charlottesville City, Culpeper County, Fauquier County, Fluvanna County, Fredericksburg City, Greene County, King George County, Louisa County, Madison County, Orange County, Rappahannock County, Spotsylvania County.

4/ Any jurisdiction not a part of the Northern Virginia portion of the Washington, DC-MD-VA-MSA, the Norfolk-Virginia Beach-Newport News MSA or the North Piedmont/Richmond Petersburg MSA/ Roanoke MSA.

\* NOTE: For information regarding the maximum allowable adjusted incomes of persons or families acquiring residences financed by 1981 Series A (13.7%), 1982 Series A (13.85%) and "blend" of 1982A and 1982B (11.75%), please contact the VHDA staff.

## B. Minimum income.

An applicant is eligible for VHDA financing if the monthly principal and interest, tax, insurance (PITI) and other additional monthly fees such as condominium assessments, townhouse assessments, etc. do not exceed

32% of monthly gross income. Also, the applicant is eligible when monthly PITI plus outstanding monthly installment loans with more than six months duration do not exceed 40% of monthly gross income. (See Section II, Exhibit B)

## § 2.7. Calculation of loan amount.

Single family detached residence and townhouse (fee simple ownership) - Maximum of 95% (or, in the case of a loan insured or guaranteed by FHA or VA, such other percentage as may be permitted by FHA or VA) of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - 95% (or, in the case of a loan insured or guaranteed by FHA or VA, such other percentage as may be permitted by FHA or VA) of the sales price or appraised value, whichever is less.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) Also, the value of personal property included in the appraisal must be deducted from the appraised value. (See Appraiser Report, Section II, Exhibit H.)

## § 2.8. Mortgage insurance requirements.

Unless the loan is insured or guaranteed by FHA or VA, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on all loans which exceed 80% of the lesser of sales price or appraised value. The PDS agent is required to escrow for annual payment of mortgage insurance. If VHDA requires FHA or VA insurance, the loan will either, at the election of the authority, (a) be closed in VHDA's name in accordance with the procedures and requirements herein or (b) be closed in the PDS agent's name and purchased by VHDA once the FHA Certificate of Insurance or VA Guaranty has been obtained. In the event VHDA purchases an FHA or VA insured loan, the PDS agent must enter into a purchase and sale agreement. (See Section II, Exhibit C.)

## § 2.9. Underwriting.

### A. Employment and income.

### B. Length of employment.

1. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by VHDA if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

### C. Self-employed applicants.



# Final Regulations

---

1. Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. The following information is required at the time of application:

a. Federal income tax returns for the two most recent tax years.

b. Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

D. Income derived from sources other than primary employment.

E. Alimony and child support.

1. A copy of the legal document and sufficient proof must be submitted to VHDA verifying that alimony and child support are court ordered and are being received.

F. Social security and other retirement benefits.

Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant for a loan.

G. Part-time employment.

Part-time employment must be continuous for a minimum of six months. Employment with different employers is acceptable so long as it has been uninterrupted for a minimum of six months. Part-time employment as used in this section means employment in addition to full-time employment.

Part-time employment as the primary employment will also be required to be continuous for six months.

NOTE: Under the Mortgage Subsidy Bond Tax Act of 1980, no part of the residence may be used in a trade or business.

H. Overtime, commission and bonus.

Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

I. Credit.

VHDA requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references are considered to be one of the most important requirements in order to obtain a VHDA loan.

J. Bankruptcies.

An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy. VHDA has complete discretion to decline a loan when a bankruptcy is involved.

K. Judgments.

An applicant is required to submit a written explanation for all judgments. Judgments must be paid before an applicant will be considered for a VHDA loan.

§ 2.10. Funds necessary to close.

A. Cash.

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. VHDA does not permit the applicant to borrow funds for this purpose. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

B. Gift letters.

A gift letter is required when an applicant proposes to obtain funds from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available. This proof should be in the form of a verification of deposit.

C. Housing expenses.

Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed carefully to determine if there is a substantial increase. If there is a substantial increase, the applicant must demonstrate his ability to pay the additional expenses.

§ 2.11. Loan assumptions, leasing, terms and owner occupancy.

A. Loan assumptions.

VHDA does not currently permit loan assumptions, except that loan assumptions shall be permitted with

# Final Regulations

respect to mortgage loans financed from the proceeds of the authority's single-family bonds issued on or after December 17, 1981, (loans numbered 40,000 and on) if the requirements set forth in § 2.2.1 B and C and § 2.2.2. B herein are satisfied and if the assumption satisfies the VHDA underwriting criteria set forth herein *or, in the case of a loan insured or guaranteed by FHA or VA, such criteria herein as FHA or VA permits to be applied*. Such policy of permitting loan assumptions is subject to change at any time without notice by the authority in its discretion.

## B. Leasing.

The owner may not lease the property without VHDA's prior written consent.

## C. Loan term.

Loan terms may not exceed 30 years.

## D. Owner occupancy.

No loan will be made unless the residence is to be occupied by the owner as the owner's principal residence.

## § 2.12. Preparation of application package.

A. The application package submitted to VHDA for approval must contain the following:

1. Reservation card.
2. Application - the application must be made on Virginia Housing's approved application form.
3. Preliminary underwriting form.
4. Credit report issued by local credit bureau and miscellaneous information as applicable - explanation of bankruptcies, etc., (and any additional documentation).
5. Verification of employment (and any additional documentation).
6. Verification of other income.
7. Verification of deposits (and any additional documentation).
8. Gift letters (and verification).
9. Sales contract - contract must be signed by seller and all parties entering into the contract and state which parties are paying points and closing costs.
10. Appraisal (FHLMC No. 70) - form should be FNMA or FHLMC and should be completed by an appraiser who has been approved by FHLMC or a private mortgage insurer acceptable to Virginia

Housing or who has a certification from a trade organization approved by Virginia Housing (photos and required supporting documentation).

11. Loan submission cover letter.
12. Appraiser's report.
13. Acquisition cost worksheet.
14. Affidavit of seller.
15. Affidavit of borrower.
16. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 10 in the affidavit of borrower. (NOTE: If a letter from the IRS is to be delivered pursuant to paragraphs § 2.2.1 B3 of the Processing, Disbursing Guide, such letter must be enclosed herewith).
17. Checklist for certain requirements of the Mortgage Subsidy Bond Tax Act of 1980.
18. Signed request for copy of tax returns (No. 4506).
19. HUD information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), and Regulations Z (Truth-In-Lending) as amended April 1, 1981. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.
20. ECOA notice statement to borrower of provisions of the Equal Credit Opportunity Act, with borrower's acknowledgement of receipt.
21. Truth-in-lending disclosure.

After the application package has been completed, it should be forwarded to:

Single Family Division  
Virginia Housing Development Authority  
13 South 13th Street  
Richmond, VA. 23219

## § 2.13. Commitment.

Upon approval of the applicant, VHDA will send a mortgage loan commitment (see Section II, Exhibit J) to the borrower in care of the agent. Also enclosed in this package will be other documents necessary for closing. The PDS agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the agent. A commitment must be

# Final Regulations

---

issued in writing by an authorized officer of VHDA and signed by the applicant before a loan may be closed.

## § 2.13.1. Loan rejection.

If the borrower fails to meet VHDA underwriting criteria or if the property fails to meet VHDA property standards, a loan rejection letter will be issued by VHDA (see Section II, Exhibit L). If the application is resubmitted, the credit documentation cannot be more than 90 days old and the appraisal more than six months old.

## § 2.14. Loan settlement.

### A. Loan closing.

Upon the borrower's acceptance of the mortgage loan commitment, the PDS agent will send VHDA's letter of closing instructions (see Section II, Exhibit N) and the closing papers to the closing attorney. The PDS agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. VHDA will provide the PDS agent with the documents which the closing attorney is required to complete. After VHDA reviews the closing attorney's preliminary work and approves closing, a loan proceeds check will be sent to the the closing attorney or firm named in the commitment or binder as approved under the issuing company's insured closing service, along with additional closing instructions (see Section II, Exhibit M). Closing attorneys may use loan proceeds checks when in a position to conduct the loan closing and disburse proceeds in accordance with Virginia Housing's letter authorizing the closing and instructions previously issued by the PDS agent. It is the PDS agent's responsibility to see that all documents and checks are received immediately after loan closings and that they are completed in accordance with Virginia Housing's requirements, Regulation Z and ECOA. A certified or cashier's check is to be provided at loan closing for the buy-down points, if any. The check is to be payable to VHDA. Under the applicable federal regulations the original proceeds of the bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. Payment of buy-down points out of mortgage loan proceeds would be using bond proceeds to pay interest rather than the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds. Buy-down points may not be deducted from loan proceeds.

### B. Post-closing requirements.

In accordance with § 9 of the PDS agreement, all post-closing documents, including the post-closing cover letter (see Section II, Exhibit P), should be forwarded as follows to:

Single Family Division  
Post-Closing Section  
Virginia Housing Development Authority  
13 South 13th Street  
Richmond, VA. 23219

Within five days after the closing of the loan, the PDS agent must forward the fees, interest and any other money due VHDA, a repayment of VHDA's outstanding construction loan, if any, PMI affidavit and all closing documents except the original recorded deed of trust and title insurance policy.

Within 45 days after loan closing, the PDS agent shall forward to VHDA the original recorded deed of trust and title insurance policy.

During the 120-day period following the loan closing the agent shall review correspondence, checks and other documents received from the borrower for the purpose of ascertaining that the address of the property and the address of the borrower are the same, and also to ascertain any change of address during such period and shall notify VHDA if such addresses are not the same or if there is any such change of address. Subject to VHDA's approval, the PDS agent may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event the agent at any time otherwise becomes aware of the fact that any item noted on the checklist for certain requirements of the Mortgage Subsidy Bond Tax Act may not be correct or proper, the agent shall immediately notify the authority.

## § 2.15. Property guidelines - existing housing.

*Existing house to financed by loans insured or guaranteed by FHA or VA must meet any and all applicable requirements imposed by FHA or VA.*

All *other* existing houses must meet the following minimum requirements; however, each house will be reviewed on a case-by-case basis with regard to marketability and security of the loan:

1. 100 amp electrical service is required.
2. No space heaters or circulators are allowed; however, a floor furnace or wall furnace is acceptable in a one-story house if such a furnace adequately heats the house.
3. Pier foundations are considered on a case-by-case basis.
4. All property must be located on a state-maintained road with a minimum frontage of 30 feet. No easements or right-of-ways are allowed as access to properties. House should not be located more than 200 feet from the state-maintained road.
5. Joint ownership of well and septic is not allowed

and the well must be on the subject property.

6. Any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis.

7. The floor plan must be acceptable with bathrooms and bedrooms centrally located and providing maximum privacy. Primary bathroom locations are not acceptable if the traffic patterns require entrance through another living area (e.g. a bathroom which opens directly into the kitchen).

8. The house must have a sufficient number of bedrooms to properly serve the borrower. Only bedrooms will be used as sleeping quarters, with each bedroom to be occupied by no more than two persons.

9. Mobile homes are not acceptable.

## § 2.16. Property guidelines - New construction.

*New homes to be financed by loans insured or guaranteed by FHA or VA must meet any and all applicable requirements imposed by FHA or VA.*

A. All other new homes must meet the Uniform Statewide Building Code (the "Code") and the Department of Housing and Urban Development Minimum Property Standards (MPS) in addition to the following VHDA underwriting requirements:

1. Minimum of 4/12 pitch roof.
2. Storm windows or double glazed windows are required.
3. Insulated exterior doors or storm doors are required.
4. All property must be located on state-maintained roads.
5. Energy package in conformance with FHMA energy standards.
6. Mobile homes are not acceptable.

B. Also, the following standards are preferred:

1. All ceilings and 75% of the walls be 1/2 inch drywall or plaster.
2. Kitchen cabinets should comply with the following: doors should be a minimum of 5/8 inch and end panels should be a minimum of 1/2 inch thick. Materials should be wood or plywood. All stiles and rails should be of wood. Drawer fronts should be a minimum of 5/8 inch and sides should be a minimum of 3/8 inch wood or plywood, bottoms should be 1/4

inch plywood. Shelves should be a minimum of 5/8 inch wood, plywood or particle board. Plywood and particle board shelves should have edging.

3. Ceiling height of eight feet or greater.

4. Pier foundations are discouraged except where brick or block curtain wall completely covers piers.

5. Insulated sheathing.

6. If vertical siding is used, fir, cedar or redwood is preferred.

7. Fiberglass insulation in ceiling, floor and wall.

8. The use of wood foundations is discouraged unless the type of construction results in substantial savings to be passed on to the buyer.

9. Hardwood floors unless a 30 ounce carpet is used.

## § 2.17. Substantially rehabilitated.

A. For the purpose of qualifying as substantially rehabilitated housing under Virginia Housing's maximum sales price limitations, the housing unit must meet the following definitions:

1. Substantially rehabilitated means improved to a condition which meets VHDA underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.

2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the rehabilitated housing unit.

3. The appraisal submitted with the loan application, must list the improvements and estimate the value of the improvements. Virginia Housing's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards.

4. VHDA will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the Mortgage Subsidy Bond Tax Act of 1980, the proceeds of VHDA cannot be used to refinance an existing mortgage, as explained in §

# Final Regulations

---

2.2.1.D (New mortgage requirement). VHDA will approve loans to cover the purchase of a residence, including the rehabilitation:

a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and

b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

## § 2.18. Condominium requirements.

### A. Policy on condominiums.

1. The PDS agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The PDS agent must submit evidence at the time the borrower's application is submitted to Virginia Housing for approval.

2. At the time the borrower's loan application is submitted for the financing of a unit in any condominium in which Virginia Housing has not previously financed the purchase of any units, Exhibit U providing basic information about the condominium must be completed by the Unit Owners Association. The most recent financial statement and operating budget of the condominium (or, in the case of a newly constructed or converted condominium, a copy of the projected operating budget and a copy of the most recent financial statement, if any) must also be submitted. Virginia Housing will review the above described form and financial information. If on the basis of such review Virginia Housing finds the condominium to be acceptable, the condominium will be approved and the individual loan application will be processed. Exhibit U requires that the Unit Owners Association agree to submit to Virginia Housing upon its request, the condominium's annual financial statements, operating budget and other information as Virginia Housing may require. The association is also required to agree that Virginia Housing shall have a right to inspect the condominium and its records. The form states that failure to comply with the foregoing shall be grounds for Virginia Housing's termination of its approval of the condominium.

3. Each year Virginia Housing will send Exhibit V to the Unit Owners Association requesting information concerning the condominium including a statement as to the status of the VA, FNMA and/or FHLMC approvals and a copy of the condominium's financial statement and operating budget. The association will be advised that if the request for information is not received within 90 days from the date of the request, Virginia Housing may terminate its approval of the

condominium. Virginia Housing will review the financial statement and operating budget and the questionnaire and if the condominium remains in satisfactory condition, Virginia Housing will continue to make mortgage loans on the units subject to the limitations in paragraph 4 below. In the event Virginia Housing determines a condominium is not in satisfactory condition, the Unit Owners Association will be given 60 days to correct the deficiencies. If the deficiencies are not corrected to the satisfaction of Virginia Housing, the condominium will no longer be approved for financing. The requirements and procedures in this section will also apply to condominiums previously approved by Virginia Housing.

4. If a condominium is approved by FNMA, Virginia Housing will make mortgage loans on no more than 50% of the units in the condominium. If the condominium is not approved by FNMA, Virginia Housing will make mortgage loans on no more than 25% of the units in the condominium. If a condominium is to be phased, the foregoing percentage limits will be applied to each phase until all phases are completed. If the condominium has been previously approved by Virginia Housing and exceeds the foregoing percentage limitations, Virginia Housing will make no further mortgage loans for the purchase of the units in the condominium until such time as its percentage limits are no longer violated.

## VIRGINIA MARINE RESOURCES COMMISSION

NOTICE: The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

**Title of Regulation:** VR 450-01-0040. Pertaining to the Dredging of Conchs.

**Statutory Authority:** § 28.1-23 of the Code of Virginia.

**Effective Date:** October 1, 1986 through October 30, 1986

### Preamble:

*This regulation extends the season for the dredging of conchs from September 30, 1986, to October 30, 1986, in certain areas of the Chesapeake Bay. This is an emergency regulation promulgated in the interest of conservation and the conch fishery.*

§ 1. Authority, prior regulations, effective date, termination date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.1-23 and 28.1-25 of the Code

# Final Regulations

of Virginia.

B. Regulation VR 450-01-0020 also pertains to dredging for conchs.

C. The effective date of this regulation is October 1, 1986.

D. This regulation shall terminate on October 31, 1986.

## § 2. Description of areas.

A. Area Number 2 shall be that area East of the Chesapeake Bay Bridge Tunnel and will include that area known as the mouth or entrance to the Chesapeake Bay. It is more particularly described as follows: Beginning at the one-mile marker on the Chesapeake Bay Bridge Tunnel; thence northerly along said Bridge Tunnel to the low water mark at Fisherman's Island; thence northerly and easterly along the low water mark of said Island to the eastern side of the lower portion of Smith Island at a point that is due East of Cape Charles Lighthouse; thence due East three nautical miles to the outer limits of the Territorial Sea; thence along said outer three-mile limit southerly to 36° 55' N Latitude; thence due West along said Latitude to buoy C"1"; thence northerly to buoy R"2"; thence southwesterly to buoy N"C1"; thence westerly to buoys N"C3", N"C5", and N"C7"; thence to the point of beginning. This description shall specifically exclude all inlets of Fisherman's and Smith Islands, and all waters West of said Islands.

B. Area Number 4 shall be that area bounded on the North by a line from buoy BW N "C10" at the Town of Cape Charles and running NNW to Wolf Trap Light, bounded on the West by a line drawn from Wolf Trap Light and running SSW through buoys BW N "C51", N"C49", N"C47, N"C45", N"C43", N"C41", N"C39", N"C37", N"C35", N"C33", N"C31", N"C29", N"C27", N"C25", N"C23", and R "20" Fl G at the Thimble Shoal Channel inclusive, bounded on the South by Thimble Shoal Channel, and bounded on the East by the Chesapeake Bay Bridge Tunnel and a line drawn from the terminus of the Chesapeake Bay Bridge Tunnel on Fisherman's Island back to buoy BW N "C10" but remaining offshore of any and all fixed fishing devices.

## § 3. Season extention.

The season for the dredging of conchs in Area 2 and Area 4 is hereby extended from September 30, 1986, to October 30, 1986, inclusive.

/s/ William A Pruitt, Commissioner

## STATE BOARD OF PHARMACY

Title of Regulation: VR 530-01-1. Virginia Board of Pharmacy Regulations.

## Withdrawal Notice:

Regulations which were proposed and published in the Virginia Register of Regulations on December 23, 1985, were withdrawn by the board effective June 24, 1986.

## DEPARTMENT OF SOCIAL SERVICES

Title of Regulations: VR 615-21-02, Standards and Regulations for Licensed Adult Day Care Centers.

Statutory Authority: § 63.1-174 of the Code of Virginia.

Effective Date: April 1, 1987

## Summary:

The statutory basis for these regulations is § 63.1-174 of the Code of Virginia. The Department of Social Services has approved these Standards and Regulations for Adult Day Care Centers for final adoption at their October 15, 1986, meeting.

The purpose of Standards and Regulations for Adult Day Care Centers is to ensure a minimum level of health, safety, and well-being for the participants receiving care. These standards are designed to provide protective oversight of participants in group care in a flexible enough manner to accommodate changes during the lifetime of these standards. Emphasis has been placed on clarity and ease of comprehension.

The document is comprised of the following issues which impact adult care centers subject to licensure by the Department of Social Services: Administration, personnel, supervision, physical environment, management of emergencies and programs and services which include: admission and discharge policies, health care, management of behavior, nutrition, food service, rights of participants and activities.

Under the current definition in the Code of Virginia, an adult day care center is a facility, which is either operated for profit or which desires licensure, for four or more aged, infirm or disabled adults which is operated during a part of a day only, which provides supplementary care and protection of individuals who reside elsewhere. Section 63.1-172 C of the Code of Virginia exempts a facility or portion of a facility licensed by the State Board of Mental Health and Mental Retardation, and the home or residence of an individual who cares for only persons related to him by blood or marriage from Adult Day Care Center licensure.

At the end of 1976, 20 adult day care centers were

# Final Regulations

licensed. As of August 1986, 32 centers were licensed for a total population of 1,159 participants. Of these, 17 were private, not-for-profit; 11 were public not-for-profit; and 4 were operated as private, for-profit centers.

VR 615-21-02. Standards and Regulations for Licensed Adult Day Care Centers.

## TABLE OF CONTENTS

### PART I - INTRODUCTION

Article 1. Definitions.  
Article 2. Legal Base.  
Article 3. Purpose.  
Article 4. Applicability.

### PART II - ADMINISTRATION

Article 1. Sponsorship.  
Article 2. Operational Responsibilities.  
Article 3. Financial Responsibilities.  
Article 4. Record Keeping Responsibilities.

### PART III - PERSONNEL

Article 1. General Qualifications.  
Article 2. Personnel Records.  
Article 3. Health Requirements.  
Article 4. Staff Training.  
Article 5. Administrative Staff.  
Article 6. Program Staff.  
Article 7. Volunteers and Volunteer Personnel.

### PART IV - SUPERVISION

Article 1. General Supervision.  
Article 2. Staff to Participant Ratio.

### PART V - PHYSICAL ENVIRONMENT

Article 1. Safety, Health and Comfort.  
§ 5.2. Building Construction and Maintenance.  
§ 5.3. Special Requirements for Nonambulatory or Physically Handicapped Individuals.  
§ 5.4. Grounds.  
§ 5.5. Sanitation.  
§ 5.6. Lighting.  
§ 5.7. Temperature and Ventilation.  
§ 5.8. Equipment and Materials.  
Article 2. Space, Furnishings, and Supplies.  
§ 5.9. Activity Areas.  
§ 5.10. Space for Privacy.  
§ 5.11. Bathroom Facilities.  
§ 5.12. Dining Area.  
§ 5.13. Storage.  
§ 5.14. Telephones.  
§ 5.15. Rest Area.

### PART VI - PROGRAMS AND SERVICES.

Article 1. Admission Policies and Procedures.  
§ 6.1. Admission and Assessment.  
§ 6.2. Plan of Care for Each Participant.  
§ 6.3. Agreement.  
§ 6.4. Personal Information for Each Participant.  
§ 6.5. Physical Examinations/Medical Information.

Article 2. Health Care.  
§ 6.6. Medical Reports After Admission.  
§ 6.7. Medication Management.  
§ 6.8. Health Care Supervision.  
§ 6.9. Health Care Needs.  
§ 6.10. Ill Participants.

