

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 55-79.95 of the Code of Virginia, relating to the Condominium Act; escrow of deposits; posting of surety.

[H 1850]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 55-79.95 of the Code of Virginia is amended and reenacted as follows:

§ 55-79.95. Escrow of deposits.

A. Any deposit made in regard to any disposition of a unit, including a nonbinding reservation agreement, shall be held in escrow until delivered at settlement. Such escrow funds shall be deposited in a separate account designated for this purpose which is federally insured and located in Virginia; except where such deposits are being held by a real estate broker or