Article 3. Discharge Policies.  
Article 4. Program of Care.  
Article 5. Rights of Participants.  
Article 6. Nutrition and Food Services.  
Article 7. Assistance With Personal Care.  
Article 8. Transportation Services.

### PART VII - EMERGENCIES

Article 1. Specialized Staff Training.  
Article 2. Buildings and Equipment.  
Article 3. Plans and Procedures.  
§ 7.7. Plan for Medical Emergencies.  
§ 7.8. Plan for Emergency Evacuation.  
§ 7.9. Emergency Evacuation Drills.  
§ 7.10. Other Emergency Plans.  
§ 7.11. Procedures to Meet Emergencies.

### PART I. INTRODUCTION.

Article 1.  
Definitions.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meanings, unless the context indicates otherwise:

"Administer medicine" means to [ read the label, to open give either ] the [ medication ] container [ of medicine, to remove or ] the prescribed dosage [ ; and to give # ] to the person for whom it is prescribed [ or intended ].

Section [ 43 54 ] -524.65 of the Code of Virginia, states that only people authorized by state law may administer drugs. People authorized to administer [ medicine medication ] include licensed physicians, registered nurses, licensed practical nurses, physicians' assistants, and other individuals who meet the requirements of the law. In addition to these persons designated in the law, a physician may choose to designate, in writing, a person who does not meet the requirements of the law to be his authorized agent. This permits the person to administer [ medicine medication ] legally to that physician's designated

# Final Regulations

patients, in accordance with such a physician's instructions.

"Adult" means any person 18 years of age or older.

"Adult day care center" means "a facility, which is either operated for profit or which desires licensure, for four or more aged, infirm or disabled adults which is operated during a part of the day only, which provides supplementary care and protection of individuals who reside elsewhere except (i) a facility or portion of a facility licensed by the State Board of Health or the State Board of Mental Health and Mental Retardation, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage." (Chapter 9, § 63.1-172C of the Code of Virginia)

"Ambulatory" means the ability of a person who is physically and mentally able to make an exit from a building in an emergency, including the ascent and descent of stairs, without the assistance of another person or without the use of any device such as, but not limited to, a wheelchair, walker or leg prosthesis. The determination of whether a person is ambulatory shall be based on information contained in the report of the physical examination as required by paragraph 5 of subsection B of § 6.5 of these standards and regulations.

NOTE: This is not a medical definition, but is related to the placement of elderly and impaired adults in buildings that are appropriate in terms of fire safety.

"Care" means assistance with the activities/tasks of daily living provided to participants.

"Character and reputation" means findings have established [ both: (i) the absence of evidence of bad character or conduct, and (ii) ] that knowledgeable and objective people agree that the subject maintains business/professional [ , family, ] and community relationships which are characterized by honesty, fairness, truthfulness, and a concern for the well-being of others to the extent that the subject is considered suitable to be entrusted with the health, safety, and welfare of aged, infirm, or disabled adults.

"Commissioner" means the Commissioner of Social Services, also known as the Director of the Virginia Department of Social Services.

"Contrast" means a significant difference in diversity of adjacent parts by color, tone, and/or light.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee of the Virginia Department of Social Services who is acting as the authorized agent of the commissioner in carrying out the responsibilities and duties specified in Chapter 9, Title 63.1 of the Code of Virginia.

"Director" means the person who has been delegated responsibility for the programmatic and administrative functions of the adult day care program.

"Disabled" means the inability to perform some or all of the activities/tasks of daily living due to physical or mental handicaps or injuries.

[ "Distribute medicine" means to give the container of medicine to the person for whom it is prescribed. ]

"Infirm" means the inability to perform some or all of the activities/tasks of daily living due to weakness or illness.

"Legal guardian" means an individual who has legal control and management of the person, or the property, or of both the person and the property of the participant. A legal guardian is appointed by a court. A legal guardian of the person is appointed to see that the participant has proper care and supervision in keeping with his needs. A legal guardian of the property is appointed to manage the financial affairs in the best interest of the participant.

"Licensee" means any person, association, partnership, [ or ] corporation [ or governmental unit ] to whom the license is issued.

"Licensed practical nurse" means any individual who holds a current, valid, license from the Commonwealth of Virginia as a L.P.N.

"Nonambulatory" means the inability of a person, who because of physical or mental impairment, must be led, assisted, or carried by another person, or who is dependent on the use of a device such as, but not limited to, a walker, wheelchair or leg prosthesis to make an exit from a building in an emergency. The determination of whether a person is nonambulatory shall be based on information contained in the report of the physical examination as required by paragraph 5 of subsection B of § 6.5 of these standards and regulations.

NOTE: This is not a medical definition, but is related to the placement of elderly and impaired adults in buildings that are appropriate in terms of fire safety.

"Nurse" means any individual who holds a current, valid license from the Commonwealth of Virginia as a licensed practical nurse or as a registered nurse.

"Participant" means an aged, infirm or disabled adult who takes part in the program of care and receives services from the center.

"Physician" means any individual licensed to practice medicine in any of the 50 states or the District of Columbia.

"Program director" means the person responsible for programmatic functions and supervision of all staff who



# Final Regulations

---

work directly with participants.

"Protection" means the intent to prevent harm and to provide oversight of the participant.

"Recommended dietary allowances" (RDA) are the levels of intake of essential nutrients considered, in the judgment of the Committee on Dietary Allowances of the Food and Nutrition Board of the National Research Council on the basis of available scientific knowledge, to be adequate to meet the known nutritional needs of practically all healthy persons.

The RDA were approved by the governing board of the National Research Council, whose members are drawn from the councils of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine. The members of the committee responsible for the report were chosen for their special competencies and with regard for appropriate balance.

The study was supported by the National Institute of Health, United States Public Health Service.

"Registered nurse" means any individual who holds a current, valid license from the Commonwealth of Virginia as a R.N.

"Respite care" means temporary care given to a person to relieve family members or other caregivers. These standards apply only if respite care is provided during part of the day. If 24-hour respite care is planned or provided for four or more people, the Standards and Regulations for Licensed Homes for Adults shall apply.

"Responsible person" means the person who assumes the responsibility for arranging for care and services for the participant. The responsible person may or may not be the legal guardian for the participant, and may or may not be related to the participant.

"Snack" means a light meal or nutritious meal supplement.

"Sponsor" means an individual, partnership, association, or corporation responsible for the operation of an adult day care center subject to licensure.

"Staff or staff person" means administrative, program, service, and volunteer personnel including the licensee when the licensee is an individual.

"Supplementary care" means a part of the total care that is required by participants. Supplementary care augments the care that the family or other persons provide. Care provided by an adult day care center is supplementary care.

"Supervision" means the general oversight of the physical and mental well-being of participants.

[ "Unit dose" means a packaged amount of medicine containing one dose of the medicine. ]

"Volunteer personnel" means persons who [ come to work at ] the center [ once more than four consecutive hours or six total hours ] a week [ or more often ] or who are counted in the staff to participant ratio. [ Volunteer personnel does include individuals who are not paid by the center but are paid by other organizations. ]

## Article 2. Legal Base.

§ 1.2. Sections 63.1-172 through 63.1-194 of the Code of Virginia describe the responsibility of the Department of Social Services for the regulation of residential and day care programs for adults, including adult day care centers.

§ 1.3. Section 63.1-174 of the Code of Virginia requires the State Board of Social Services to prescribe standards for certain activities, services and facilities for adults, including adult day care centers.

## Article 3. Purpose.

§ 1.4. The purpose of the Standards and Regulations for Licensed Adult Day Care Centers is to protect aged, infirm, or disabled adults who are away from their homes during a part of the day by:

1. Ensuring that the activities, services, and facilities of adult day care centers are conducive to the well-being of the participants; and
2. Reducing risks in the caregiving environment.

## Article 4. Applicability.

§ 1.5. These Standards and Regulations for Licensed Adult Day Care Centers apply to any facility:

1. That is operated for profit or desires to be licensed; and
2. That provides supplementary care and protection for four or more adults:
  - a. Who are aged, infirm or disabled,
  - b. Who are in care for less than 24 hours per day, and
  - c. Who reside elsewhere.

§ 1.6. The following types of facilities are not subject to licensure as an adult day care center:

1. A facility or portion of a facility licensed by the State Board of Health;

# Final Regulations

2. A facility or portion of a facility licensed by the State Board of Mental Health and Mental Retardation;
3. A home or residence of an individual who provides care only for persons related to him by blood or marriage;
4. A facility or a portion of a facility which is certified by the Department of Mental Health and Mental Retardation, and which conducts a mental health program where treatment is provided for adults who are experiencing varying degrees of mental health related problems;
5. A facility or a portion of a facility certified by the Department of Mental Health and Mental Retardation which conducts a mental retardation program where treatment is provided for mentally retarded or developmentally disabled adults;
6. A facility or a portion of a facility which conducts programs whose primary purpose is training or employment for physically or mentally impaired adults (e.g., sheltered workshops, etc.); and
7. A facility or a portion of a facility which conducts a socialization or recreation activity program for adults who do not receive assistance with the activities/tasks of daily living or protective oversight and supervision (e.g. senior centers, etc.).

## PART II. ADMINISTRATION.

### Article I. Sponsorship.

§ 2.1. Each center shall have a clearly identified sponsor. An individual, partnership, association, corporation, or governmental unit may operate an adult day care center.

§ 2.2. [ One of the following five types of sponsorship shall apply: Sponsorship. ]

[ 1. Individual proprietorship. ]

[ A. When the center is sponsored by an individual proprietorship, ] the individual is the licensee.

[ 2. Partnership. ]

[ B. When the center is sponsored by a partnership, ] the partnership shall [ : serve as the licensee and ]

[ a. ] have a written agreement (articles of partnership) [ to operate and maintain which allows operation and maintenance of ] an adult day care center [ and ].

[ b. Serve as the licensee. ]

[ 3. Unincorporated association. ]

[ C. When the center is sponsored by an unincorporated association, ] the association shall [ have a governing board which serves as the licensee and ]

[ a. ] have a written constitution or written by-laws which [ establishes that the purpose of the association ] allows the operation and maintenance of an adult day care center [ and ].

[ b. Have a governing board which serves as the licensee. ]

[ 4. Corporate. ]

[ D. When the center is sponsored by a corporation, ] the corporation shall [ have a governing board which serves as the licensee and ]

[ a. ] have a charter, articles of incorporation or certificate of authority to transact business in the Commonwealth of Virginia, which specifies that the purpose of the corporation allows operation and maintenance of an adult day care center [ and ]

[ b. Have a governing board which serves as the licensee. ]

[ 5. Public. ]

[ E. When the center is sponsored by a public agency, ] the governmental unit sponsoring the center shall be the licensee.

§ 2.3. The sponsor, represented by the individual proprietor or by the officers and agents of a partnership, association, or corporation shall be of good character and reputation; and shall not have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

§ 2.4. Posting of the license.

The license shall be posted in a place conspicuous to the public, near the main entrance of the building(s), or in the main office.

§ 2.5. Deceptive representation or advertisement.

An adult day care center shall not make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made an advertisement of any sort regarding services or anything so offered to the public, which contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading.

### Article 2. Operational Responsibilities.

# Final Regulations

§ 2.6. The licensee shall be responsible for the overall planning of the program and services to be provided by the center. The operational responsibilities of the licensee shall include, but not be limited to, the following:

1. To develop a written statement of the purpose and scope of the services to be provided by the center, a description of adults who may be accepted into the program as well as those whom the program cannot serve, and written policies under which the center will operate;

NOTE: This requirement applies only to initial application for licensure unless there is a significant change.

2. To ensure that the center's activities, services, and facilities are maintained in compliance with the Standards and Regulations for Licensed Adult Day Care Centers, with the terms of the current license issued by the department and with other relevant federal, state, or local laws and regulations;

3. To appoint and identify in writing a director to be responsible for the day-to-day operation and management of the center, except when the sponsor is an individual who serves as the director or a partnership in which a partner serves as the director;

4. To provide for an adequate number of qualified staff capable of carrying out the operation of the program;

5. To develop a written organizational chart indicating lines of authority and a staffing plan which includes a staffing schedule;

6. To establish sound policies under which the center shall operate; and

7. To ensure sound financial management of the center.

### Article 3. Financial Responsibilities.

§ 2.7. Section 63.1-176 of the Code of Virginia: With an initial application for licensure, the applicant shall provide the department with the following evidence of financial responsibility:

1. A projected budget detailing income and expenses of the proposed center for the first year of operation;

2. A complete balance sheet showing separately the current assets committed to and current liabilities charged against the proposed center; and

3. Documentation of funds or credit available for the first 90 days of operation.

NOTE: Financial records may be requested pursuant to § 63.1-177 of the Code of Virginia.

§ 2.8. The center shall maintain public liability insurance for bodily injury with a minimum limit of at least \$500,000 each occurrence/\$500,000 aggregate. Evidence of insurance coverage shall be made available to the department's representative upon request.

[ NOTE: Language of specific policies may vary provided that the minimum amount of coverage is met. ]

### Article 4. Record Keeping Responsibilities.

§ 2.9. The licensee shall ensure that the center maintains [ an adequate a ] system of record keeping [ to comply which complies ] with these standards.

§ 2.10. All participants' records shall be treated confidentially.

§ 2.11. Records shall be updated and kept current as changes occur.

§ 2.12. If the participant or legal guardian consents in writing, records shall be shared with other facilities/agencies upon referral or discharge.

§ 2.13. All records required by these standards for both participants and personnel shall be kept in a locked cabinet or area and retained at the center for one year after termination of enrollment or termination of employment, unless specified otherwise [ in these standards ].

## PART III. PERSONNEL.

### Article 1. General Qualifications.

§ 3.1. The following standards shall apply to all staff:

1. No staff person shall have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of adults or children.

[ 2. All staff persons shall be of good character and reputation. ]

[ 2. 2. ] All staff persons shall understand and be sensitive to the varying capabilities, interests, needs, and problems of the individuals in care.

[ 4. 3. ] All staff persons shall be [ competent, qualified, and capable of carrying out assigned responsibilities ]:

[ a. Of good character and reputation;

# Final Regulations

b. Competent, qualified and capable of carrying out assigned responsibilities; ]

[ 5. c. All staff persons shall be ] Willing and able to accept training and supervision;

[ 6. d. All staff persons shall be ] Able to communicate effectively both orally and in writing as applicable to the job responsibility; [ and ]

[ 7. e. All staff persons shall be ] Able to understand and apply those standards in the Standards and Regulations for Licensed Adult Day Care Centers which relate to their respective responsibilities.

§ 3.2. All staff persons who work directly with participants and who are counted in the staff to participant ratio shall be at least 18 years of age.

**EXCEPTION:** Paid or volunteer assistants may be between 14 and 18 years of age provided that [ their immediate supervisor is an adult they are under the immediate supervision of an adult staff person who is present at the center and shall not be left alone with, in charge of, or responsible for a group of participants ]

## Article 2. Personnel Records.

§ 3.3. Personnel records shall be kept at the center for [ paid staff and ] volunteer personnel who begin work [ subsequent to on or after April 1, 1987 (effective date of these standards): and for paid staff. ]

§ 3.4. Personnel records shall include the following:

1. The original application for employment or other written material providing:

a. Identifying information including name of staff person, beginning date of employment/volunteering, and job title;

b. [ Any other ] Information needed to demonstrate that the individual possesses the qualifications required for the position [ ; such as, but not limited to, interviews; observations; references; experiences; education related to the position; and description of previous employment. ]

2. Written documentation that at least two references as to character and reputation as well as competency were checked with previous employers, if any, and other knowledgeable and objective sources prior to employment or volunteering (e.g., letters of reference; notations of telephone reference checks including the name of the person(s) contacted, the date(s) of contact, the firm(s) contacted, and the results);

3. Documentation and dates of participation in

orientation, training and staff development activities; and

4. Date of termination of employment, when applicable.

## Article 3. Health Requirements.

§ 3.5. Health information required by these standards shall be maintained for all staff (including the licensee, the director, and volunteer personnel) who come in contact with participants or who handle food.

A. Initial tuberculosis examination and report.

1. Each staff person shall obtain an evaluation indicating the absence of tuberculosis in a communicable form within 30 days before or 30 days after employment or contact with program participants.

**EXCEPTION:** When a staff person terminates work at one licensed facility and begins working at another licensed facility with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the second facility.

2. Each staff person shall submit a statement that he is free of tuberculosis in a communicable form. This statement shall be maintained at the center and shall include the following:

a. The type(s) of test(s) used and the test result(s),

b. The date of the statement, and

c. The signature of the physician, the physician's designee, or an official of a local health department.

B. Subsequent evaluations.

Any staff person who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall within 30 days after exposure/development receive an evaluation in accordance with subsection A of § 3.5 of these standards and regulations.

§ 3.6. At the request of the licensee/director of the facility or the Department of Social Services, a report of examination by a physician shall be obtained when there are indications that the safety of participants in care may be jeopardized by the physical or mental health of a specific [ participant staff person ].

§ 3.7. Any individual who upon examination or as a result of tests shows indication of a physical or mental condition which may jeopardize the safety of participants in care or which would prevent performance of duties:

1. Shall be removed immediately from contact with

# Final Regulations

---

participants and food served to participants; and

2. Shall not be allowed contact with participants or food served to participants until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed, dated statement from the physician.

§ 3.8. Any individual who cannot adequately perform their duties or who may jeopardize the health or safety of the participants shall be relieved of their duties and removed from the center.

## Article 4. Staff Training.

§ 3.9. [ All staff shall be trained in the appropriate procedures for handling emergencies. Such training shall take place before Prior to assuming ] job responsibilities [ are assumed and shall include at least the following all staff shall receive training in ]:

1. Their individual responsibilities in the event of fire, including the location and operation of any fire extinguishers and fire alarm boxes;
2. Their individual responsibilities in the event of illness or injuries, including the location and use of the first aid emergency supplies; and
3. Their individual responsibilities in the event of a lost or missing participant, severe weather emergencies, etc.

§ 3.10. Orientation.

[ Before assuming job responsibility all staff persons shall receive job orientation training. Items not covered in the training prior to beginning employment shall be completed within one week of the starting date of employment. The orientation shall include training specific to the staff's assigned responsibilities, as well as about the following topics Staff who work with participants shall receive training in the following topics no later than one week after starting employment or volunteer work ]:

1. The purpose of the adult day care center;
2. The policies of the center as they relate to the staff member's responsibilities;
3. [ Section 63.1-55.3 of the Code of Virginia: ] Procedures for detecting and reporting suspected abuse, neglect, or exploitation of participants to the appropriate local department of social services [ ; (§ 63.1-55.3 of the Code of Virginia) ]
4. Confidential treatment of personal information about participants and their families;
5. The Standards and Regulations for Licensed Adult

Day Care Centers, as they relate to the employee's responsibilities;

6. Individual capabilities and special needs of the elderly, the impaired adult, or the handicapped, including specific needs of participants in care; and

7. The schedule of activities.

§ 3.11. Staff development.

[ All On an annual basis, employed ] staff who are primarily responsible for the direct care of the participants shall attend at least eight hours of staff development activities [ annually ] which shall consist of inservice training programs, workshops, or conferences related to adult day care or gerontology provided that both subject areas are addressed during the year.

## Article 5. Administrative Staff.

§ 3.12. During the center's hours of operation, one adult on the premises shall be in charge [ and responsible for of ] the administration of the center. This person shall be either the director or an adult appointed by the licensee or designated by the director.

## Article 6. Program Staff.

§ 3.13. Director [ or program director ].

[ A. Responsibilities. ]

[ A. ] There shall be one person responsible for the [ center's ] program [ of the center who shall have the following qualifications: ]

[ 1. The director shall be at least 18 years of age.

2. The director shall have completed at least 48 semester hours or 72 quarter hours of post secondary education from an accredited college or institution, and shall have completed at least two years of experience working with elderly or handicapped people. This may be paid full-time employment, or its equivalent in part-time employment or in volunteer work.

3. The director shall demonstrate knowledge, skills and abilities in the administration and management of the adult day care program including: (i) knowledge and understanding of impaired elderly and handicapped individuals, (ii) supervisory and interpersonal skills, (iii) ability to plan and implement the program, and (iv) knowledge of financial management sufficient to ensure program development and continuity.

4. The director shall demonstrate knowledge of

# Final Regulations

supervisory and motivational techniques sufficient to: (i) accomplish day-to-day work; (ii) train, support and develop staff; (iii) plan responsibilities for auxiliary staff to ensure that services are provided to participants. ]

[ B. The program director shall be responsible for whose responsibilities shall include, but not be limited to, the following areas ]:

1. The content of the program offered to the participants in care;
2. Programmatic functions, including orientation, training, and scheduling of all staff who directly supervise participants, whether or not the [ program ] director personally performs these functions;
3. Management of the supervision provided to all staff who directly supervise participants, whether or not the [ program ] director individually supervises such staff;
4. Assignment of a sufficient number of qualified staff to meet the participants' needs for:
  - a. Adequate nutrition,
  - b. Health supervision and maintenance,
  - c. Personal care,
  - d. Socialization,
  - e. Recreation,
  - f. Activities and stimulation,
  - g. Supervision and protection, [ and ]
  - h. Safety; [ and ]
5. The duties and responsibilities required by these standards and regulations.

[ B. Qualifications.

1. The director shall be at least 18 years of age.
2. The director shall have completed at least 48 semester hours or 72 quarter hours of post secondary education from an accredited college or institution, and shall have completed at least two years of experience working with elderly or handicapped people. This may be paid full time employment, or its equivalent in part time employment or in volunteer work.
3. The director shall demonstrate knowledge, skills and abilities in the administration and management of the adult day care program including: (i) knowledge and understanding of impaired elderly and

handicapped individuals, (ii) supervisory and interpersonal skills, (iii) ability to plan and implement the program, and (iv) knowledge of financial management sufficient to ensure program development and continuity.

4. The director shall demonstrate knowledge of supervisory and motivational techniques sufficient to: (i) accomplish day-to-day work; (ii) train, support and develop staff; (iii) plan responsibilities for auxiliary staff to ensure that services are provided to participants. ]

§ 3.14. Assistant director [ or assistant program director ].

If the [ program ] director is present in the center less than four hours per day, there shall be an officially designated assistant [ program ] director who shall meet the qualifications of the [ program ] director and who shall assume responsibility in the absence of the [ program ] director.

## Article 7. Volunteers and Volunteer Personnel.

NOTE: Volunteers are persons who come to the center less than [ ~~one~~ four consecutive hours or six total hours ] a week and are not counted in the staff to participant ratio. Volunteer personnel are persons who [ ~~come to work at~~ ] the center [ ~~one~~ more than four consecutive hours or six total hours ] a week or more often or who are counted in the staff to participant ratio. Volunteer personnel shall meet all the personnel and health requirements for the applicable position.

§ 3.15. All volunteers and volunteer personnel shall be under the individual supervision of a director, [ program director, ] assistant [ program ] director, or designated staff person.

§ 3.16. The duties of volunteers and volunteer personnel shall be clearly defined.

## PART IV. SUPERVISION.

### Article 1. General Supervision.

§ 4.1. There shall be at least two staff persons on duty at the center [ and on field trips ] at all times when one or more participants are present. Both of these staff persons must be at least 16 years of age and one of them must be an adult. [ During a field trip, a volunteer may substitute for one of the two required staff persons. ]

### Article 2. Staff to Participant Ratio.

§ 4.2. There shall be a minimum of one staff person on duty providing direct care and supervision for every six

# Final Regulations

---

participants in care.

NOTE: Staff members who are under 18 years of age shall not be counted in the staff to participant ratio.

§ 4.3. The number of any additional staff persons required shall depend upon:

1. The program and services the center provides and
2. The functional level of the participants.

## PART V. PHYSICAL ENVIRONMENT.

A center must provide an environment which protects the participants from physical harm but is not so restrictive as to inhibit physical, intellectual, emotional, or social stimulation.

### Article 1. Safety, Health and Comfort.

§ 5.1. No adult [ day ] care center shall be located where conditions exist that would be hazardous to the physical health and safety of participants.

§ 5.2. Building construction and maintenance.

A. If space used or planned for use by the center is renovated or altered, the plans shall be submitted to the department for review prior to the expected change.

B. Prior to beginning operation and prior to use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided:

1. Inspection and approval of the building(s) from the local building official [ ; if applicable, or approval of a plan of correction; OR ]

[ 2. Inspection and approval of the building(s) from or ] the Office of the State Fire Marshal, [ if whichever is ] applicable, or approval of a plan of correction; [ AND ]

[ 3. 2. ] Inspection and approval from the local health department, or approval of a plan of correction related to:

- a. Sanitation and health,
- b. Water supply,
- c. Sewerage system, [ and ]
- d. Food service; [ and ]

[ 4. 3. ] Inspection and approval from the local fire department that the center is free from fire hazards

or approval of a plan of correction.

C. At the time of a renewal application, written documentation of annual approval, or approval of a plan of correction, shall be provided from:

1. The office of the State Fire Marshal, if applicable;
2. The local health department; and
3. The local fire department.

D. The buildings shall be free from safety hazards.

§ 5.3. Special requirements for nonambulatory or physically handicapped individuals.

A. If the center is licensed for nonambulatory participants, at least one separate entrance shall be ramped, wheelchair-accessible, or at ground level, with no steps, so that participants can evacuate safely in the event of fire or emergency.

B. Doorways and passageways shall be wide enough to accommodate wheelchairs and walkers, before any participant who uses a wheelchair or a walker is accepted for care.

§ 5.4. Grounds.

A. The grounds shall be well maintained and free from safety hazards.

B. An area shall be available and accessible so that participants shall have opportunities for outdoor activities.

C. A safe area for discharge and pick-up shall be available to accommodate daily arrival and departure of participants.

D. Adequate outdoor lighting shall be provided to ensure safe loading and unloading of participants upon arrival and departure if the center operates during hours of dim light or darkness.

§ 5.5. Sanitation.

A. Cleanliness of the facility and all of its furnishings and equipment shall be properly maintained.

B. The facility shall be free from insects, rodents, and other pests.

C. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals [ or for the catering of meals ].

D. Sufficient working refrigeration shall be available to store perishable food and medicine.

E. Drinking water shall be available at all times.

# Final Regulations

F. Drinking fountains, if used, shall be of a type approved by the local health department.

G. Individual disposable cups shall be provided for drinking water when fountains are not used.

H. If disposable dishes, cups and/or utensils are used, they shall be sturdy enough to prevent them from being a safety hazard. They shall be used once and then discarded.

## § 5.6. Lighting.

A. All areas of the facility shall be well lighted for the safety and comfort of the participants during all hours of operation according to the nature of activities.

NOTE: Special lighting requirements relating to medications are under paragraph 3 of subsection B of § 6.7 of these standards and regulations.

B. Artificial lighting shall be by electricity or battery.

C. Additional lighting, as necessary to provide and ensure presence of contrast, shall be available for immediate use in areas that may present safety hazards, such as but not limited to stairways, doorways, passageways, changes in floor level, kitchens, bathrooms and basements.

D. Hallways, stairwells, foyers, doorways, and exits utilized by participants shall be kept well lighted at all times participants are present in the building(s). Whenever natural light is not sufficient, artificial lighting shall be used.

E. Glare shall be kept at a minimum in rooms used by participants.

1. When necessary to reduce glare, windows shall be equipped with shades, curtains or other coverings.

2. All lights, including fluorescent lights, shall be covered with shades or protective fixtures or specially equipped to reduce glare and ensure protection.

F. If used, fluorescent lights shall be replaced if they flicker or make noise.

G. All sources of light including windows, light fixtures, bulbs, etc., shall be kept clean.

## § 5.7. Temperature and ventilation.

A. Areas used by participants shall be well ventilated to the outside and dry.

B. The temperature of the rooms used by participants shall be maintained at a level safe and suitable for elderly, disabled, and impaired adults:

1. The minimum inside temperature shall be 68o F.

2. There shall be fans and/or air conditioners available. These shall be used when the inside temperature exceeds 84o F.

3. Each day care center shall have at least one portable thermometer to assure correct temperature.

4. Fans and air-conditioners shall be placed to avoid direct drafts on participants and to avoid safety hazards.

## § 5.8. Equipment and materials.

A. All furniture and equipment inside and outside the center shall be maintained in good repair and in safe condition.

B. Cleaning products, pesticides, and all poisonous or harmful materials shall be stored separately from food and shall be kept in a locked place when not in use.

C. If elevators are used, the following requirements shall be met:

1. They shall be kept in safe running condition.

2. They shall have sturdy handrails installed.

3. They shall be inspected at least annually by the insurance company, the local housing authority, or the elevator company.

4. A copy of the inspection report shall be retained by the center.

5. If elevators are used, an alternative exit shall be accessible for use in case of a fire and/or other emergencies.

D. Sturdy handrails shall be installed at all stairs, ramps, and changes in floor levels.

E. All interior and exterior stairways and ramps shall have nonslip surfaces or carpet. [ If carpet or covering is used, it shall be secured to the stairways or ramps. ]

F. All interior and exterior stairways, changes of floor level, and ramps shall be indicated by a warning strip or contrast in color to aid the participants who have impaired vision.

G. Floors shall not be slippery. If rugs or floor coverings are used, they shall be secured to the floor.

## Article 2.

### Space, Furnishings, and Supplies.

## § 5.9. Activity areas.



# Final Regulations

---

A. The center shall provide at least 40 square feet of indoor floor space for each participant, in addition to hallways, office space, bathrooms, storage space, or other rooms or areas that are not normally used for program activities.

B. There shall be sufficient and suitable space for planned program activities, that may be interchangeable or adaptable for a variety of activities.

1. There shall be [ ~~enough~~ at least one room with sufficient ] space for the participants to gather together for [ large ] group activities.

2. There shall be rooms or areas appropriate for small group activities and individual activities.

## C. Furnishings.

1. The furniture shall be sturdy, safe, and appropriate for elderly and impaired adults.

2. All centers shall have:

a. At least one chair for each participant and each staff person, excluding any people who remain in wheelchairs throughout the day;

b. Table space adequate for all participants to take part in activities at the same time; and

c. Recliners, lounge chairs, rockers, or other seating to allow participants to relax and rest.

§ 5.10. Space shall be available to allow [ ~~total~~ ] privacy for participants during interviews, visits, telephone conversations, counseling, therapy, and other similar activities.

## § 5.11. Bathroom facilities.

A. There shall be a minimum of one toilet available for every 12 participants in attendance.

B. If [ ~~12~~ 10 ] or fewer participants are in attendance, there shall be at least one [ ~~toilet bathroom~~ ] or toilet stall large enough to accommodate a participant who needs personal assistance or who uses a walker or wheelchair.

C. If more than [ ~~12~~ 10 ] participants are in attendance:

1. There shall be separate bathrooms for men and women to allow for privacy; and

2. At least one bathroom [ ~~and~~ or ] toilet stall for men and another bathroom [ ~~and~~ or ] toilet stall for women shall be large enough to accommodate a participant who may need personal assistance or who uses a walker or wheelchair, if the center is licensed for nonambulatory participants.

D. In bathrooms equipped with more than one toilet, each toilet shall be enclosed for privacy.

E. Sturdy grab bars or safety frames shall be installed [ ~~by~~ beside ] all toilets used by participants.

F. There shall be a minimum of one sink for every two toilets [ , with heated and cold running water, ] located close enough together to ensure washing of hands after each toileting procedure.

G. There shall be an adequate supply of toilet tissue, soap, and disposable hand towels in each bathroom at all times.

## § 5.12. Dining area.

A. The dining area shall be large enough to provide sufficient table space and chair space to accommodate the participants. However, participants may eat in shifts.

B. If the center is licensed for nonambulatory participants, the dining area shall be large enough to provide sufficient table space and floor space to accommodate participants in wheelchairs.

## § 5.13. Storage.

A. Sufficient space shall be provided for coats, sweaters, umbrellas, toilet articles, and similar personal possessions of participants and staff.

B. Sufficient space shall be available for equipment, materials, and supplies used in the program.

## § 5.14. Telephones.

A. At least one operable, nonpay telephone shall be provided in each building.

B. [ ~~If the center is licensed for nonambulatory participants,~~ ] The telephone shall be easily accessible. [ ~~in an emergency and~~ If the center is licensed for nonambulatory participants, the telephone shall be ] of a height accessible to a person in a wheelchair.

## § 5.15. Rest area.

A separate room or area shall be available for participants who become ill, need to rest, or need to have privacy.

A. The separate room or area shall be equipped with [ a one ] bed or comfortable cot for every [ ~~10~~ 12 ] participants.

[ ~~EXCEPTION: In centers that are open for evening or night care, beds shall be available for participants as necessary.~~ ]

B. Additional beds or comfortable cots shall be available

# Final Regulations

to accommodate all participants who are scheduled for rest periods [ , provided at least one cot is not scheduled for use ].

[ EXCEPTION: In centers that are open for evening or night care, beds shall be available for participants as necessary. ]

C. A minimum of one pillow covered with a pillow case, two sheets and one blanket, spread or covering per bed or cot shall be provided.

D. Additional covering or blankets and pillows shall be added as required.

E. All sheets and pillow cases shall be laundered before being used by another person.

F. All blankets, spreads, and coverings shall be laundered or dry cleaned, as needed.

## PART VI. PROGRAMS AND SERVICES.

### Article 1. Admission Policies and Procedures.

#### § 6.1. Admission and Assessment.

##### A. Admission policies.

1. The adult day care center shall have written admission policies consistent with the program statement.

2. The admission policies shall be discussed with each person entering the program, as well as with any family member or any other person who enrolls the participant. A copy of the admission policies shall be available upon request for each of these people.

3. Only those people whose needs can be met by the center's program shall be admitted to the center.

4. All participants shall be 18 years of age or older.

##### B. Assessment policies.

1. The center staff shall be responsible for conducting or securing a written assessment of an applicant prior to admission.

2. The assessment shall be based upon the information presented by the applicant, family members, friends or responsible person, and the report of any physical examination.

3. The assessment shall be used to identify the person's strengths and needs to determine if and how the program can serve the participant.

4. The assessment shall include at minimum a description of the participant's:

##### a. Physical condition, including:

(1) Ambulatory ability,

(2) Ability to perform activities of daily living, such as eating and toileting,

b. Social situation, including living arrangements and the availability of family, friends, and other people and organizations in the community to provide services to the participant;

c. Mental status, including any intellectual impairment and known psychiatric or emotional problems; and

d. Economic conditions, to [ the extent that enable ] the director [ is able ] to plan appropriate activities and to make appropriate referrals to other organizations.

5. The initial assessment shall be reviewed and updated on a scheduled basis, but at least annually. This reassessment shall be in writing.

6. A reassessment shall also be made and documented in writing when there are changes to indicate that a participant's needs may no longer be met by the current plan of care.

#### § 6.2. Plan of care for each participant.

A. Prior to admission a beginning/preliminary plan of care, based upon the assessment, shall be developed in writing for each participant. The plan shall be updated and completed within 30 days of admission.

B. The plan shall be designed to improve the functional capabilities of the participant when possible, or to prevent further deterioration. The plan shall include:

1. A description of the participant's needs;

2. The activities and services in which the person will participate in order to meet those needs;

3. Realistic goals for the participant, when appropriate, and suggestions for family members to work toward while the participant is in the program; and

4. If appropriate, the time by which the goals should be achieved.

C. The written plan of care and personal information shall be reviewed and updated on a scheduled basis as needed, but at least annually. The revised plan of care shall be in writing.

# Final Regulations

---

D. The revised plan shall conform to the requirements of the initial plan as specified in subsection B. of § 6.2 of these standards and regulations.

## § 6.3. Agreement.

A. There shall be a written agreement between the participant and the center. The agreement shall be signed by the participant [ or legal guardian ] and the center representative.

B. The agreement shall specify the services to be provided by the center; conditions for dismissal or discharge; and financial arrangements.

EXCEPTION: For some participants, the agreement need not specify financial arrangements provided that the financial arrangements are made, signed for, and handled by the legal guardian or responsible person.

C. A copy of the agreement (or appropriate portion of the agreement) shall be given to the participant; a full copy shall be given to the legal guardian or responsible person, if applicable; and a copy shall be kept at the center.

D. The agreement shall be reviewed and updated whenever there is any change in the services or the financial arrangements.

## § 6.4. Personal information for each participant.

A. The following personal information shall be kept current for all participants, to be used for the initial and ongoing assessments and plans of care, as well as in the event of an emergency:

1. Full name of participant, address, and telephone number;
2. Names, addresses, and telephone numbers of at least two family members, friends, or other designated people to be contacted in the event of illness or an emergency; and
3. Names, addresses, and telephone numbers of the participant's personal physician, and clinics where the participant receives treatment, the name of the preferred hospital in the event of an emergency, and the local social service case worker if the Department of Social Services is involved in the placement.

B. Individual records shall be kept for participants containing all information, reports, and documents required by these standards and regulations.

## § 6.5. Physical Examinations/Medical Information

A. Screening for tuberculosis and a physical examination by or under the direction of a licensed physician shall be obtained either within 30 days prior to acceptance for

admission or within 30 days prior to admission.

B. The report of the required physical examination shall include:

1. The date of the physical examination;
2. All diagnoses and/or significant medical problems;
3. Any special requirements and all recommendations for care including:
  - a. A list of [ ~~medicines~~ medications ] including dosages and times [ ~~medicines~~ medications ] are to be administered,
  - b. Any special diet,
  - c. Any allergies and/or any food intolerance,
  - d. Any therapy the individual in undergoing or should receive, and
  - e. Any restrictions or limitations on physical activities or program participation;
4. A statement that the individual is or is not capable of administering his own medications without assistance;
5. A statement that the individual is or is not physically and mentally able to make an exit from the building in an emergency without the assistance of another person or without the use of a device such as, but not limited to, a wheelchair, walker or leg prosthesis. (This does not apply to [ ~~participants~~ a participant already in care admitted to a licensed center prior to 4-1-87. However, a participant who is grandfathered by these standards would be required to transfer to another licensed center or admitted on or after 4-1-87 must ] meet the standard [ . should a transfer be made to another facility. ) ];
6. A statement that the individual does not have tuberculosis in a communicable form, including the type(s) and test(s) used and the results; and
7. The signature of a licensed physician, the physician's designee, or an official of a local health department.

## Article 2. Health Care.

## § 6.6. Medical reports after admission.

A. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall, within 30 days after exposure/development, receive an evaluation in accordance with § 6.5.

# Final Regulations

B. At the request of the licensee/director of the facility or the Department of Social Services, a report of examination by a physician shall be obtained when there are indications that the day care center can no longer provide appropriate or safe care because of changes in the participant's physical or mental health.

1. The written report of the physical examination shall be dated.
2. The written report of the physical examination shall be signed by a physician, the physicians' designee, or an official of a local health department.
3. The report of the physical examination shall be used in evaluating the participant's continued suitability for adult day care.

C. All medical reports shall be kept at the center.

## § 6.7. Medication management.

[ A. Prescription medication shall be in the original container with the prescription label affixed. ]

[ A. B. ] Unless it is contrary to the day care center's policy, participants may keep and take their own [ medicine medication ] provided that:

1. Their physicians have deemed them capable of administering [ medicine medication ] to themselves, and
2. The center ensures that other participants do not have access to any participant's [ medicine medication ].

[ B. C. ] If there are any participants whose physicians have deemed them incapable of administering [ medicine medication ] to themselves, or if the day care center chooses to administer [ or distribute ] all medication, the following standards apply:

1. The [ medicine medication ] shall be kept in a locked compartment or area.
2. The [ medicine medication ] shall be kept in a darkened area, free from dampness and high temperatures, and refrigerated if required.
3. The area in which the [ medicine medication ] is administered [ or prepared for distribution ] shall have sufficient light so that the labels can be accurately read and the correct dosage can be clearly determined.
4. Each staff person who administers the [ medicine medication ] shall be authorized by § 43-524.65 of the Code of Virginia, or by written authorization of the participant's physician. A copy of all physician's authorizations shall be kept in the participant's record

so long as they are in effect.

[ NOTE: When a person authorized to administer medications puts the proper dosage in a medicine cup labeled with the resident's name, a staff person who is not authorized to administer medications may distribute the cups to the appropriate residents.

EXCEPTIONS: Unit dose medications may be distributed by any staff person capable of reading the label and distributing the medications to the person for whom they were prescribed. ]

5. A written record shall be kept of all [ medicine medication ] administered [ or distributed ] to the participants while at the day care center. This record shall be retained at the center for one year and shall include:

- a. Date,
- b. Name of participant,
- c. Name of drug(s) or prescription number,
- d. Time administered,
- e. Name of person administering, and
- f. Any adverse or unusual reaction that occurs.

## § 6.8. Health care supervision.

A. Changes in a participant's physical or mental health, behavior, attitude, or other significant changes, shall be discussed with the participant, family, physician or clinic, or other responsible person as appropriate. A written notation in the participant's record shall document the change and the person to whom it was reported.

B. If a participant suffers an illness or accident requiring medical attention:

1. The center shall ensure that the participant receives immediate access to medical attention,
2. The family or other responsible person and the participant's personal physician shall be notified immediately, and
3. The notification shall be documented in the participant's record along with the details of the incident and action taken.

## § 6.9. Health care needs.

A. If center staff identify a need for health care services, this need shall be discussed with the participant, family members, or other responsible persons as appropriate. The discussion shall be documented in the participant's record and included in the update of the plan

# Final Regulations

---

of care.

B. In the event that the center provided health care services to meet these needs, the provider of health care shall be licensed, certified, or registered, as required by law.

## § 6.10. Ill participants.

A. A participant who is apparently ill shall not enter the adult day care center without written approval from a physician.

B. If a participant becomes ill during the day:

1. He shall be separated from all other participants in care;
2. The responsible person shall be notified immediately in order that the participant may be returned home, if necessary; and
3. The ill participant shall be checked [ ~~on~~ ] at least every 15 minutes until [ ~~leaving~~ he leaves ] the center.

### Article 3. Discharge Policies.

§ 6.11. When the participant's needs can no longer be met by the program of care, plans shall be made for the participant's discharge.

§ 6.12. Unless clearly impossible, the participant shall be informed of and participate in discharge planning.

§ 6.13. In the event that the center initiates the discharge, the written plan of discharge shall outline the services needed by the participant upon discharge. The plan shall be discussed with the participant and family members or other responsible persons. Although primary responsibility for the location and delivery of these services falls upon the participant and family members or other responsible people, adult day care staff shall assist, when possible.

§ 6.14. If requested by the participant or responsible person, adult day care staff shall assist the participant with the transition from adult day care to other appropriate programs or services, such as counseling or arranging a visit to the other program or preparing a transfer report for the new program.

### Article 4. Program of Care.

## § 6.15. Planning the activities and services.

A. Activities and services shall be planned to support the plans of care for the participants, and shall be consistent with the program statement and the admission policies.

B. Activities and services shall be planned under the

supervision of the director who shall encourage involvement of participants and staff in the planning.

## C. Schedule of activities.

1. There shall be planned activities and programs whenever the center is in operation.
2. A written schedule of activities shall be developed at least monthly.
3. The schedule shall include:
  - a. Group activities for all participants or small groups of participants,
  - b. Personalized options for individuals with varying interests, and
  - c. The name or type, date and hour of the activity.
4. If one activity is substituted for another, the change shall be noted on the schedule.
5. The current month's schedule of activities shall be posted in a conspicuous place or otherwise made available to participants and their families.
6. The schedule of activities for the past six months shall be kept at the center.
7. If a participant requires an individual schedule of activities, that schedule shall be a part of the plan of care and shall be kept in the participant's record.

D. The activities shall be varied to appeal to the different interests, abilities, and needs of the participants.

## E. All activities shall:

1. Support the physical, social, mental, and emotional abilities and skills of participants;
2. Promote or maintain the participant's highest level of independence or functioning, and
3. Be within the economic capabilities of the participants and their families.

F. Physical activities shall be encouraged to the extent recommended by each participant's physician.

### Article 5. Rights of Participants.

§ 6.16. The participant shall be encouraged and supported in maintaining his highest level of independence.

§ 6.17. The participant shall be encouraged to participate in planning for his care.

# Final Regulations

§ 6.18. The participant shall be accorded dignity and treated with courtesy and respect at all times.

§ 6.19. The privacy of participants shall be fully respected.

§ 6.20. The participant shall not be abused, exploited, punished, coerced, or threatened in any way.

§ 6.21. The participant shall be protected from solicitation, harassment and unwanted visitors.

## Article 6. Nutrition and Food Services.

§ 6.22. Meals and snacks shall be provided by the center. The center shall either prepare the food or have it catered.

[ NOTE: If a participant brings food from home, the center is not required to confiscate the food or to prevent the participant from eating the food. The fact that the participant brought food does not relieve the center of its responsibility to provide meals and snacks. The center is expected to encourage participants to eat the meals and snacks provided by the center. ]

§ 6.23. Serving of meals and snacks.

[ A. Centers open before 7 a.m. shall serve breakfast at the center. ]

[ B. A. ] Centers shall serve appropriate meals and snacks, depending on the hours of operation; i.e., a center open during the hours of 7 a.m. to 1 p.m. must serve a morning snack and a mid-day meal; a center open during the hours of 8 a.m. to 5 p.m. must serve a morning snack, a mid-day meal, and an afternoon snack; a center open during the hours of 2 p.m. to 6 p.m. must serve an afternoon snack; a center open after 6 p.m. to 9 p.m. must serve an evening meal, etc.

[ C. B. ] Participants who have not eaten an evening meal before they are admitted to the center for evening and/or night care shall be served one.

[ D. C. ] Centers open after 9 p.m. shall serve an evening snack.

[ E. D. ] Participants shall be served all meals and snacks scheduled for the period during which they are present.

[ EXCEPTION: Centers are not required to serve breakfast to participants who have had breakfast before arriving at the center. ]

§ 6.24. There shall be at least two hours between snacks and meals.

§ 6.25. Each meal, including [ the morning meal, ] the mid-day meal, and the evening meal, shall provide at least

1/4 of an adult's daily recommended dietary allowance (RDA) or any one meal and any one snack combined shall provide at least 1/3 of the RDA.

§ 6.26. Meals and snacks served to the participants shall be attractive in appearance, consist of a variety of foods, and conform to the following meal patterns:

[ NOTE: Meals or snacks catered or provided by Hospital Kitchens, licensed by the Department of Health; Nursing Home Kitchens, licensed by the Department of Health; and the Congregate Meal Program through the Area Agencies on Aging will meet or exceed the requirements of a specific meal or snack. However, the center shall be responsible for monitoring continuing compliance. ]

Pattern	Minimum Amounts
<b>BREAKFAST [ If Served ]</b>	
Milk, fluid*	1/2 cup
Juice** or fruit or vegetable	1/2 cup
Bread or bread alternate*** (including cereal)	1 slice 1/2 cup cooked or 3/4 cup dry

<b>SNACKS</b> (Select at least two of these four components)	
Milk, fluid*	1/2 cup
Juice** or fruit or vegetable	1/2 cup
Bread or bread alternate*** (including cereal)	1 slice 1/2 cup cooked or 3/4 cup dry
Meat, poultry, fish or seafood, or meat alternate****	1 oz.

<b>MID-DAY AND EVENING MEALS</b>	
Milk, fluid*	1/2 cup
Meat, poultry, fish or seafood, or meat alternate****	2 oz.
Vegetables and/or fruits (two or more)	1/2 cup each
Bread or bread alternate***	1 slice

NOTE: Other foods and additional servings may be served to enhance the meals or meet energy needs.

\*Milk, fluid: Includes whole milk, lowfat milk, skim milk or cultured buttermilk which meet state and local standards. It does not include milk mixed from a powder, evaporated milk, or condensed milk.

# Final Regulations

---

**\*\*Juice:** Full strength juices made from fruits or vegetables or frozen concentrate according to directions for full strength juice.

**\*\*\*Bread Alternates:** 1/2 cup rice, grits, or pasta; cereal; 4 crackers, etc.

**\*\*\*\*Meat alternates:** 1 egg, 1 oz. cheese, 1/2 cup cooked dry beans or dry peas, or 2 tablespoons peanut butter.

A. At least one good source of Vitamin C must be served per day. Good Vitamin C sources are: cantaloupe, grapefruit, honeydew melon, mango, oranges, papaya, strawberries, tangerines, broccoli, brussels sprouts, cabbage, cauliflower, dark leafy greens, sweet red or green pepper, tomatoes and juices made from these fruits and vegetables.

B. At least one good source of Vitamin A shall be served three times a week. Good Vitamin A sources are: liver, dark leafy green vegetables, broccoli, carrots, sweet red or hot pepper, pumpkin, sweet potatoes or yams, tomatoes, winter squash (deep orange flesh) apricots, cantaloupe, mango, papaya, and juices made from these fruits and vegetables.

§ 6.27. Meals [ and snacks ] shall be planned in accordance with the needs of the age group in care (i.e. energy needs are less and nutritional needs are higher, special diets may be necessary, participants might have poorly fitting dentures, etc.).

§ 6.28. If a participant needs to follow a special or modified diet recommended by a physician, the day-care center shall ensure that the diet is provided in accordance with the physician's orders while the participant is in the day-care center.

§ 6.29. [ When necessary, ] assistance in eating shall be provided for participants, e.g. to open containers, in cutting foods, etc.

§ 6.30. If catering or contract food service is used, the service shall be approved by the local health department.

§ 6.31. Menus.

A. A menu listing all meals and snacks to be served by the center during the current one week period shall be dated and posted in a location conspicuous to participants and responsible persons.

[ EXCEPTION: When meals or snacks are catered or provided by facilities described in the note under § 6.26 and the caterer refuses to provide menus in advance, the menus shall be retained by the center as records and made available to participants, legal guardians, responsible persons, and family members as requested. ]

B. [ Posted ] Menus shall indicate substitutions.

C. Menus shall be kept at the center for one month.

## Article 7.

### Assistance with Personal Care.

§ 6.32. Staff shall provide special attention, additional supervision, and assistance in activities of daily living, such as feeding and toileting, to participants who require it.

## Article 8.

### Transportation Services.

NOTE: If transportation is not provided by the day care center, the following standards do not apply.

§ 6.33. The vehicle shall be accessible and appropriate for the people using it, considering any physical handicaps and impairments they might have.

§ 6.34. Every person must have a seat in the vehicle, except those people who remain in their wheelchairs.

§ 6.35. Wheelchairs shall be secured when the vehicle is in motion.

§ 6.36. Every person shall be seated while the vehicle is in motion.

§ 6.37. Every seat shall be equipped with a seat belt or shoulder harness. Every person shall be directed to use them.

§ 6.38. Participants shall not be left unattended and/or unsupervised while in a vehicle.

§ 6.39. [ Adequate ] Liability insurance coverage with a minimum limit of at least \$500,000 each occurrence/\$500,000 aggregate shall be maintained according to the size of the vehicle and the number of participants being transported.

[ In order to protect the facility in the event of an accident with another vehicle operated by an uninsured motorist, licensees may not reject uninsured motorists limits equal to liability limits.

NOTE: Language of specific policies may vary provided that the minimum amount of coverage is met. ]

## PART VII. EMERGENCIES.

### Article 1.

#### Specialized Staff Training.

§ 7.1. At least one staff person on the premises at all times during the hours of operation shall have certification in first aid (Multi-Media, Personal Safety, or Standard First Aid Modular) issued within the past three years from a source approved by the American Red Cross.

# Final Regulations

NOTE: Adult day care centers that have licenses in effect on [ ~~(the date the standards become effective)~~ April 1, 1987, ] shall comply with this standard [ ~~by~~ ~~( )~~ six months after the [ ~~effective date~~ ] standards become effective for that facility ].

§ 7.2. At least one employee or staff member on the premises at all times during the hours of operation shall have certification in cardiovascular pulmonary resuscitation (CPR) issued through the American Red Cross or the American Heart Association within the current year. The CPR certificate must be renewed annually.

NOTE: Adult day care centers that have licenses in effect on [ ~~(the date the standards become effective)~~ April 1, 1987, ] shall comply with this standard [ ~~by~~ ~~( )~~ six months after the [ ~~effective date~~ ] standards become effective for that facility ].

## Article 2. Buildings and Equipment.

§ 7.3. Each building of the center and all vehicles shall contain a first aid kit which shall include but not be limited to:

1. Scissors;
2. Tweezers;
3. Gauze pads;
4. Adhesive tape;
5. Band-aids, assorted sizes;
6. Triangular bandages;
7. Flexible gauze;
8. An antiseptic cleansing solution;
9. An anti-bacterial ointment;
10. Bee sting swabs or preparation;
11. Ice pack or ice bag;
12. Thermometer; [ and ]
13. Small flash light.

§ 7.4. The first aid kit shall be stored so that it is not accessible to participants but is easily accessible to staff.

§ 7.5. A first aid instructional manual shall be kept with each first aid kit at all times.

§ 7.6. Heating units.

- A. Gas stoves, coal stoves, wood stoves, oil stoves,

portable electric heaters, kerosene heaters, and portable heating units of a similar nature shall not be used in areas used by participants, except in an emergency such as a power outage in cold weather.

B. When any of the above heating sources are used, care shall be taken to protect participants from injuries.

C. Any heating units used in an emergency shall have been previously inspected and approved by the appropriate fire safety official.

## Article 3. Plans and Procedures.

§ 7.7. Plan for medical emergencies.

A. The plan shall include written instructions for handling medical emergencies such as: (i) calling the rescue squad, (ii) ambulance service, or participant's physician, and (iii) providing first aid and CPR, when appropriate.

B. A licensed physician, registered nurse, licensed practical nurse, or other health professional shall be consulted in preparing the plans.

C. In medical emergencies, pertinent medical information and history shall be made available to rescue staff and/or sent with the participant if hospitalized.

§ 7.8. Plan for emergency evacuation.

A. There shall be a written plan for fire and emergency evacuations. The plan shall include:

1. Written procedures to be followed in the event of fire or other emergency. The local fire department or fire prevention bureau shall be consulted in preparing the fire plan, if possible; and

2. A drawing showing exits, telephones, fire extinguishers, and fire alarm boxes, if any, in large numbers and letters so that participants can read.

B. A copy of the fire and emergency plan shall be posted in a conspicuous place on each floor of each building used by participants.

§ 7.9. Emergency evacuation drills.

A. Evacuation drills shall be held at least quarterly.

B. A record of the required evacuation drills shall be kept in the center for one year. The record shall include:

1. The date;
2. The amount of time required to evacuate;
3. The total number of staff and participants involved;



# Final Regulations

---

4. *Problems encountered, if any; and*

5. *The names of all participants who were present in the center who did not take part in the drill, and the reasons.*

§ 7.10. *Other emergency plans.*

*There shall be written plans and procedures to meet other emergencies, including severe weather, loss of utilities, and missing persons.*

§ 7.11. *Procedures to meet emergencies.*

A. *The telephone numbers of the fire department, the rescue squad or ambulance service, the police, and the regional poison control center shall be located in a conspicuous place near each telephone. They shall be written in large enough numbers so that participants can use them.*

B. *A written record shall be made and kept on file of all emergencies such as, but not limited to, fires, severe weather emergencies, injuries or sudden illnesses requiring medical treatment. The record shall include:*

1. *Date;*

2. *Kind of emergency;*

3. *Names of any participants requiring medical treatment;*

4. *Description of the results of the emergency; and*

5. *Date and time other persons or agencies were contacted, utilized and notified.*

REQUIRED INFORMATION TO BE SUBMITTED WITH A NEW APPLICATION  
FOR A LICENSE TO OPERATE AN ADULT DAY CARE CENTER  
(Attach additional sheets as needed)

I. IDENTIFYING DATA

A. Name of Adult Day Care Center	B. Telephone Number (Area Code)
C. Location of Center	D. Zip Code
E. Mailing Address (if different from location address)	F. Zip Code
G. Name of Administrator/Director	
H. Directions to the Center (Optional):	

II. ADMINISTRATION

A. OPERATING HOURS (below) Opening Time: _____ Closing Time: _____	B. REQUESTED LICENSED CAPACITY:
C. If center is already in operation: Total number of persons now in the center: _____	
D. Center is to be operated by: _____ Individual _____ Corporation _____ Partnership _____ Association	
E. Name of Sponsor: _____ Address: _____ Telephone #: _____ Name and Title of Contact Person (if applicable): _____	

F. For centers sponsored by either corporations or unincorporated associations:

1. List all Officers and Members of the Board

President or Chairperson: _____	Telephone Number: (____)
Address: _____	
(Street or P.O. Box)	(City) (State) (Zip Code)
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

G. FINANCIAL INFORMATION

1. Start Up Cost

Renovation of Property	\$ _____
Furniture	_____
Equipment	_____
Supplies (Initial Stock):	
Supplies (EXAMPLES: Arts and Crafts)	_____
Cleaning and Maintenance	_____
Office	_____
Food	_____
Business and Legal Costs (EXAMPLES: Legal Fees, Business License, Fee for Use Permit or Occupancy Permit)	_____
Other Costs (EXAMPLES: Insurance, Utility Deposit, First Month's Rent or Mortgage Payment)	_____
Specify: _____	_____
_____	_____
_____	_____
_____	_____
TOTAL COSTS \$	_____

Please indicate plan of financing these initial cash requirements:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

III. PERSONNEL

A. List the names and addresses of three persons who are not related to the applicant(s) and who can knowledgeably and objectively certify to the applicant's(s') character and reputation. For centers sponsored either by corporations or unincorporated associations, provide three references for each Officer of the Board. Attach an extra page, if necessary.

Name of Individual Owner, Partner, or Officer of the Board:

_____	_____
<u>REFERENCES</u>	<u>ADDRESSES</u>
_____	_____
_____	(City) (State) (Zip)
_____	_____
_____	(City) (State) (Zip)
_____	_____
_____	(City) (State) (Zip)

Name of Individual Owner, Partner, or Officer of the Board:

_____	_____
<u>REFERENCES</u>	<u>ADDRESSES</u>
_____	_____
_____	(City) (State) (Zip)
_____	_____
_____	(City) (State) (Zip)
_____	_____
_____	(City) (State) (Zip)

Name of Individual Owner, Partner, or Officer of the Board:

_____	_____
<u>REFERENCES</u>	<u>ADDRESSES</u>
_____	_____
_____	(City) (State) (Zip)
_____	_____
_____	(City) (State) (Zip)
_____	_____
_____	(City) (State) (Zip)

Name of Individual Owner, Partner, or Office of the Board:

\_\_\_\_\_

REFERENCES

ADDRESSES

_____	(City) (State) (Zip)
_____	(City) (State) (Zip)
_____	(City) (State) (Zip)

The following Sections (III, B and C, and all of IV, Programs and Services) are optional requests for supplemental information and are not required to be completed now. Providing this information will expedite processing the application.

B. Describe proposed staff training for the orientation of your employees:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C. Describe how staff development opportunities will be provided annually:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

IV. PROGRAMS AND SERVICES

A. State the purpose and scope of the center's services (EXAMPLES: What will be the major goal of your center? What will be the emphasis and philosophy of your program to carry out this goal? What are the specific services to be provided as part of your program and how do these services vary according to the participants in care?):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

B. Describe the procedure used for conducting or securing a written assessment of a participant's needs prior to admission.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

V. REQUIRED ATTACHMENTS

1. Attach the appropriate fee for processing of the application.
2. Balance Sheet (Model Form provided)
3. Operating Budget for First Year (Model Form provided)
4. Floor plans indicating exact dimensions of rooms to be used, including room length, width and ceiling heights; designating the functions of each room; showing toilet facilities, including number of basins and toilets.
5. A description of available outdoor area.

6. a) For centers operated by an association:	<u>Attached</u>	<u>Not Applicable</u>
(1) Copy of Constitution, or	<input type="checkbox"/>	<input type="checkbox"/>
(2) Copy of By-Laws	<input type="checkbox"/>	<input type="checkbox"/>
b) For centers operated by partnership:		
Articles of Partnership	<input type="checkbox"/>	<input type="checkbox"/>
7. A Staff Information Sheet. If staff is not yet hired, indicate positions to be used, anticipating hours of employment, etc. (Form provided)		

VI. -OPTIONAL ATTACHMENTS

The following attachments are not required. Providing these attachments would assist in expediting the processing of the application. It will enable the specialist to review these documents along with this application rather than during a future on-site visit.

1. A written statement regarding the sponsorship and organization of the adult day care center, with information showing who is responsible for policy making, operation and management decisions.
2. Samples of all forms developed, such as application form, agreement form, etc., if different from the model forms provided by the Department of Social Services.
3. Sample menu for one month.
4. A copy of the daily activity schedule(s) for the center program(s).
5. A copy of all brochures.
6. Evidence of insurance coverage.

DEPARTMENT OF SOCIAL SERVICES  
REQUIRED INFORMATION TO BE SUBMITTED FOR RENEWAL OF A LICENSE TO  
OPERATE AN ADULT DAY CARE CENTER

I. IDENTIFYING DATA	
A. Name of Adult Day Care Center	B. Telephone Number (Area Code) _____
C. Location of Center	D. Zip Code _____
E. Mailing Address (if different from location address)	F. Zip Code _____
G. Name of Administrator/Director _____	

II. ADMINISTRATION		
A. OPERATING HOURS (below)	B. REQUESTED LICENSED CAPACITY	
Opening Time: _____ Closing Time: _____		
C. Center is to be operated by: _____ Individual _____ Corporation _____ Partnership _____ Association		
D. For centers sponsored by either corporations or unincorporated associations:		
1. List all Officers and Members of the Board		
President or Chairperson: _____	Telephone Number: (____) _____	
Address: _____ (Street or P. O. Box) (State) (Zip Code)		
<u>OFFICE</u>	<u>NAME</u>	<u>ADDRESS</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

III. FOR CENTERS PRESENTLY LICENSED CONDITIONALLY OR PROVISIONALLY

State specifically which requirements listed as conditions of the license have been met and if unmet, what the plans are for meeting them:

Three horizontal lines for providing specific information regarding license requirements.

The following sections are requests for supplemental information and are not required to be completed now. Providing this information will expedite in processing the renewal application.

INSTRUCTIONS: Review the following topics, note changes which have occurred or which are contemplated for the coming year and indicate "No Change" where appropriate:

III. PROGRAMS AND SERVICES

A. Note any Change in the Purpose of the Facility:  No Change

Two horizontal lines for providing information about changes in the purpose of the facility.

B. Policies of Assessment prior to admission:  No Change

Two horizontal lines for providing information about assessment policies.

C. Provision for Staff Training:  No Change

Two horizontal lines for providing information about staff training provisions.

IV. ATTACHMENTS

A. REQUIRED:

1. Building plans for any contemplated construction giving room dimensions, specifications and use.  Attached  Not Applicable

2. Staff Information Sheet

B. SUPPLEMENTAL:

1. Sample Daily Activity Schedule. (Attach only if there is a basic schedule change)  Attached  Not Applicable

2. New or Revised Forms and/or Brochures.  Attached  Not Applicable

---

# STATE CORPORATION COMMISSION

---

AT RICHMOND, OCTOBER 7, 1986

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUC850036

Ex Parte: Investigation of  
Private Resale or Shared Use  
of Local Exchange Services.

## FINAL ORDER

On September 15, 1986, the Commission entered an order in this docket that cancelled the oral argument that had been scheduled for September 16. The order provided that any party desiring oral argument must file a request that it be rescheduled on or before September 30, 1986. Because no request has been filed, the Commission concludes that oral argument is neither desired nor necessary.

The hearing scheduled September 16, 1986 at 10:30 a.m. was convened by a Commission Hearing Examiner solely for the purpose of receiving comments from any public witness desiring to address the rules. No public witnesses appeared.

Since no public witnesses appeared to speak against the proposed rules for shared tenant service, the comments filed by the parties were generally supportive of the rules, and no party sought oral argument in opposition to the proposed rules, the Commission has concluded that the rules proposed in our order of July 11, 1986, should be adopted to become effective as of the date of this order. Accordingly,

IT IS THEREFORE ORDERED that the Rules Governing Sharing or Resale of Local Exchange Service (Shared Tenant Services) set forth in Attachment A hereto are adopted effective as of the date of this order.

ATTESTED COPIES hereof shall be sent by the Clerk of the Commission to the parties shown on the service list attached hereto as Attachment B; to the local exchange telephone companies of the State of Virginia as shown on the service list attached hereto as Attachment C; to the Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; and to the Commission's Divisions of Communications, Accounting and Finance and Economic Research and Development.

/s/ George W. Bryant, Jr., Clerk

### ATTACHMENT A

#### RULES GOVERNING SHARING OR RESELL OF LOCAL EXCHANGE SERVICE (SHARED TENANT SERVICE)

- § 1. The tariffs of Virginia local exchange companies shall not prohibit any persons from subscribing to local exchange business telecommunications service and facilities and privately reoffering those communication services and facilities to persons or entities occupying buildings or facilities that are within specifically identified contiguous property areas (even if the contiguous area is intersected by public thoroughfares or rights-of-way) and are either (a) under common ownership, which is either the same owners, common general partners, or common principal equity investors or (b) within a common development which is either an office or commercial complex, a shopping center, an apartment or condominium or cooperative complex, an airport, a hotel or motel, a college or university, or a complex consisting of mixed uses of the types heretofore described, but not to include residential subdivisions consisting of single-family detached dwellings. Such private reoffering shall hereinafter be referred to as "shared tenant service."
- § 2. To the extent that a shared tenant service system would not meet the requirements of Rule 1 of these Rules, the person or persons desiring to provide the shared tenant service system shall have the right to petition the Commission to obtain a waiver of that Rule. Notice of this petition shall be given to the local exchange telephone company serving the area proposed to be affected by the proposal and to any other persons designated by the Commission. The Commission may grant any such petition upon finding that the public interest is thereby served.
- § 3. These shared tenant service Rules shall apply only to those shared tenant service systems sharing more than 16 access lines or more than 32 stations. Sharing of smaller systems shall not be prohibited by local exchange companies, and shall be governed by Joint User Tariffs where in effect.
- § 4. Local exchange companies providing service to shared tenant service providers may charge for the resale of local business service based upon the number of calls to the extent permitted by the terms of Virginia Code § 56-241.2 (1986). Nothing in these shared tenant service rules shall be construed to authorize or to preclude treatment by local exchange companies of shared tenant service providers as a separate class of customers for the purpose of establishing rates and regulations of service. Where tariffs providing for such charges based on the number of calls are not in effect at the time service is applied for, local exchange companies shall provide service to shared tenant service providers for the resale of local business service at the flat rates that apply to other business PBX customers.
- § 5. Shared tenant service shall not be offered to the general public other than the offering of properly tariffed coin service.

# State Corporation Commission

- § 6. Providers of shared tenant service are business customers. On behalf of their residential and business end users, such providers may subscribe to residential and business directory listings, respectively, at the rates established for such additional listings by the local exchange company.
- § 7. Local exchange companies shall have both the right and the obligation to serve any requesting subscriber located within their certificated service territory.
- § 8. Any end user within a shared tenant service building or facility has the right to subscribe to service directly from the certificated local exchange company.
- § 9. Providers of shared tenant service need not partition switches to allocate trunks among tenants or subscribers.
- § 10. Shared tenant service providers receiving service under joint user tariffs of local exchange companies as of the effective date of these rules may continue to receive such joint user service at those existing locations as long as each such location remains with that same provider.
- § 11. All rates and charges in connection with shared tenant service and all repairs and rearrangements behind the minimum point of penetration of the local exchange company's facilities or behind the interface between company owned and customer owned equipment and including the shared tenant service provider's switch will be the responsibility of the person owning or controlling the facilities behind such minimum point of penetration or interface and are not regulated by the Virginia State Corporation Commission.

## ATTACHMENT B

Fairchild Communications Network and Services Company  
c/o Stuart G. Meister, Vice President  
Law and Administration  
P.O. Box 10804  
Chantilly, Virginia 22021-9998

GT Realty and Management  
c/o Victor J. Toth, Esquire  
2719 Soapstone Drive  
Reston, Virginia 22091

Honeywell, Inc.  
c/o Randall B. Lowe, Esquire  
Thomas K. Crowe, Esquire  
1250 Eye Street, N.W.  
Washington, D.C. 20005

Millard F. Ottman, Jr., Esquire  
8111 Gatehouse Road, Suite 409  
Falls Church, Virginia 22042

Planning Research Corporation  
c/o John D. Daly, Manager  
PRC Telecommunications  
1500 Planning Research Drive  
McLean, Virginia 22102

Real Estate Communications Company  
c/o Joseph Gensheimer, Esquire  
8280 Greensboro Drive  
McLean, Virginia 22102

Andrew D. Lipman; Esquire  
Jean L. Kiddoo, Esquire  
1777 F Street, N.W.  
Washington, D.C. 20006

Multi-Tenant Telecommunications Association  
2000 L Street, N.W., Suite 200  
Washington, D.C. 20036

Counsel for Real Com  
F. Thomas Tuttle, Esquire  
1300 19th Street, N.W., Suite 300  
Washington, D.C. 20036

IBM  
Mareen Flanagan, Regional Manager  
State Government Relations  
1801 K Street, N.W., Suite 1200  
Washington, D.C. 20006

## ATTACHMENT C

### TELEPHONE COMPANIES IN VIRGINIA

Joseph E. Hicks, President  
Amelia Telephone Company  
P.O. Box 158  
Leesburg, Alabama 35983

Raymond L. Eckels, Manager  
Amelia Telephone Company  
P.O. Box 76  
Amelia, Virginia 23002

M. Dale Tetterton, Jr., Manager  
Buggs Island Telephone Cooperative  
P.O. Box 129  
Bracey, Virginia 23919

Sue B. Moss, President  
Burke's Garden Telephone Exchange  
P.O. Box 428  
Burke's Garden, Virginia 24608

James D. Ogg  
Vice President & Division Manager  
Central Telephone Company of Virginia  
P.O. Box 6788  
Charlottesville, Virginia 22906



## State Corporation Commission

---

Hugh R. Stallard, Vice President  
Chesapeake and Potomac Telephone Company  
703 East Grace Street  
Richmond, Virginia 23219

James R. Newell, Manager  
Citizens Telephone Cooperative  
Oxford Street  
P.O. Box 137  
Floyd, Virginia 24091

Robert S. Yeago, President  
Clifton Forge-Waynesboro Telephone Company  
P.O. Box 2008  
Staunton, Virginia 24401

Harold Marshall, President  
Continental Telephone Company of Virginia  
P.O. Box 900  
Mechanicsville, Virginia 23111

Dennis R. Williams, General Manager  
General Telephone Company of Southeast  
210 Bland Street  
Bluefield, West Virginia 24701

L. Ronald Smith, General Manager  
Mountain Grove-Williamsville Telephone Company  
P.O. Box 105  
Williamsville, Virginia 24487

T. A. Glover, Manager  
Highland Telephone Cooperative  
Monterey, Virginia 24465

K. L. Chapman, Jr., President  
New Hope Telephone Company  
P.O. Box 38  
New Hope, Virginia 24469

W. Richard Fleming, Manager  
North River Telephone Cooperative  
P.O. Box 8  
Dayton, Virginia 22821

Ross E. Martin, General Manager  
Pembroke Telephone Cooperative  
P.O. Box 85  
Pembroke, Virginia 24136

E. B. Fitzgerald, Jr., President and General Manager  
Peoples Mutual Telephone Company, Inc.  
P.O. Box 367  
Gretna, Virginia 24557

Ira D. Layman, Jr., President  
Roanoke and Botetourt Telephone Company  
Daleville, Virginia 24083

James W. McConnell, Manager  
Scott County Telephone Cooperative

P.O. Box 487  
Gate City, Virginia 24251

Warren B. French, Jr.,  
President and General Manager  
Shenandoah Telephone Company  
P.O. Box 459  
Edinburg, Virginia 22824

W. W. Hill, President  
United Inter-Mountain Telephone Company  
112 Sixth Street  
P.O. Box 699  
Bristol, Tennessee 37620

W. Dan Reichartz, President  
Virginia Hot Springs Telephone Co., Inc.  
Hot Springs, Virginia 24445

Ralph L. Frye, Executive Director  
Virginia Exchange Carrier Association  
700 Building, 14th Floor  
7th and Main Streets  
Richmond, Virginia 23219  
telephone 643-0688

A. J. Chisholm, Vice President and Regulatory Affairs  
The Western Union Telegraph Company  
1828 L Street, N.W., Suite 1001  
Washington, D.C. 20036

---

# GOVERNOR

---

## GOVERNOR'S COMMENTS OF PROPOSED REGULATIONS

(Required by § 9-6.14:9.1 of the Code of Virginia)

### DEPARTMENT OF HEALTH

Title of Regulation: VR 355-39-01. Regulations Governing  
Eligibility Standards and Charges for Medical Care  
Services.

Office of the Governor  
October 13, 1986

Dr. C. M. G. Buttery  
Commissioner  
Department of Health  
James Madison Building  
109 Governor Street  
Richmond, Virginia 23219

Dear Dr. Buttery:

I have reviewed the Regulations Governing Eligibility Standards and Charges for Medical Care Services (VR 355-39-01) under the procedures of Executive Order Number Five (86).

Your intent to encourage early medical care for certain low-income patients is a worthwhile goal; however, there is a need for further study of this plan to eliminate fees for patients in certain income levels to ensure that the Department's proposal will have the desired result of encouraging early medical treatment. I am also concerned that the Department will not be able to finance the proposed elimination of fees within its existing appropriations.

If the Department plans to recover the anticipated revenue loss through adjustments in fees to other income levels, I would strongly recommend that you seek the approval of the Board of Health before adopting this strategy. Because of the concerns expressed above, I cannot approve adoption of the proposed regulations at this time.

/s/ Gerald L. Baliles, Governor

---

## GENERAL NOTICES/ERRATA

---

<b>Symbol Key †</b>
---------------------

† Indicates entries since last publication of the Virginia Register
---

### NOTICES OF INTENDED REGULATORY ACTION

#### BOARD OF CORRECTIONS

##### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider promulgating regulations entitled: **VR 240-40-004. Outdoor Adventure Education.** The purpose of the proposed regulations is to improve procedures, safety and program management for juvenile outdoor adventures, strengthen issues of counseling, use of outfitters and staff training.

Statutory Authority: §§ 16.1-322.1 and 53.1-5 of the Code of Virginia.

Written comments may be submitted until December 1, 1986.

Contact: Robert Callahan, Jr., Chairman, Wilderness Task Force, Juvenile Court Service Unit Municipal Center, Virginia Beach, Va. 23456, telephone (804) 427-4361.

**DEPARTMENT OF CORRECTIONS (VR 230-40-001)**  
**DEPARTMENT OF EDUCATION (VR 270-01-003)**  
**DEPARTMENT OF MENTAL HEALTH AND**  
**MENTAL RETARDATION (VR 470-02-01)**  
**DEPARTMENT OF SOCIAL SERVICES (VR 615-29-02)**

##### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Departments of Corrections, Education, Mental Health and Mental Retardation and Social Services intends to consider amending regulations entitled: **Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.** The regulations establish standards to provide children in residential facilities with at least a minimal level of care. The current effort is intended to amend and clarify those sections of the standards which address discipline and punishment.

Statutory Authority: §§ 16.1-286, 53.1-237 thru 53.1-239, 16.1-310 thru 16.1-314, 53.1-249, 22.1-319 thru 22.1-335, 22.1-218, 37.1-179 thru 37.1-189, 37.1-199, 63.1-195 thru 63.1-219 and 63.1-56.1 of the Code of Virginia.

Other pertinent information: Only those sections of the regulation which address discipline and punishment will be considered for amendment.

Written comments may be submitted until December 10, 1986.

Contact: John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025

##### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Departments of Corrections, Education, Mental Health and Mental Retardation and Social Services intends to consider amending regulations entitled **Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.** This regulation establishes standards to provide children in residential facilities with at least a minimal level of care. The current effort is intended to amend those sections of the standards which address the categories of facilities subject to regulation.

Statutory Authority: §§ 16.1-286, 53.1-237 thru 53.1-239, 16.1-310 thru 16.1-314, 53.1-249, 22.1-319 thru 22.1-335, 22.1-218, 37.1-179 thru 37.1-189, 37.1-199, 63.1-195 thru 63.1-219 and 63.1-56.1 of the Code of Virginia.

Other pertinent information: Only those sections of the regulation which address the categories of facilities subject to regulation will be considered for amendment.

Contact: John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025

## General Notices/Errata

### CRIMINAL JUSTICE SERVICES BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Noncustodial Employees of the Department of Corrections**. The purpose of the proposed changes is to amend and update existing regulations governing the training of Department of Corrections employees who are appointed to a noncustodial position.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until November 14, 1986 to Mr. L.T. Eckenrode, Division Director, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Mr. Jay Malcan, Executive Assistant, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000.

### STATE HIGHWAY AND TRANSPORTATION BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Highway and Transportation Board intends to consider amending regulations entitled: **VR 385-01-4. Rules and Regulations for the Administration of Waysides and Rest Areas**. The purpose of the proposed amendments is to allow for sale of refreshments in rest areas with the approval of the State Highway and Transportation Board.

Statutory Authority: § 33.1-218 of the Code of Virginia.

Written comments may be submitted until November 17, 1986.

Contact: John M. Wray, Jr., Chief Engineer, Virginia Department of Highways and Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2707

### VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Labor and Industry intends to consider promulgating regulations entitled: **Biennial Program Sponsor Evaluation**. The purpose of the proposed regulations is to establish a

biennial program sponsor evaluation procedure based upon criteria established by the Virginia Apprenticeship Council.

Statutory Authority: Chapter 1 (§ 40.1-6(3)) of Title 40.1 of the Code of Virginia.

Written Comments may be submitted until December 5, 1986, to: Carol A. Amato, Commissioner, Virginia Department of Labor and Industry, 205 North 4th Street, P.O. Box 12064, Richmond, Virginia 23241.

Contact: Robert S. Baumgardner, Director of Apprenticeship, 205 N. 4th St., P.O. Box 12064, Richmond, Va. 23241, telephone (804) 786-3075.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Labor and Industry intends to consider amending regulations entitled: **Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia, IV.B.14. Standards of Apprenticeship Programs - Numeric Ratio of Apprentices to Journeymen**. The purpose of the proposed amendment is to amend the numeric ratio of apprentices to journeymen from 1:3 to 1:1.

Statutory Authority: Chapter 1 (§ 40.1-6(3)) of Title 40.1 of the Code of Virginia.

Written comments may be submitted until December 5, 1986, to: Carol A. Amato, Commissioner, Virginia Department of Labor and Industry, 205 North 4th Street, P.O. Box 12064, Richmond, Virginia 23241.

Contact: Robert S. Baumgardner, Director of Apprenticeship, 205 N. 4th St., P.O. Box 12064, Richmond, Va. 23241, telephone (804) 786-3075.

### BOARD OF MENTAL HEALTH AND MENTAL RETARDATION

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Mental Health and Mental Retardation intends to consider amending regulations entitled: **Mandatory Certification/Licensure Standards for Treatment Programs for Residential Facilities for Children**. The purpose of the proposed amendments is to establish minimum requirements for treatment programs in residential facilities serving mentally ill, mentally retarded, and substance abusing children.

Statutory Authority: § 37.1-10 of the Code of Virginia.

## General Notices/Errata

---

Written comments may be submitted until December 10, 1986 to: Rubyjean Gould, Administrative Services Director, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Virginia 23214.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3472

### DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **VR 615-01-17. Deprivation Requirement in the Aid to Dependent Children (ADC) Program.** The purpose of the proposed amendments is in the cases of separation, allow the physical absence of the parent from the home to be considered sufficient to constitute deprivation, without any measurement of the absent parent's provision of maintenance, physical care, and guidance.

Statutory Authority: § 63.1-25 of the Code of Virginia and 45 Code of Federal Regulations 233.90(c)(1)(iii).

Written comments may be submitted until December 10, 1986, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Carolyn Ellis, Supervisor, Economic Assistance Unit, Division of Benefit Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9046

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **VR 615-01-18. Entitlement Date in the Aid to Dependent Children (ADC) and General Relief (GR) Programs.** The purpose of the proposed regulation is to begin entitlement for ADC and GR from the date of the application for assistance.

Statutory Authority: § 63.1-25 of the Code of Virginia and 45 Code of Federal Regulations 206.10(a)(6)(i).

Written comments may be submitted until December 10, 1986, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699.

Contact: Carolyn Ellis, Supervisor, Economic Assistance

Unit, Division of Benefit Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9046

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **Family Services.** The purpose of the proposed regulation is to prevent unnecessary foster care placement of children at risk by assisting families to resolve problems and strengthen family life.

Statutory Authority: §§ 63.1-25, 63.1-55, 63.1-56 and 63.1-248.1 of the Code of Virginia.

Written comments may be submitted until December 1, 1986.

Contact: Linda N. Booth, Administrative Planning Supervisor, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (toll free number 1-800-552-7091) -

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider repealing regulations entitled: **Minimum Standards for Licensed Child Caring Institutions.** The regulation establishes standards to provide children in certain residential facilities with at least a minimal level of care.

Statutory Authority: §§ 63.1-25 and 63.1-202 of the Code of Virginia.

Written comments may be submitted until December 10, 1986.

Contact: John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Drive, Richmond, Va. 23229-8699, telephone (804) 281-9025

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **Minimum Standards for Licensed Family Day Care Systems, Minimum Standards for Licensed Family Day Care Homes, Minimum Standards for Licensed Independent Foster Homes, and Minimum Standards for Private Child Placing Agencies.** The purpose of the proposed amendment is to prohibit the use of physical means of punishment or discipline. To remove generic licensing procedures to avoid duplication. In addition, the

## General Notices/Errata

CPA regulation will also be revised to clarify adoptive placement/temporary foster care and to amend standards regarding sanitary disposal/water supply.

Statutory Authority: §§ 63.1-25 and 63.1-202 of the Code of Virginia.

Written comments may be submitted until December 10, 1986.

**Contact:** Meredyth P. Partridge, Program Development Supervisor, Division of Licensing Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025

### STATE WATER CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **Water Quality Standards**. The proposed amendments will establish water quality standards for the protection of the Chesapeake Bay, its tributaries and other state waters from nutrient enrichment.

Statutory Authority: § 62.1-44.15 (3) of the Code of Virginia.

Written comments may be submitted until November 7, 1986.

**Contact:** Jean Gregory, Ecology Supervisor, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-0387

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider repealing regulations entitled: **Priority System for Construction Grant Recipients to Determine Whether a Supplemental State Grant Should be Provided to Help Relieve an Extraordinary Hardship in Local Funding**. The purpose of this regulation was to set forth the criteria for determining if grant applicants were experiencing financial hardship and qualified for supplemental state grant funds, in addition to the federal funds. Repeal of this regulation is being proposed since there has been no appropriation under this program since FY 76 and no future appropriations under this program are likely.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until November 26,

1986.

**Contact:** Cindy M. Berndt, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6828

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **Regulation No. 3**. The propose of the amendments is to ensure local approval, prior to board approval, of the location or site of any nongovernmentally owned sewage treatment plant. Repeal of this regulation is being proposed because of improved procedures for issuance of permits and questions as to the legality of the regulation.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until November 26, 1986.

**Contact:** Cindy M. Berndt, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6828.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider repealing regulations entitled: **Regulation No. 7 - Industrial Waste Survey**. The purpose of this regulation was to determine the number of indirect dischargers to publicly owned sewage treatment plants. Repeal of this regulation is being proposed since the requirements have either expired or are now incorporated in subpart G of Regulation No. 6.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until November 26, 1986.

**Contact:** Cindy M. Berndt, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6828.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider repealing regulations entitled: **Regulation No. 10 - Trash and Pumpout Services for Vessels at Anchor**. The purpose of this regulation was to require commercial vessels in the foreign trade larger

## General Notices/Errata

---

than 1,000 gross tons that anchor in Virginia waters for longer than 48 hours to properly dispose of trash, garbage, and sewage and sewage sludge. Repeal of this regulation is being proposed since conditions which necessitated its adoption are no longer in existence nor are they likely to reappear.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until November 26, 1986.

Contact: Cindy M. Berndt, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6828.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **Water Resources Policy**. The Water Resources Policy is a statement of policy for the agency's use in preparing water resource management plans, advising on adequacy/desirability of water resource projects, authorizing specific water resource projects, and commenting on projects which affect water resources. The proposed amendments are editorial and structural to conform to the Forms, Style and Procedures Manual for the Virginia Register of Regulations.

Statutory Authority: § 62.1-44.36 of the Code of Virginia.

Written comments may be submitted until November 26, 1986.

Contact: Cindy M. Berndt, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6828.

## GENERAL NOTICES

### NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Ann M. Brown, Assistant Registrar of Regulations, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

### FORMS:

PROPOSED (Transmittal Sheet) - RR01  
FINAL (Transmittal Sheet) - RR02  
NOTICE OF MEETING - RR03  
NOTICE OF INTENDED REGULATORY ACTION - RR04  
NOTICE OF COMMENT PERIOD - RR05  
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR06

---

# CALENDAR OF EVENTS

---

<b>Symbols Key</b>	
†	Indicates entries since last publication of the Virginia Register
☒	Location accessible to handicapped
☎	Telecommunications Device for Deaf (TDD)/Voice Designation



## THE VIRGINIA CODE COMMISSION

**NOTICE:** Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

## EXECUTIVE

### GOVERNOR'S ADVISORY BOARD ON AGING

- † January 20, 1987 - 1 p.m. - Open Meeting  
† January 21, 1987 - 9 a.m. - Open Meeting  
Jefferson Sheraton Hotel, 101 West Franklin Street,  
Richmond, Virginia. ☒

The board will discuss issues of interest to older Virginians including legislation before the 1987 Session of the Virginia General Assembly and the impending reauthorization of the federal Older American Act.

**Contact:** William Peterson, Virginia Department for the Aging, 18th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2271/225-3140

### DEPARTMENT FOR THE AGING

#### Long-Term Care Ombudsman Program Advisory Council

**December 4, 1986 - 9:30 a.m. - Open Meeting**  
James Monroe Building, Conference Room E, 101 North  
14th Street, Richmond, Virginia. ☒

The council will discuss the work of Virginia's Long-Term Care Ombudsman Program and hear

interim reports from various subcommittees.

**Contact:** Catherine P. Saunders, Department for the Aging, James Monroe Bldg., 18th Floor, 101 N. 14th St., Richmond, Va. 23219-2797, telephone (804) 225-2912

## VIRGINIA AGRICULTURAL COUNCIL

**November 10, 1986 - 10 a.m. - Open Meeting**  
**November 11, 1986 - 9 a.m. - Open Meeting**  
Holiday Inn - Airport, 5203 Williamsburg Road, Sandston,  
Virginia

A two-day meeting of the council called by the chairman to hear project proposals which have been received and properly supported by the board of directors of a commodity group.

**Contact:** Henry H. Budd, Assistant Secretary, Washington Bldg., Room 203, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2373

## STATE BOARD OF AGRICULTURE AND CONSUMER SERVICES

† **December 10, 1986 - 1 p.m. - Open Meeting**  
**December 11, 1986 - 1 p.m. - Open Meeting**  
Washington Building, Room 204, 1100 Bank Street,  
Richmond, Virginia. ☒

A regular official meeting.

**Contact:** Raymond D. Vaughan, P.O. Box 1163, Richmond, Va. 23209, telephone (804) 786-3501

## STATE AIR POLLUTION CONTROL BOARD

† **November 10, 1986 - 10 a.m. - Open Meeting**  
Board of Supervisor's Room, Halifax County Courthouse,  
Main Street, Halifax, Virginia.

A meeting to allow public comment on a request for a permit from D-SCAN, Inc. to construct and operate a ready-to-assemble furniture plant at the Halifax County/South Boston Industrial Park located in Halifax County.

**Contact:** Thomas L. Henderson, State Air Pollution Control



# Calendar of Events

---

Board, 7701-03 Timberlake Road, Lynchburg, Va. 24502, telephone (804) 528-6641

\* \* \* \* \*

† January 14, 1987 - 10 a.m. - Public Hearing  
Council Chambers, Town of Abingdon Municipal Building,  
133 West Main Street, Abingdon, Virginia.

† January 14, 1987 - 7 p.m. - Public Hearing  
Old Roanoke County Courthouse, 2nd Floor Courtroom,  
Salem, Virginia

† January 14, 1987 - 10 a.m. - Public Hearing  
Lynchburg Public Library, 2315 Memorial Avenue,  
Lynchburg, Virginia

† January 14, 1987 - 10 a.m. - Public Hearing  
State Air Pollution Control Board, State Capitol Regional  
Office, 8205 Hermitage Road, Richmond, Virginia

† January 14, 1987 - 10 a.m. - Public Hearing  
State Air Pollution Control Board, Hampton Roads Regional  
Office, Pembroke Four - Suite 409, Pembroke Office Park,  
Virginia Beach, Virginia

† January 14, 1987 - 10 a.m. - Public Hearing  
State Air Pollution Control Board, National Capital  
Regional Office, Springfield Towers - Suite 502, 6320  
Augusta Drive, Springfield, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The regulations establish limits for sources of air pollution to the extent necessary to attain and maintain level of air quality as will protect human health and welfare.

## STATEMENT

Subject: Open Burning Rule (4-40)

Substance: The substance of the amendments is as follows:

1. Delete the requirements that regional directors make an on-site inspection of the burning location prior to issuing permits.
2. Redesignate portions of Roanoke County as rural. Those portions designated as rural would be consistent with the Roanoke County Comprehensive Development Plan adopted by the Board of Supervisors.
3. Add provisions which specify the minimum operating conditions for the use of special incineration devices in AQCR VII.
4. Add the destroying of strings and plastic ground cover associated with the growing of stake tomatoes as an

exempted agricultural practice.

5. Delete the provisions that allows burning to take place nearer to a building than the minimum specified distance if the occupants give their permission.

6. Add provisions which prohibit open burning or use of special incineration devices in violation of the emission standards for noncriteria pollutants (Rule 4-3).

7. Delete the provision that limits to urban areas the requirement that a collection service not be available in order for a homeowner to dispose of leaves and tree, yard and garden trimmings by open burning.

8. Clarify and relocate the conditions concerning availability of collection services pertaining to homeowners burning of household refuse and leaves and tree, yard and garden trimmings.

9. Add provision to prohibit the burning of commercial/industrial waste.

10. Add definitions for "junkyard" and "automobile graveyard" and delete the reference to the state code, in the definition of salvage operation, which defines those two terms.

11. Add definition for "hazardous waste" and "built-up area."

Purpose: The purpose of the proposed amendments is to change the agency's regulations concerning open burning to address the following problems: (i) the resources expended by the agency regulating open burning are disproportionately high compared to the problems caused by the resulting pollution, (ii) the inclusion of all of Roanoke County as an urban area results in unnecessarily restrictive requirements in some parts of the county which are rural in nature, (iii) the lack of specific conditions for use of special incineration devices is inconsistent with the policy for application of the regulations in AQCR VII, (iv) failure to include the burning of stakes and plastic by tomato growers as an agricultural practice is unduly restrictive and places an undue economic burden upon the growers, (v) the provision that allows burning to take place nearer to a building than the minimum specified distance if the occupants give their permission is unenforceable, and (vi) the clarity, simplicity and uniformity of certain provisions of the regulation need improvement.

Basis: The legal basis for the intended regulation amendments is The Virginia Air Pollution Control Law, Chapter 1.2 (§ 10-17.18(b) of Title 10 of the Code of Virginia.

Issues: The issues center around the need to modify the regulation such that individuals engaged in open burning practices are not unduly restricted by the regulations and the resources expended by the agency regulating open

## Calendar of Events

burning are more in proportion with the problems caused by the resulting pollution.

Statutory Authority: § 10-17.18(b) of the Code of Virginia.

Written comments may be submitted until January 14, 1987 to Director of Program Development, State Air Pollution Control Board, P.O. Box 10089, Richmond, Virginia 23240

Contact: M. E. Lester, Division of Program Development, State Air Pollution Control Board, P.O. Box 10089, Richmond, Va. 23240, telephone (804) 786-7564

### VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

November 18, 1986 - 9:30 a.m. - Open Meeting  
December 2, 1986 - 9:30 a.m. - Open Meeting  
December 16, 1986 - 9:30 a.m. - Open Meeting  
December 30, 1986 - 9:30 a.m. - Open Meeting  
2901 Hermitage Road, Richmond, Virginia. ☐

A meeting to review and discuss reports on activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Virginia Alcoholic Beverage Control Board, 2901 Hermitage Rd., Richmond, Va. 23220, telephone (804) 257-0617

### VIRGINIA STATE APPLE BOARD

† November 11, 1986 - 10 a.m. - Open Meeting  
1219 Stoneburner Street, Staunton, Virginia.

A monthly board meeting.

Contact: Clayton O. Griffin, P. O. Box 718, Staunton, Virginia 24401, telephone (703) 885-9046

### STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

November 14, 1986 - 9 a.m. - Open Meeting  
Department of Commerce, Travelers Building, 5th Floor, 3600 West Broad Street, Richmond, Virginia. ☐

The board will meet to: (i) approve minutes of September 12, 1986, meeting; (ii) review disciplinary cases; (iii) review correspondence; (iv) discuss regulatory review; and (v) discuss meeting schedule for next year.

Contact: Joan L. White, Assistant Director, APELSCLA,

Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8555.

### BOARD OF BARBER EXAMINERS

November 17, 1986 - 9 a.m. - Open Meeting  
Department of Commerce, Travelers Building, 5th Floor, 3600 West Broad Street, Richmond, Virginia. ☐

A regular business meeting to (i) hear budget report; (ii) review complaints; (iii) review applications; and (iv) review examination reports

Contact: Evelyn W. Brennan, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, Va. 23230, telephone (804) 257-850

### STATE BUILDING CODE TECHNICAL REVIEW BOARD

† November 21, 1986 - 10 a.m. - Open Meeting  
Fourth Street Office Building, 2nd Floor Conference Room, 205 North Fourth Street, Richmond, Virginia ☐ (Interpreter for deaf provided if requested)

A meeting to consider requests for interpretation of the Virginia Uniform Statewide Building Code; to consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code, and to approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4751

### VIRGINIA CATTLE INDUSTRY BOARD

November 18, 1986 - 10 a.m. - Open Meeting  
Holiday Inn South, Charlottesville, Virginia. ☐

The board meeting will include review of collections, implementations of National's \$1.00 checkoff, review of funded projects and proposals for new projects.

Contact: Reggie Reynolds, Secretary, P.O. Box 176 Daleville, Va. 24083-0176, telephone (703) 992-1992

### GOVERNOR'S ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

† December 5, 1986 - 10 a.m. - Open Meeting  
Blair Building, Conference Room A, Koger Executive Center, Richmond, Virginia. ☐

# Calendar of Events

---

A regularly scheduled quarterly meeting.

Contact: D. Ray Sirry, Division Director, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9308

## INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF CHILDREN'S RESIDENTIAL FACILITIES

### Coordinating Committee

† November 14, 1986 - 8 a.m. - Open Meeting  
Department of Corrections, Room 105, 4615 West Broad Street, Richmond, Virginia. ☒

A meeting to consider: (i) proposals for interim monitoring; (ii) report from liaison committee; and (iii) report on training of team members.

Contact: John J. Allen, Jr., Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 281-9025

## DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

### Outdoor Recreation Advisory Board

† December 3, 1986 - 9:30 a.m. - Open Meeting  
State Capitol, House Room 1, Richmond, Virginia. ☒

A quarterly business meeting to review statewide recreation and state park matters.

Contact: Art Buehler, Virginia Division of Parks and Recreation, Washington Bldg., Room 1201, Richmond, Va. 23219, telephone (804) 786-2446

### Virginia Soil and Water Conservation Board

December 10, 1986 - 9 a.m. - Open Meeting  
Roanoke Airport Marriott, 280 Hershberger Road, N.W., Roanoke, Virginia.

A regular bi-monthly business meeting.

Contact: Donald L. Wells, Suite 206, 203 Governor St., Richmond, Va. 23219, telephone (804) 786-2064.

## STATE BOARD OF CONTRACTORS

† December 3, 1986 - 10 a.m. - Open Meeting

† December 4, 1986 - 10 a.m. - Open Meeting  
Board of Supervisor's Meeting Room, 143 Third Street, NW, Pulaski, Virginia

The board will meet to conduct a formal administrative hearing: State Board for Contractors v. Tilley Construction Company, Inc., Dublin, Virginia.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

## BOARD OF CORRECTIONS

November 12, 1986 - 10 a.m. - Public Hearing  
Board of Corrections, Board Room, 4615 West Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Corrections intends to amend regulations entitled: **VR 230-40-003. Post Dispositional Confinement for Secure Detention and Court Service Units.** This proposed amendment establishes standards for confinement and treatment of juveniles in post dispositional care.

Statutory Authority: § 16.1-284.1 of the Code of Virginia.

Written comments may be submitted until September 30, 1986.

Contact: Glenn D. Radcliffe, Chief of Operations/Support Services, Division of Youth Services, 4615 W. Broad St., P.O. Box 26963, Richmond, Va. 23261, telephone (804) 257-0385

\* \* \* \* \*

November 18, 1986 - 7 p.m. - Public Hearing  
4615 West Broad Street, Richmond, Virginia.

November 20, 1986 - 7 p.m. - Public Hearing  
Holiday Inn, Fair Oaks Mall, 11787 Lee Jackson Highway, Fairfax, Virginia.

November 25, 1986 - 7 p.m. - Public Hearing  
Holiday Inn, Junction of US 11, I-81 and I-77, Wytheville, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Corrections intends to adopt regulations entitled: **Minimum Standards for Jails and Lockups.** These regulations establish minimum standards for the administration and operation of jails and lockups.

Statutory Authority: §§ 53.1-5, 53.1-68 and 53.1-131 of the Code of Virginia.

Written comments may be submitted until November 15, 1986.

# Calendar of Events

**Contact:** John T. Britton, Manager, Certification Unit, 5001 W. Broad St., Suite 300, Richmond, Va. 23230, telephone (804) 281-9240

\* \* \* \* \*

**December 17, 1986 - 10 a.m. - Open Meeting**  
**January 14, 1987 - 10 a.m. - Open Meeting**  
Department of Corrections, 4615 West Broad Street, Richmond, Virginia. ☐

A regular monthly meeting to consider such matters as may be presented.

**Contact:** Mrs. Vivian Toler, Secretary to the Board, 4615 W. Broad St., P.O. Box 26963, Richmond, Va. 23261, telephone (804) 257-6274

## VIRGINIA BOARD OF DENTISTRY

† **December 11, 1986 - 8 a.m. - Open Meeting**  
† **December 12, 1986 - 8 a.m. - Open Meeting**  
Koger Center, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to hold formal hearings and consider regular board business.

**Contact:** Nancy T. Feldman, Executive Director, Koger Center, 1601 Rolling Hills Dr., Richmond, Va. 23229 (804) 786-0311.

## STATE BOARD OF EDUCATION

**November 12, 1986 - 1:30 p.m. - Public Hearing**  
James Monroe Building, Large Conference Room, 18th Floor, 101 North 14th Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Education intends to amend regulations entitled: **VR 270-01-010. Regulations Governing Pupil Accounting Records.** The regulations direct local school division personnel in maintaining school attendance of pupils in the public school system.

Statutory Authority: §§ 22.1-16 and 22.1-20 and Chapter 14 of Title 22.1 of the Code of Virginia.

Written comments may be submitted until November 12, 1986.

**Contact:** Howell L. Gruver, Administrative Director, MIS, Virginia Department of Education, P.O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2099

\* \* \* \* \*

**December 11, 1986 - 9 a.m. - Open Meeting**  
**December 12, 1986 - 9 a.m. - Open Meeting**  
James Monroe Building, 1st Floor Conference Rooms C and D, 101 North 14th Street, Richmond, Virginia. ☐

A regularly scheduled meeting. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

**Contact:** Margaret N. Roberts, James Monroe Building, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2540

## GOVERNOR'S COMMISSION ON EFFICIENCY IN GOVERNMENT

**November 18, 1986 - 10 a.m. - Open Meeting**  
**December 17, 1986 - 10 a.m. - Public Hearing**  
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia. ☐

The Governor's Commission on Efficiency in Government has established its 1986 meeting schedule as follows:

11/18/86: Review results of work conducted in September and October; prepare recommendations.  
12/17/86: Public hearing on recommendations to Governor and 1987 General Assembly; finalize recommendations.

**Contact:** Alan Albert OR Leonard Hopkins, Office of the Governor, State Capitol, Richmond, Va. 23219, telephone (804) 786-2211

## STATE BOARD OF ELECTIONS

**November 24, 1986 - 10 a.m. - Open Meeting**  
General Assembly Building, Senate Room A, Capitol Square, Richmond, Virginia. ☐

Canvass of November 4, 1986, General and Special Elections.

**Contact:** M. Debra Mitterer, Ninth Street Office Bldg., Room 101, Richmond, Va. 23219, telephone (804) 786-6551

## VIRGINIA FARMERS' MARKET BOARD

† **November 20, 1986 - 9:30 a.m. - Open Meeting**  
State Capitol, House Room 4, Richmond, Virginia. ☐

A business meeting followed by a public hearing at 1 p.m. on Farmers' Market proposals throughout the state.

# Calendar of Events

---

**Contact:** R. Duke Burruss, Washington Bldg., Room 701, 1100 Bank Street, Richmond, Va. 23219, telephone (804) 786-3549

## DEPARTMENT OF FIRE PROGRAMS (BOARD OF)

**December 19, 1986 - 9:30 a.m. - Public Hearing**  
James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Fire Services Board intends to adopt regulations entitled **VR 310-01-2. Regulations Establishing Certification Standards for Fire Inspectors.** These regulations establish standards for qualifying fire inspectors to be permitted to issue summonses and serving arrest warrants as provided § 27-34.2 of the Code of Virginia.

Statutory Authority: § 9-155 of the Code of Virginia.

Written comments may be submitted until December 31, 1986. Proposed effective date is April 1, 1987.

**Contact:** Carl N. Cimino, Executive Director, James Monroe Bldg., 17th Floor, 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2681

## VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **November 18, 1986 - 9 a.m. - Open Meeting**  
† **November 19, 1986 - 9 a.m. - Open Meeting**  
Holiday Inn, Midtown, 3200 West Broad Street, Richmond, Virginia. ☒

A meeting for the purpose of (i) administering examinations; (ii) a general board meeting to include the possibility of discussing regulations; and (iii) holding informal conferences.

**Contact:** Mark L. Forberg, Executive Secretary, Koger Center, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 786-0076

## DEPARTMENT OF GENERAL SERVICES

### Art and Architectural Review Board

**December 5, 1986 - 10 a.m. - Open Meeting**  
Virginia Museum of Fine Arts, Main Conference Room, Boulevard and Grove Avenue, Richmond, Virginia. ☒

The board will advise the Director of the Department

of General Services and the Governor on architecture of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

**Contact:** Dorothy E. Ivankoe, Department of General Services, Ninth Street Office Bldg., Room 209, Richmond, Va. 23219, telephone (804) 786-3311

### State Insurance Advisory Board

**December 11, 1986 - 9:30 a.m. - Open Meeting**  
College of William and Mary, Room C, Campus Center, Williamsburg, Virginia. ☒

Quarterly meeting of the State Insurance Advisory Board.

**Contact:** Mr. Charles F. Scott, Director, Department of General Services, Division of Risk Management, Room 117, 105 E. Broad St., Richmond, Va. 23219, telephone (804) 225-4519

### Division of Consolidated Laboratory Services Advisory Board

† **January 9, 1987 - 9:30 a.m. - Open Meeting**  
James Monroe Building, Conference Room D, 1 North Fourteenth Street, Richmond, Virginia. ☒

A meeting to discuss issues, concerns, and programs that impact the Division of Consolidated Laboratory Services and its user agencies.

**Contact:** Dr. A. W. Tiedemann, Jr., Director, Division of Consolidated Laboratory Services, 1 North 14th St., Richmond, Va. 23219, telephone (804) 786-7905

### INTERAGENCY COORDINATING COUNCIL ON DELIVERY OF RELATED SERVICES TO HANDICAPPED CHILDREN

† **November 25, 1986 - 1:30 p.m. - Open Meeting**  
Commission for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ☒

A regular monthly meeting.

**Contact:** Dr. Michael M. Fehl, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3710

## DEPARTMENT OF HEALTH (BOARD OF)

**December 2, 1986 - 10 a.m. - Public Hearing**  
James Madison Building, Main Floor Conference Room,

## Calendar of Events

109 Governor Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **VR 355-12-01. Virginia Hearing Impairment Identification and Monitoring System.** The regulations establish procedures for implementation of a system to identify newborns at risk for hearing impairment and to monitor them until a determination of the status of their hearing is made.

Statutory Authority: § 32.1-64 of the Code of Virginia.

Written comments may be submitted until December 1, 1986.

**Contact:** Pat T. Dewey, Speech and Hearing Services Administrator, Department of Health, James Madison Bldg., 6th Floor, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-6281

\* \* \* \* \*

**December 2, 1986 - 11 a.m. – Public Hearing**  
James Madison Building, Main Floor Auditorium, 109 Governor Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **State Plan for the Provision of Crippled Children's Services.** These regulations describe the eligibility criteria, application process, financial process, treatment process, variance and appeal process, scope, and content of the crippled children's services.

Statutory Authority: §§ 32.1-12 and 32.1-77 of the Code of Virginia.

Written comments may be submitted until December 2, 1986.

**Contact:** Willard R. Ferguson, M.D., Director, Division of Handicapped Children, Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-3691

### VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**November 19, 1986 - 9:30 a.m. – Open Meeting**  
Virginia Center for Health Affairs, 4200 Innslake Drive, Glen Allen, Virginia. ☐

A monthly business meeting of the council for the purpose of addressing financial policy or technical matters which may have arisen since the last meeting.

\* \* \* \* \*

**December 17, 1986 - 11:30 a.m. – Public Hearing**  
Virginia Center for Health Affairs, 4200 Innslake Drive, Glen Allen, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. The Rules and Regulations of the Virginia Health Services Cost Review Council.** The changes in the rules and regulations are designed to permit the collection of fees in a more timely and appropriate manner.

Statutory Authority: § 9-164, paragraph 2 of the Code of Virginia.

Written comments may be submitted until December 17, 1986.

**Contact:** Dr. Ann Y. McGee, Director, Virginia Health Service Cost Review Council, 9th Floor, 805 E. Broad St., Richmond, Va. 23219, (804) 786-6371

### VIRGINIA STATEWIDE HEALTH COORDINATING COUNCIL

† **November 18, 1986 - 9 a.m. – Open Meeting**  
† **November 19, 1986 - 8:45 a.m. – Open Meeting**  
Jefferson Sheraton Hotel, Franklin and Adams Streets, Richmond, Virginia. ☐

Members of the Statewide Health Coordinating Council and Board of Health will hear presentations from legislators regarding their issues and any potential legislation for the 1987 General Assembly. A regular business meeting will be held on November 19.

**Contact:** Raymond O. Perry, Virginia Department of Health, Room 1010, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-6970

### DEPARTMENT OF HEALTH REGULATORY BOARDS

#### Task Force on Need to Redefine Professional Nursing

† **November 10, 1986 - 4 p.m. – Open Meeting**  
† **November 11, 1986 - 9 a.m. – Open Meeting**  
Hyatt Hotel, West Broad Street at I-64, Richmond, Virginia. ☐

A meeting to review progress on the study of the need to redefine the professional practice of nursing in Virginia. The Task Force will discuss plans for reporting the findings of the study to the General Assembly as requested by HJR 12 of the 1986 Legislative Session.

# Calendar of Events

---

**Contact:** Richard D. Morrison, Policy Analyst, Department of Health Regulatory Boards, Koger Center, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 786-0822

## DEPARTMENT OF HIGHWAYS AND TRANSPORTATION (STATE BOARD OF)

**November 17, 1986 - 10 a.m. — Public Hearing**  
State Capitol, House Room 4, Capitol Square, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of the Virginia that the Department of Highways and Transportation intends to amend regulations entitled: **Rules and Regulations for the Administration of Waysides and Rest Areas.** The proposed regulations will allow sale of items, including refreshments, in rest areas with permission of the Highway and Transportation Board.

Statutory Authority: § 33.1-218 of the Code of Virginia.

Written comments may be submitted until November 17, 1986.

**Contact:** John M. Wray, Jr., Chief Engineer, Department of Highways and Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2707

\* \* \* \* \*

**November 20, 1986 - 10 a.m. — Open Meeting**  
Department of Highways and Transportation Building, Board Room, 1401 East Broad Street, Richmond, Virginia.  
☒ (Interpreter for deaf provided if requested)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

**Contact:** Albert W. Coates, Jr., Director of Administration, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-9950

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† **November 17, 1986 - 1 p.m. — Open Meeting**  
205 North Fourth Street, 7th Floor Conference Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The board's regular formal business meeting to (i) review and approve the minutes from the prior meeting; (ii) provide an opportunity for public

comments; (iii) review the report of the director on the operation of the Department of Housing and Community Development since the last board meeting; (iv) hear reports of the committees of the board; and (v) consider other matters as they may deem necessary. The planned agenda of the meeting will be available at the above address one week prior to the date of the meeting.

**Contact:** Neal J. Barber, 205 N. Fourth St., Richmond, Va. 23219-1747, telephone (804) 786-1575

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **November 18, 1986 - 9 a.m. — Open Meeting**  
13 South 13th Street, Richmond, Virginia. ☒

A regular monthly meeting of the Board of Commissioners of the Virginia Housing Development Authority to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** Judson McKellar, Jr., General Counsel, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

## INNOVATIVE TECHNOLOGY AUTHORITY

**November 24, 1986 - 9:30 a.m. — Open Meeting**  
Old Dominion University, Webb Center, Newport News Hampton Room, Norfolk, Virginia.

A meeting to conduct business of the authority followed by a board meeting of the Authority for Innovative Technology.

**Contact:** Julia Stefanelli, Center for Innovative Technology, 13873 Park Center Rd., Suite 201, Herndon, Va. 22071, telephone (703) 689-3000

## STATE BOARD FOR THE CERTIFICATION OF LIBRARIANS

† **November 14, 1986 - 10 a.m. — Open Meeting**  
Department of Commerce, Travelers Building, 5th Floor, 3600 West Broad Street, Richmond, Virginia. ☒

An open board meeting to conduct (i) regulatory

## Calendar of Events

review; (ii) signing of certificates; (iii) discussion of revenue and expenditures; (iv) review of library certificate; and (v) proposed librarian application.

**Contact:** Geralde W. Morgan, Assistant Director, 3600 W. Broad St., 5th Floor, Richmond, Va. 23230-4917, telephone (804) 257-8508

### VIRGINIA STATE LIBRARY BOARD

**NOTE: CHANGE IN TIME**

**December 6, 1986 - 10 a.m. - Open Meeting**  
Norfolk Public Library, Martin Meeting Room, 301 East City Hall Avenue, Norfolk, Virginia. ☐

A regular meeting to discuss administrative matters.

#### Executive Committee

**NOTE: CORRECTION IN DATE**

**December 6, 1986 - 9:30 a.m. - Open Meeting**  
Norfolk Public Library, Martin Meeting Room, 301 East City Hall Avenue, Norfolk, Virginia. ☐

To discuss administrative affairs.

#### Automated Systems and Networking Committee

† **November 21, 1986 - 10 a.m. - Open Meeting**  
Virginia State Library, 3rd Floor, Conference Room B, 11th Street at Capitol Square, Richmond, Virginia. ☐

A meeting to discuss automated systems and networking committee matters.

#### Public Library Development Committee

† **November 19, 1986 - 10 a.m. - Open Meeting**  
Virginia State Library, 3rd Floor, Conference Room, 11th Street at Capitol Square, Richmond, Virginia. ☐

A meeting to discuss public library development committee matters.

**Contact:** Jean K. Reynolds, Virginia State Library, 11th St. at Capitol Square, Richmond, Va. 23219, telephone (804) 786-2332

### COMMISSION ON LOCAL GOVERNMENT

**November 10, 1986 - 2 p.m. - Open Meeting**  
Bath County General District Courtroom, Warm Springs, Virginia.

A regular bimonthly meeting to consider such matters as may be presented.

**Contact:** Barbara Bingham, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

### VIRGINIA LONG-TERM CARE COUNCIL

† **December 4, 1986 - 9:30 a.m. - Open Meeting**  
† **January 6, 1987 - 9:30 a.m. - Open Meeting** James Monroe Building, Conference Room C, 101 North 14th Street, Richmond, Virginia. ☐ (Interpreter for deaf provided if requested)

A meeting to discuss Virginia's long-term care service system and issues relating to the coordination and provision of services and programs. The council will continue to develop the Statewide Information Management System for human services.

**Contact:** Catherine Saunders, Long-Term Care Manager, Virginia Department for the Aging, 18th Floor, 101 N. 14th St., Richmond, Va. 23219-2797, telephone (804) 225-2271/225-2912

### BOARD OF MEDICAL ASSISTANCE SERVICES

**November 18, 1986 - 10 a.m. - Open Meeting**  
Department of Medical Assistance Services, Suite 1300, 600 East Broad Street, Richmond, Virginia. ☐

A meeting to: (i) discuss State Plan amendments on organ transplant coverage mandated by COBRA 1985; SIEVS language; update on contiguous property; (ii) Training/Medicaid Program; (iii) DMAS study updates on indigent care, State Plan Review, reimbursement; and (iv) other business pertinent to the board.

**Contact:** Jacqueline M. Fritz, Department of Medical Assistance Services, Suite 1300, 600 E. Broad St., Richmond, Va. 23219, telephone (804) 786-7933

### GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

**November 12, 1986 - 2 p.m. - Open Meeting**  
The Jefferson-Sheraton Hotel, Franklin and Adams Streets, Richmond, Virginia. ☐

A meeting to: (i) discuss State Plan amendment on organ transplant coverage mandated by COBRA 1985; (ii) status report on budget amendment proposals, State Plan Review and reimbursement study; and (iii) other business pertinent to the Governor's Advisory Board.



## Calendar of Events

---

**Contact:** Jacqueline Fritz, Department of Medical Assistance Services, Suite 1300, 600 E. Broad St., Richmond, Va. 23219, telephone (804) 786-7933

### VIRGINIA STATE BOARD OF MEDICINE

**November 20, 1986 - 8:15 a.m. - Open Meeting**  
**November 21, 1986 - 9:15 a.m. - Open Meeting**  
**November 22, 1986 - 9:15 a.m. - Open Meeting**  
**November 23, 1986 - 8:15 a.m. - Open Meeting**  
Sheraton Park South Hotel, 9901 Midlothian Turnpike, Richmond, Virginia.

The board will meet to review reports, interview licensees and make decisions on discipline matters before the board on Thursday, Friday, and Saturday mornings. The full board will meet in open session at 1:30 p.m. Saturday, and may meet on Sunday, to conduct general board business.

† **November 25, 1986 - 9:30 a.m. - Open Meeting**  
Koger Executive, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

The Virginia Board of Medicine will inquire into allegations that a practitioner may have violated laws and regulations governing the practice of medicine in Virginia.

### Credentials Committee

**November 20, 1986 - 8 p.m. - Open Meeting**  
Sheraton Park South Hotel, 9901 Midlothian Turnpike, Richmond, Virginia.

The committee will meet in open and executive session to conduct general business and review medical credentials of applicants applying for licensure in Virginia.

### Advisory Board on Physical Therapy

**November 21, 1986 - 1 p.m. - Open Meeting**  
**November 22, 1986 - 9 a.m. - Open Meeting**  
Sheraton Park South Hotel, 9901 Midlothian Turnpike, Richmond, Virginia

The board will meet to conduct general board business and respond to correspondence; and may reconvene on Saturday.

**Contact:** Eugenia K. Dorson, Executive Secretary, Koger Executive Center, 1601 Rolling Hills Dr., Richmond, Va. 23228, telephone (804) 786-0575

### STATE MENTAL HEALTH AND MENTAL RETARDATION BOARD

**November 19, 1986 - 10 a.m. - Open Meeting**  
Northern Virginia Training Center, Fairfax, Virginia. ☐

A regular monthly meeting. The agenda will be published on November 12 and may be obtained by calling Jane Helfrich.

**Contact:** Jane V. Helfrich, Board Secretary, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

### DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

#### State Human Rights Committee

**November 14, 1986 - 10 a.m. - Open Meeting**  
James Madison Building, 13th Floor Conference Room, 109 Governor Street, Richmond, Virginia. ☐

A regular meeting to discuss business relating to human rights issues. Agenda items are listed prior to meeting.

**Contact:** Elsie D. Little, A.C.S.W., P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3988

### MENTAL RETARDATION ADVISORY COUNCIL

† **November 14, 1986 - 10 a.m. - Open Meeting**  
Madison Building, Board Room, 1st Floor, 109 Governor Street, Richmond, Virginia. ☐

A quarterly meeting to advise the State Board of Mental Health and Mental Retardation of matters pertaining to mental retardation services across the state.

**Contact:** Stanley J. Butkus, Ph.D, Director, Mental Retardation Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-1746

### MIGRANT SEASONAL FARMWORKER BOARD

† **November 24, 1986 - 10 a.m. - Open Meeting**  
General Assembly Building, 4th Floor West Conference Room, Richmond, Virginia. ☐

The purpose of this meeting is orientation of the newly appointed board members, and the election of the new chairperson.

# Calendar of Events

**Contact:** Ms. Jeffress Hudson, Virginia Employment Commission, 703 E. Main St., Richmond, Va., telephone (804) 786-8706

## DEPARTMENT OF MINES, MINERALS AND ENERGY

**December 30, 1986 - 10 a.m. - Public Hearing**  
Department of Mines, Minerals and Energy, The Bookbindery Building Conference Room, 2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled: **VR 480-03-16. Minerals Other Than Coal Surface Mining Regulation.** These regulations establish the procedures and requirements pertaining to "Permits for Certain Mining Operators; Reclamation of Land" implemented pursuant to Chapter 16, Title 45 of the Code of Virginia.

Statutory Authority: § 45.1-180.3 of the Code of Virginia.

Written comments may be submitted until December 30, 1986.

**Contact:** William Roller, Compliance Manager, Division of Mined Land Reclamation, P.O. Box 4499, Lynchburg, Va. 24502, telephone (804) 239-0602

\* \* \* \* \*

**January 7, 1987 - 10 a.m. - Public Hearing**  
Division of Mined Land Reclamation Conference Room, 622 Powell Avenue, Big Stone Gap, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled: **VR 480-03-19. Coal Surface Mining Reclamation Regulations.** Proposed amendments to Virginia's program for surface coal mining operations to consider areas unsuitable for mining, and for reclaiming abandoned mines.

Statutory Authority: § 45.1-230 of the Code of Virginia.

Written comments may be submitted until January 7, 1986.

**Contact:** Conrad T. Spangler, Chief Engineer, Division of Mined Land Reclamation, P.O. Drawer U, Big Stone Gap, Va. 24219, telephone (703) 523-2925

## Division of Mined Land Reclamation

† **November 28, 1986 - 2 p.m. - Open Meeting**  
AML Conference Room, 622 Powell Avenue, Big Stone

Gap, Virginia. ☐

The purpose of this public meeting is to give interested persons an opportunity to be heard in regard to the FY1987 Virginia Abandoned Mine Land Construction Grant Application and Administrative Grant to be submitted to the Federal Office of Surface Mining.

**Contact:** Roger L. Williams, Abandoned Mine Land Manager, P.O. Drawer U, 622 Powell Ave., Big Stone Gap, Va. 24219, telephone (703) 523-2925

## VIRGINIA DEPARTMENT OF MOTOR VEHICLES

**November 18, 1986 - 10 a.m. - Public Hearing**  
Division of Motor Vehicles Branch Office, Tanglewood Mall, - Conference Room, 4206 Electric Road, Roanoke, Virginia

**November 19, 1986 - 10 a.m. - Public Hearing.**  
Department of Motor Vehicles, Agecroft Room, No. 131, 2300 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to adopt regulations entitled: **Regulations Governing Grants to be Made Pursuant to the Virginia Alcohol Fuel Production Incentive Program Fund.** These regulations provide for interpretations, registration, enforcement, and payment of grants under the Virginia Alcohol Fuel Production Incentive Program.

Statutory Authority: § 58.1-2127.7 of the Code of Virginia.

Written comments may be submitted until November 15, 1986. All persons who intend to comment at the public hearings are requested to give notice of this intent to the contact person by November 12, 1986.

**Contact:** B. H. Conner, Manager, Fuels Tax Division, Virginia Department of Motor Vehicles, P. O. Box 27422, Richmond, Va. 23261-7422, telephone (804) 257-8116

## VIRGINIA MUSEUM OF FINE ARTS

### Exhibitions Committee

**November 19, 1986 - 2 p.m. - Open Meeting**  
Virginia Museum of Fine Arts, Conference Room, Boulevard and Grove Avenue, Richmond, Virginia. ☐

Review of 1986-1987 Exhibitions.

# Calendar of Events

---

## Finance Committee

† November 20, 1986 - 10:30 a.m. - Open Meeting  
Virginia Museum of Fine Arts, Payne Room, Boulevard  
and Grove Avenue, Richmond, Virginia. ☐

A regular bi-monthly meeting to review budget.

## Full Board of Trustees

† November 20, 1986 - 11:30 a.m. - Open Meeting  
Virginia Museum of Fine Arts, Auditorium, Boulevard and  
Grove, Richmond, Virginia. ☐

A regularly scheduled bi-monthly meeting to review  
budget, staff and committee reports.

Contact: Emily C. Robertson, Secretary of the Museum,  
Virginia Museum of Fine Arts, Boulevard and Grove Ave.,  
Richmond, Va. 23221, telephone (804) 257-0553/SCATS  
327-0553

## STATE BOARD OF NURSING

November 17, 1986 - 9 a.m. - Open Meeting  
November 18, 1986 - 9 a.m. - Open Meeting  
November 19, 1986 - 9 a.m. - Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hill  
Drive, Richmond, Virginia. ☐

A regular meeting to: (i) consider matters related to  
nursing education programs; (ii) discipline of licensees;  
(iii) licensing by examination and endorsements; and  
(iv) other matters under jurisdiction of the board.

On November 17, 1986, the board will review  
comments on existing regulations and develop  
proposed regulations.

Contact: Corinne F. Dorsey, R.N., Executive Director, 517  
W. Grace St., Richmond, Va. 23220, telephone (804)  
786-0377

## OLD DOMINION UNIVERSITY

### Board of Visitors

December 11, 1986 - (Time to announced) - Open  
Meeting  
Old Dominion University, Webb University Center, Old  
Dominion University Campus, Norfolk, Virginia. ☐

A regular meeting to handle affairs of the University  
(Specific times included in agenda distributed two  
week prior to meeting).

Contact: Gordon A. McDougall, Office of the Board of  
Visitors, Old Dominion University, Norfolk, Va. 23508,  
telephone (804) 440-3072

## VIRGINIA BOARD OF OPTOMETRY

November 24, 1986 - 8:30 a.m. - Open Meeting  
Koger Center, Surry Building, 1601 Rolling Hill Drive,  
Richmond, Virginia. ☐

A general business meeting and preparation of state  
board examination.

Contact: Moria C. Lux, Executive Director, 517 W. Grace  
St., Richmond, Va. 23261, telephone (804) 786-0131

\* \* \* \* \*

† January 10, 1987 - Written comments may be submitted  
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of  
the Code of Virginia that the Virginia Board of Optometry  
intends to amend regulations entitled: **VR 510-01-1.  
Regulations of the Virginia Board of Optometry.** The  
proposed amendments provide standards for the practice  
of optometry in Virginia and state requirements for  
candidates for licensure of optometrists.

### STATEMENT

Basis: § 54-376 of the Code of Virginia authorizes the  
Board of Optometry to adopt regulations.

Purpose: The purpose of these regulations is to protect the  
public health and safety in the field of eye care by  
assuring the competence of the licensees. The regulations  
provide standards for the practice of optometry in  
Virginia, state the requirements for applicants for  
examination and licensure as optometrists, and govern the  
board in the performance of its duties.

Seeing is one of the basic senses essential for adequate  
human functioning; proper eye care and treatment are  
critical to maintaining the visual function, and accordingly  
are a concern of the public domain. Eye examinations  
must be made with care; diagnostic drugs, if used by the  
optometrists, must be used with care. The regulations  
protect public health and safety by providing minimum  
standards of competency and conduct for practicing  
optometrists. Disciplinary cases that come intermittently to  
the board demonstrate that a certain portion of  
practitioners would provide less than adequate care in the  
absence of state regulations. Without these regulations,  
there would be only the control over optometry that is  
provided by statute. The statutes do not furnish detailed  
standards of conduct for optometrists, ground for  
disciplinary action, and qualifications for licensure.  
Regulations are therefore essential for the protection of

## Calendar of Events

the public and the proper provision of optometric services in the Commonwealth.

The proposed regulations are a revision of existing regulations. They are the result of the extensive regulatory review the board undertook upon Governor Charles S. Robb's mandate. During the review process, the board identified regulations without a vital purpose, which were deleted. Also identified were regulations that were needed, but could be simplified through revision. The revisions primarily reduce the regulatory burden, but in a few cases, result in greater restrictions. Lastly, the board identified several aspects of optometry, previously unaddressed, that needed regulation. The impact of the regulations that increase the regulatory burden are analyzed below.

### Estimated Impact:

a. Regulated entities: Virginia's 950 licensed optometrists are affected by the proposed rules.

b. Projected costs to the regulated: The revised regulations increase costs for the licensees. Optometrists will have to pay higher licensure-related fees, (§ 1.3). Other regulations proposed related to documentation of an optometrist's name, (§ 1.3), to provision of information about educational courses, (§ 6.0), and to qualification for administration of diagnostic drugs, (§ 3.1 (H)), also may increase costs for optometrists.

### **1. Fee increases (§ 1.3):**

The board proposed fee changes in three categories (i) licensure fees; (ii) reinstatement fees; (iii) examination fees as follows:

A. The board proposed to increase annual licensure fees from \$75 to \$100.

B. The board proposes to increase examination fees from \$75 to \$100.

C. The board proposes to retitle fees charged for late renewal and for reinstatement of licenses. The proposed late renewal fee will increase from \$15 to \$30. A newly titled and codified reinstatement fee of \$200 is added for licensed optometrists who leave the state, allow their licenses to lapse, return to Virginia at some later date, and then seek reinstatement.

The licensure increase will impact the board's 950 licensees. However \$25 a year is not a substantial amount relative to the average annual earning of licensees. Most likely, this increase will be unnoticeably absorbed by the regulated community. If the increase is passed on to consumers, they occasionally may experience slightly higher prices for optometric services. A typical eye exam costs \$35. An optometrist could recover the costs of the \$25 fee increase by adding just one to two cents to each patient's bill.

The examination fee increases directly affects approximately 100 new applicants for licensure each year. The applicants typically are recently graduated students with educational debts. The increase may deter some from taking the examination in Virginia.

The late fee increase reflects the actual costs the Board of Optometry incurs in obtaining fees from late renewals. It poses no impact to the regulated community per se, as it is an avoidable costs, only incurred by the delinquent.

The reinstatement fee affects only the two to four people who seek reinstatement each year. It subjects the user to the costs of processing their application.

Higher licensure and examination fees are needed to fund the board's examination, enforcement and administrative programs. Without the fee increases, the board will take in \$157,500 during the 1986-88 biennium. With expected expenditures of \$290,000 during the biennium, a deficit of \$112,500 will occur.

The board's costs have increased as of a result of inflation, a greater volume of complaints requiring investigation, and because of the addition of a citizen member to the board.

The new reinstatement fee will facilitate the board's task of implementing its rules. It will simplify the reinstatement process so that application can be managed more efficiently.

When an optometrist applies for reinstatement, the board office must compile information about the person's licensure in other states, continuing competency, and eligibility to be licensed in Virginia. Then each board member must review this file. This fee will cover the administrative costs involved in such reinstatement requests. Under the current rules, a like fee is added to the licensure fee at the board's discretion. With the proposed rules, this figure will be standardized at \$200.

### **2. Optometrist documentation (§ 3.1 (I-L):**

Several proposed new rules require greater documentation of optometrists' names on signage, patient records, and invoices and receipts.

A. The board proposes to require that the names of all optometrists practicing at a given location be posted at the entrance of the office.

B. The board proposes that when an optometrist employs another optometrists to practice optometry, that:

(1) the names of all optometrists who practice at a given location be maintained on the premises of the office for five years.

(2) the name of the examining optometrist be noted on the patient record.

## Calendar of Events

---

(3) the name of the optometrist providing care be noted on the receipts and billing notices given to patients.

Many optometrists already post their name at the entrance of their office. Those that do not will incur the costs of the signage. Sign costs vary greatly, but may be held to a reasonable cost to meet the minimum requirement. Larger or more elaborate signage is at the discretion of the licensee.

Compliance with the three regulations that require the documentation of an optometrist's name on various records can be achieved simply through the purchase of a rubber stamp. Offices not in the habit of recording this information will need to initiate the practice. At most, this could lengthen the time between patients and reduce an establishment's income by approximately \$35, or the cost of one examination, a week.

The four proposed regulations that increase the documentation of an optometrist's name respond to the changing nature of optometry practices—firms are growing in size and the consumer sometimes can not recall whom they have seen after the examination. In situations when the patient urgently needs a copy of his or her prescription, or when they want to report an incidence of substandard care to the licensing board, confusion and delay result when the doctor's name can not be recalled. These regulations intend to prevent that problem.

### 3. Continuing education (§ 6.1(o))

The proposed regulations specify what information about a course must be provided for it to be considered for continuing education credit. The course title, content, length, and sponsoring organization must be submitted to the board with the name and qualifications of the lecturer, and the method of attendance certification.

This proposed regulation affects nonlicensed course providers, and only indirectly optometrists. Course providers must assure that adequate information is submitted to the board. This obligation will not result in increased costs to the providers—they already submit approval requests to the board. When a licensee's course has not been reviewed, an optometrist may incur the cost of a long distance phone call to the provider.

Adequate information about course content and providers is essential for the board to make sound and fair decisions regarding continuing education. In a rapidly developing field such as optometry, continuing education is important to practitioners.

### 4. Diagnostic drugs (§ 3.1(H))

The proposed rules contain a prohibition on the use of diagnostic drugs without board certification to use them.

This rule is a reiteration of a provision stated in the Code,

hence it will cause no new impact to optometrists. Optometrists wanting certification to use diagnostic drugs incur the cost of the examination, \$50. This service option is discretionary since only those optometrists who choose to qualify need to incur the expense. It is probable that all costs for qualification will be returned through patient fees from patients choosing to use the services of an optometrist using diagnostic drugs.

### 5. Projected cost to agency:

Implementing the new rules will not increase the board's operating costs. The regulatory changes proposed are minimal, and can be implemented under existing programs. The fee increases are necessary to implement existing, rather than proposed, rules.

### 6. Source of funds:

All of the board's funds come from licensure and examination fees.

### SPECIAL NOTICE

This statement addresses the estimated impact of substantive changes to existing regulations as required by the Administrative Process Act (Code of Virginia, § 9-6.14:9.B). Other proposed changes to regulations have been made by the board after careful consideration. These are reviewed in an Index to Existing and Proposed Regulations which is incorporated by reference for the purpose of this statement. All relevant documents are available to the public from the Executive Director, Moira C. Lux, Board of Optometry, 1601 Rolling Hills Drive, Richmond, 23229, telephone (804) 786-0131 (After 1/1/87, (804) 662-9910)

Statutory Authority: § 54-376 of the Code of Virginia.

Written comments may be submitted until January 10, 1986.

Other pertinent information: The proposed regulations were developed as a part of the comprehensive review of regulations initiated by Governor Charles S. Robb.

**Contact:** Moria C. Lux, Executive Director, Board of Optometry, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 786-0131 (After 1/1/87 (804) 662-9910) (Toll-free number 1-800-533-1560)

### ADVISORY COMMITTEE ON PHYSICIAN ASSISTANTS

**December 5, 1986 - 10 a.m. — Open Meeting**  
Koger Executive Center, Surry Building, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

The Advisory committee will meet to consider the proposal for chiropractic assistants and other items

## Calendar of Events

which may come before the committee.

**Contact:** Eugenia K. Dorson, Executive Secretary, 517 W. Grace St., P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0575

### BOARD OF COMMISSIONERS TO EXAMINE PILOTS

**December 10, 1986 - 10 a.m. - Open Meeting**  
Hasler and Company, 212 Tazewell Street, Norfolk, Virginia.

The board will meet to conduct routine business at its regular business meeting.

**Contact:** David E. Dick, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8515/257-8563 OR William L. Taylor, 3329 Shore Dr., Virginia Beach, Va. 23451, telephone (804) 496-0995

### PSYCHIATRIC ADVISORY BOARD

**November 20, 1986 - 8 a.m. - Open Meeting**  
**November 21, 1986 - 8 a.m. - Open Meeting**  
**November 22, 1986 - 8 a.m. - Open Meeting**  
Sheraton Park South, 9901 Midlothian Turnpike, Richmond, Virginia.

The Psychiatric Advisory Board will make recommendations to the full board concerning the mental or emotional conditions of persons before the board and shall meet in Executive Session for discussion of release of Psychiatric Advisory Board reports and consultation with the board in Executive Session.

**Contact:** Eugenia K. Dorson, Executive Secretary, 517 W. Grace St., P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0575

### VIRGINIA BOARD OF PSYCHOLOGY

**† November 20, 1986 - 9 a.m. - Open Meeting**  
Department of Health Regulatory Boards, Koger Center, Surry Building, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) conduct general board business; (ii) respond to correspondence; (iii) review applications; and (iv) regulatory review.

**Contact:** Phyllis Henderson, Executive Secretary, 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-3434

### VIRGINIA REAL ESTATE BOARD

**† November 18, 1986 - 9 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 5th Floor, 3600 West Broad Street, Richmond, Virginia. ☐

A regular business meeting. The agenda will consist of (i) investigative cases (files) to be considered, (ii) files to be reconsidered; (iii) matters relating to fair housing; (iv) property registration; and (v) licensing issues (e.g., reinstatement, eligibility requests).

**Contact:** Florence R. Brassier, Assistant Director, Real Estate, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230

### Education Coordinating Committee

**November 19, 1986 - 8:30 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 5th Floor Conference Room 1, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to consider (i) educational requirements for applicants for licensing; and (ii) updating of list of approved textbooks for approved courses for salespersons and brokers, etc.

**Contact:** Elinor Powell, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8526

\* \* \* \* \*

**† January 16, 1987 - 10:30 a.m. - Public Hearing**  
Department of Commerce, Travelers Building, Room 395, 3600 West Broad Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Real Estate Board intends to amend regulations entitled: **VR 585-01-1. Virginia Real Estate Board Licensing Regulations.** Regulate licensed real estate firms, brokers and salesperson; registered rental location agents; and proprietary schools

### STATEMENT

Pursuant to §§ 54-1.28 and 54-740 of the Code of Virginia and in accordance with Chapter 1.1:1 (Section 9-6.14:1 et seq.) of Title 9 of the Code of Virginia the Virginia Real Estate Board proposes to amend, add to, delete and reorganize its existing regulations governing licensed and registered real estate professionals.

The regulations require persons and firms acting as real estate brokers or salespersons to be licensed and rental location agents to be registered in accordance with standards and procedures set forth in the regulations. The regulations also set forth requirements for licensure and certification of schools which teach approved real estate

## Calendar of Events

---

courses. In addition, the regulations set standards of conduct for all of these licensees and registrants.

The regulations apply directly to approximately 10,701 brokers, 50,377 salespersons, 2,510 firms, 13 rental location agents and 18 proprietary schools.

The proposed revisions change some of the conditions for licensure, renewal, and registration; create some new record-keeping requirements for licensees; change some of the requirements for disclosure of information to the parties in a real estate transaction; extend the coverage of the regulations to include leasing transactions; and clarify and amend some of the grounds for disciplinary action by the board.

Statutory Authority: §§ 54-1.28 and 54-740 of the Code of Virginia.

Written comments may be submitted until January 10, 1987.

**Contact:** Florence R. Brassier, Assistant Director, Virginia Real Estate Board, Department of Commerce, 3600 W. Broad St., Richmond Va. 23230-4917, telephone (804) 257-8552 (toll-free number 1-800-552-3016)

\* \* \* \* \*

† **January 16, 1987 - 10:30 a.m. - Public Hearing**  
Department of Commerce, Travelers Building, 5th Floor, 3600 West Broad Street, Richmond, Virginia. 23230 ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Real Estate Board intends to amend regulations entitled: **VR 585-01-2. Condominium Regulations.** Rules and regulations governing the marketing and sale of condominiums in Virginia.

### STATEMENT

Pursuant to § 55-79-98 (a) of the Code of Virginia, the Virginia Real Estate Board proposes to amend its existing regulations governing the offer and sale of condominiums.

The regulations affect approximately 170 condominium projects developed each year. The projected cost to the regulated entities, condominium developments, is difficult to ascertain because additional cost will generally occur with respect to legal fees paid by the developer. Legal fees for preparation of the condominium registration application vary throughout the Commonwealth and vary with the size and complexity of the project documents. Certainly any increase in the cost of developing the condominiums will reflect in the ultimate purchase price paid by the consumer. No additional costs for the agency to implement these proposed amendments are anticipated. Many of the changes reflect current practice or statutory provision already enforced and administered by the Real Estate Board. Costs incurred for implementation of the changes

are derived from registration application fees currently set by statute, § 55-79.89 (d) of the Code of Virginia.

The Virginia Real Estate Board is charged with the duty and responsibility to administer the Condominium Act by § 55-79-86 of the Code of Virginia. Rule-making authority is established by § 55-79.98 (a) of the Code of Virginia.

Statutory Authority: § 55-79.98 (a) of the Code of Virginia.

Written comments may be submitted until January 10, 1987.

**Contact:** Lucia Anna Trigiani, Property Registration Administrator, Virginia Real Estate Board, Department of Commerce, 5th Floor, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8510 (toll free number 1-800-552-3016)

\* \* \* \* \*

† **January 16, 1987 - 10:30 a.m. - Public Hearing**  
Department of Commerce, Travelers Building, 5th Floor, 3600 West Broad Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Real Estate Board intends to amend regulations entitled: **VR 585-01-3. Time-Share Regulations.** Rules and regulations governing the marketing and sale of time-shares in Virginia. The board is amending these regulations because of statutory changes and for clarification.

### STATEMENT

Pursuant to § 55-396 A of the Code of Virginia the Virginia Real Estate Board proposed to amend its existing regulations governing the offer and sale of time-shares and the activities of time-share exchange companies.

The regulations affect approximately 10 time-share projects developed each year and six currently registered time-share exchange companies. The projected cost to the regulated entities, time-share developments and time-share exchange companies, is difficult to ascertain because additional cost will generally occur with respect to legal fees paid by the developer and the company. Legal fees for preparation of the registration applications vary throughout the Commonwealth and vary with the size and complexity of the project documents. Certainly any increase in the cost of developing the time-share project and in establishing a time-share exchange company will be reflected in the ultimate purchase price and fees paid by the consumer. Additional costs for the agency to implement these proposed regulation amendments are anticipated. Many of the changes reflect current practice or statutory provision already enforced and administered by the Real Estate Board. Nonetheless, the increased and new regulatory requirements will necessitate additional staff review. Costs incurred for implementation of the changes

# Calendar of Events

are derived from registration application fees currently set by statute, § 55-392.1 of the Code of Virginia and proposed to be set by regulation in the proposed amendments.

The Virginia Real Estate Board is charged with the duty and responsibility to administer the Condominium Act by § 55-79.86 of the Code of Virginia. Rule-making authority is established by § 55-79.98 (a) of the Code of Virginia.

Statutory Authority: § 55-396 A of the Code of Virginia.

Written comments may be submitted until January 10, 1987.

**Contact:** Lucia Anna Trigiani, Property Registration Administrator, Department of Commerce, 5th Floor, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8510 (toll-free number 1-800-552-3016)

## VIRGINIA BOARD OF REHABILITATIVE SERVICES

† **November 21, 1986 - 9:30 a.m. – Open Meeting**  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A regularly scheduled meeting to (i) conduct the business of the Department of Rehabilitative Services; (ii) review and consider proposed vocational and independent living regulations and their impact; and (iii) consider legislative matters for recommendation to the Governor and General Assembly.

## Evaluation and Analysis Committee

† **November 20, 1986 - 1 p.m. – Open Meeting**  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A meeting to discuss and evaluate (i) policies and procedures; (ii) proposed vocational and independent living regulations; the projected impact of regulations; and (iv) make recommendations to the board for appropriate action.

## Finance Committee

† **November 20, 1986 - 3 p.m. – Open Meeting**  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A meeting to (i) discuss budgetary matter; (ii) review grants and contracts entered into by the Department of Rehabilitative Services; and (iii) prepare quarterly financial report for presentation to the Board of Rehabilitative Services.

## Program Committee

† **November 20, 1986 - 10 a.m. – Open Meeting**  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A meeting to review, discuss and recommend policies and regulations governing vocational and independent living rehabilitation programs and services to the Board of Rehabilitative Services.

**Contact:** Jim Hunter, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 257-6446 (toll-free number 1-800-552-5019)

## STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

NOTE: CHANGE IN LOCATION

† **November 19, 1986 - 10 a.m. – Open Meeting**  
Board of Supervisor's Meeting Room, Welfare Building, Court Street, Luray, Virginia

A meeting to hear and render a decision on all Appeals of Denials of on-Site Sewage Disposal System Permits.

**Contact:** D. J. Alexander, James Madison Bldg., Room 502, Richmond, Va. 23219, telephone (804) 786-1750

## VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

**November 18, 1986 - 9 a.m. – Public Hearing**  
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia ☒

The authority will conduct a public hearing to consider Industrial Development Bond Applications received by the authority and for which public notice has appeared in the appropriate newspapers of general circulation. Prior to the public hearing, which starts at 10 a.m., the authority will conduct its regular business meeting.

**Contact:** Rose Neal, Virginia Small Business Financing Authority, 1000 Washington Bldg., Richmond, Va. 23219, telephone (804) 786-3791

## BOARD OF SOCIAL SERVICES

† **November 19, 1986 - (Time to be announced) – Open Meeting**  
† **November 20, 1986 - (Time to be announced) – Open Meeting**



# Calendar of Events

---

Dutch Inn, Route 220 North Business, Collinsville, Virginia.  
☐

A work session and formal business meeting.

**Contact:** Phyllis Sisk, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9236

## DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

**November 14, 1986** - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **VR 616-70-7. Posting of Security, Bond or Guarantee.** The proposed regulations set forth procedures for posting security, bond or guarantee to secure payment of overdue support.

Statutory Authority: § 63.1-250.4 of the Code of Virginia.

Written comments may be submitted until November 14 1986, to Jean M. White, Director of Child Support Enforcement, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. 23288

**Contact:** Jane L. Clements, Chief, Bureau of Program Operations, Division of Child Support Enforcement, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23288, telephone (804) 281-9074

\* \* \* \* \*

† **January 9, 1987** - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **VR 615-70-5. Health Care Coverage.**

## STATEMENT

**Subject:** This regulation is to accommodate federal regulations 45 CFR 302, 304, 305 and 306, procedures for medical support enforcement.

**Substance:** The federal medical support enforcement regulations were effective December 2, 1985, except for §§ 302.20(c) and 305.56 which were effective October 16, 1985. The proposed regulation has also been developed pursuant to the following sections of the Code of Virginia which were effective July 1, 1986: §§ 20-60.3, 63.1-250, 63.1-250.1, 63.1-250.2, 63.1-252.1 and 63.1-287

**Issues:** The federal medical support enforcement

regulations require the IV-D agency ( in Virginia the Division of Child Support Enforcement) to obtain basic medical support information and to provide this information to the State Medicaid agency (in Virginia the Department Medical Assistance Services). Also, if the custodial parent does not have satisfactory health insurance coverage, then the IV-D agency must petition the court or administrative authority to include medical support in new or modified support orders and inform the State Medicaid agency of any new or modified support orders that include a medical support obligation. Finally, the IV-D agency must take steps to enforce medical support which has been ordered by the court or administrative process under state law by assuring that coverage is acquired as ordered.

**Basis:** The proposed regulation has been developed pursuant to §§ 20-60.3, 63.1-250, 63.1-250.1, 63.1-250.2, 63.1-252.1 and 63.1-287 of the Code of Virginia and federal regulations 45 CFR 302, 304, 305 and 306.

**Purpose:** Providing for health care of children is an integral part of the general obligation that parents have to support their children. Assuming that children have medical care is essential to their general welfare.

Private insurance provided by parents to cover their children who are eligible for Medicaid reduces the public costs of support of a child and results in significant savings to state and federal governments. In addition, the agreement with the Department of Medical Assistance Services to identify additional medical insurance will help to offset Medicaid costs and should certainly accrue saving to the state government.

Statutory Authority: Code of Federal Regulations 45 CFR 302, 304, 305 and 306 and §§ 20-60.3, 63.1-250, 63.1-250.1, 63.1-250.2, 63.1-252.1 and 63.1-287 of the Code of Virginia.

**Contact:** Jane Clements, Bureau of Chief Program Operations, Division of Child Support Enforcement, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23228, telephone (804) 281-9074

## BOARD OF SOCIAL WORK

**November 14, 1986 - 9 a.m.** - Open Meeting  
Koger Center, Surry Building, 1601 Rolling Hill Drive, Richmond, Virginia.

A meeting to (i) conduct general board business; (ii) review applications; (iii) respond to correspondence; and (iv) to discuss regulations.

**Contact:** John W. Braymer, Ph.D., Executive Director, 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-7703

# Calendar of Events

## THE TREASURY BOARD

† **January 8, 1987 - 10 a.m.** – Public Hearing  
James Monroe Building, Conference Room B, 101 North  
14th Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that The Treasury Board intends to amend regulations entitled: **VR 640-02. The Virginia Security for Public Deposits Act Regulations.** These regulations make permanent and amend the emergency regulation that expires May 21, 1987.

### STATEMENT

**Basis:** This regulation is proposed under authority granted by § 2.1-364 of the Code of Virginia.

**Purpose:** This regulation is necessary because the current emergency regulation expires on May 17, 1987.

The amendments clarify the list of eligible securities so that public funds will be safely collateralized. The amendments also make the requirement of financial institutions for administering the collateralization more efficient and equitable.

**Impact:** Approximately 65 savings and loan associations and 200 banks are affected. The amendments should make administration of collateralization requirements more efficient and equitable for financial institutions. The amendments also provide for more adequate reporting and greater security of public funds to ensure the purpose of the Act are fulfilled.

**Summary:** This regulation amends and supersedes the emergency regulation effective May 21, 1986. The regulations set forth responsibilities and duties as required by the Virginia Security for Public Deposits Act with respect to the securing of public funds deposited in financial institutions. Collateralization and reporting requirements for financial institutions accepting public deposits are clarified in the proposed regulations.

Statutory Authority: § 2.1-364(a) of the Code of Virginia.

Written comments may be submitted until January 9, 1986.

**Contact:** Pat Watt, Director, Financial Policy Analysis, Department of Treasury, P.O. Box 6H, Richmond, Va. 23215, telephone (804) 225-2142

## STATE WATER CONTROL BOARD

**November 12, 1986 - 7 p.m.** – Public Hearing  
Henry County Administration Building, Board Meeting Room, Kings Mountain Road, Collinsville, Virginia.

A public hearing to receive comments on an application for a 401 Certification for Marrowbone Creek Water Treatment Plant located in Henry County. The application proposes modification of an existing dam on Marrowbone Creek near Martinsville, Virginia, to provide additional water supply for Henry County.

**November 17, 1986 - 7 p.m.** – Public Hearing  
Norfolk City Council Chambers, City Hall Building, 810 Union Street, Norfolk, Virginia 23510.

A public meeting to receive comments about the possible need for the City of Norfolk to mitigate the effects of the discharge to Broad Creek from the Moores Bridges Water Treatment Plant. The discharge has resulted in the buildup of solids in Broad Creek and a possible mitigation program would be a dredging operation.

**Contact:** Doneva A. Dalton, 2111 N. Hamilton St., P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6829

\* \* \* \* \*

**November 26, 1986 - 10 a.m.** – Public Hearing  
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia.

A public meeting to receive comments on the proposed repeal of regulations entitled: Regulation No. 3; Regulation No. 7 - Industrial Waste Survey; Regulation No. 10 - Trash and Pumpout Services for Vessels at Anchor; and Priority System for Construction Grant Recipients to Determine Whether a Supplemental State Grant Should be Provided to Help Relieve an Extraordinary Hardship in Local Funding.

**Contact:** Cindy M. Berndt, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6828

## THE COLLEGE OF WILLIAM AND MARY

### Board of Visitors

**December 4, 1986 - 5 p.m.** – Open Meeting  
**December 5, 1986 - 8 a.m.** – Open Meeting  
**December 6, 1986 - 8 a.m.** – Open Meeting  
The College of William and Mary, Campus Center, Jamestown Road, Williamsburg, Virginia. ☒

A regularly scheduled meeting to receive reports from several committees of the board and to act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College.

An informational release will be available four days prior to the board meeting for those individuals or

## Calendar of Events

---

organizations who request it.

**Contact:** Office of University Relations, James Blair Hall - Room 308, College of William and Mary, Williamsburg, Va. 23185, telephone (804) 253-4226

### VIRGINIA WINEGROWERS ADVISORY BOARD

**November 10, 1986 - 1 p.m.** - Open Meeting  
The Marriott Hotel, Blacksburg, Virginia.

The board will hear reports on projects proposed for funding and tour the VPI & SU enology and viticulture facilities.

**Contact:** Lou Ann Ladin, Secretary-Treasurer, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Va. 23209, telephone (804) 786-0481

### VIRGINIA COUNCIL ON THE STATUS OF WOMEN

**November 11, 1986 - 10 a.m.** - Open Meeting  
State Capitol, House Room 1, Capitol Square, Richmond, Virginia. ☒

A regular meeting of the council to conduct general business and to receive reports from the committees of the council.

**Contact:** Bonnie H. Robinson, Executive Director, Virginia Council on the Status of Women, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9200

## LEGISLATIVE

### HOUSE APPROPRIATIONS COMMITTEE

† **November 17, 1986 - 9:30 a.m.** - Open Meeting  
General Assembly Building, Committee Meeting Room, 9th Floor, Richmond, Virginia.

A regular monthly meeting of the full committee.

**Contact:** Donna C. Johnson, House Appropriations Committee, General Assembly Bldg., 9th Floor, Capitol Square, Richmond, Va. 23219, telephone (804) 786-1837

### HOUSE SUBCOMMITTEE STUDYING THE PURCHASE OF FOREIGN COAL BY ELECTRIC UTILITIES

† **November 10, 1986 - 1 p.m.** - Open Meeting  
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. ☒

The subcommittee will meet to hear from the railroad industry and other interested parties. (HR 21)

**Contact:** C. William Cramme, III, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 2nd Floor, Capitol Square, Richmond, Va. 23219, telephone (804) 786-3591

### JOINT SUBCOMMITTEE STUDYING THE COMMONWEALTH'S TIDAL SHORELINE EROSION POLICY

† **November 10, 1986 - 9:30 a.m.** - Open Meeting  
State Capitol, House Room 4, Richmond, Virginia. ☒

The subcommittee will meet to review the process for granting permits in wetlands and coastal primary sand dune areas and how this was applied in the case of Cedar Island. (HJR 46). A public hearing will follow at 1:30 p.m.

**Contact:** Martin Farber, Research Associate or Michael Ward, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 2nd Floor, Richmond, Va. 23219, telephone (804) 786-3591

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### November 10

- † Air Pollution Control Board, State Agricultural Council, Virginia
- † Foreign Coal by Electric Utilities, House Subcommittee  
Studying the Purchase of
- † Department of Health Regulatory Boards  
- Task Force on Need to Redefine Professional Nursing
- Local Government, Commission on Winegrowers Advisory Board, Virginia

#### November 11

- Agricultural Council, Virginia
- † Apple Board, Virginia State

## Calendar of Events

- † Department of Health Regulatory Boards  
- Task Force on Need to REdefine Professional Nursing  
Need to Redefine Professional Nursing  
Women, Virginia Council on the Status of
- November 12**  
Medicare and Medicaid, Governor's Advisory Board on
- November 14**  
Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of  
† Librarians, State Board for the Certification of  
† Children Residential Facilities, Interdepartmental Licensure and Certification of  
- Coordinating Committee  
Mental Health and Mental Retardation, Department of  
- State Human Rights Committee  
Mental Retardation Advisory Council  
Social Work, Board of
- November 17**  
† Appropriations Committee, House  
Barber Examiners, Board of  
† Housing and Community Development, Board of Nursing, Virginia State Board of
- November 18**  
Alcoholic Beverage Control Board, Virginia  
Cattle Industry Board, Virginia  
Efficiency in Government, Governor's Commission on  
† Funeral Directors and Embalmers, Virginia Board of  
† Health Coordinating Council, Virginia Statewide  
† Housing Development Authority, Virginia  
Medical Assistance Services, Board of  
Nursing, Virginia State Board of  
† Real Estate Board, Virginia
- November 19**  
† Funeral Directors and Embalmers, Virginia Board of  
† Health Coordinating Council, Virginia Statewide  
Health Services Cost Review Council, Virginia  
† Library Board, Virginia State  
- Public Library Development Committee  
† Mental Health and Mental Retardation Board, State Museum of Fine Arts, Virginia  
- Exhibitions Committee  
Nursing, Virginia State Board of  
† Sewage Handling and Disposal Appeals Review Board  
Real Estate Board, Virginia  
- Education Coordinating Committee  
Review Board, State  
† Social Services, Board of
- November 20**  
† Farmer's Market Board, Virginia  
Highways and Transportation, Department of  
Medicine, Virginia State Board of  
- Credentials Committee  
† Museum of Fine Arts, Virginia
- Finance Committee  
- Full Board of Trustees  
Psychiatric Advisory Board  
† Psychology, Virginia Board of  
† Rehabilitative Services, Board of  
- Evaluation and Analysis Committee  
- Finance Committee  
- Program Committee  
† Social Services, Board of
- November 21**  
† Building Code Technical Review Board, State Medicine, Virginia State Board of  
Physical Therapy, Advisory Board on  
Psychiatric Advisory Board  
† Library Board, Virginia State  
- Automated Systems and Networking Committee  
† Rehabilitative Services, Virginia Board of
- November 22**  
Medicine, Virginia State Board of  
Physical Therapy, Advisory Board on  
Psychiatric Advisory Board  
† Rehabilitative Services, Virginia Board of
- November 23**  
Medicine, Virginia State Board of
- November 24**  
Elections, State Board of  
† Migrant Seasonal Farmworkers Board  
Optometry, Virginia Board of
- November 25**  
† Handicapped Children, Interagency Coordinating Council on Delivery of Related Services to  
† Medicine, Virginia Board of
- November 28**  
† Mines, Minerals and Energy, Department of  
- Division of Mined Land Reclamation
- December 2**  
Alcoholic Beverage Control Board, Virginia  
† Mines, Minerals and Energy, Department of  
- Division of Mined Land Reclamation
- December 3**  
† Conservation and Historic Resources, Department of  
- Outdoor Recreation Advisory Board  
† Contractors, State Board of
- December 4**  
Aging, Department for the  
- Long-Term Care Ombudsman Program Advisory Council  
† Contractors, State Board of  
† Long Term-Care Council, Virginia  
William and Mary, The College of, Board of Visitors

# Calendar of Events

---

**December 5**

† Child Abuse and Neglect, Governor's Advisory Board on  
General Services, Department of  
- Art and Architectural Review Board  
Physician Assistants, Advisory Committee on  
William and Mary, The College of, Board of Visitors

**December 6**

Library Board, Virginia State  
- Executive Committee  
William and Mary, The College of, Board of Visitors

**December 10**

† Agriculture and Consumer Services, State Board of  
Conservation and Historic Resources, Department of  
- Virginia Soil and Water Conservation Board  
Pilots, Board of Commissioners to Examine

**December 11**

† Agriculture and Consumer Services, State Board of  
† Dentistry, Virginia Board of  
Education, State Board of  
General Services, Department of  
- State Insurance Advisory Board  
Old Dominion University, Board of Visitors

**December 12**

† Dentistry, Virginia Board of  
Education, State Board of

**December 16**

Alcoholic Beverage Control Board

**December 17**

Corrections, Board of

**December 30**

Alcoholic Beverage Control Board, Virginia

**January 6**

† Long Term-Care Council, Virginia

**January 9**

† General Services, Department of  
- Division of Consolidated Laboratory Services  
Advisory Board

**January 14**

Corrections, Board of

**January 20**

† Aging, Governor's Advisory Board on

**January 21**

† Aging, Governor's Advisory Board on

**November 12**

Corrections, Board of  
Education, Department of (Board of)  
Water Control Board, State

**November 17**

Highways and Transportation, Department of  
Water Control Board, State

**November 18**

Corrections, Department of (Board of)  
Motor Vehicles, Virginia Department of  
Small Business Financing Authority, Virginia

**November 19**

Motor Vehicles, Virginia Department of

**November 20**

Corrections, Department of (Board of)

**November 25**

Corrections, Department of (Board of)

**November 26**

Water Control Board, State

**December 2**

Health, Department of Health (Board of)

**December 17**

Efficiency in Government, Governor's Commission on  
Health Services Cost Review Council, Virginia

**December 19**

Fire Programs, Department of (Board of)

**December 30**

Mines, Minerals and Energy, Department of

**January 7**

Mines, Minerals and Energy, Department of

**January 8**

† Treasury Board

**January 14**

† State Air Pollution Control Board

**January 16**

† Virginia Real Estate Board

## PUBLIC HEARINGS

## Calendar of Events

---

## Calendar of Events

---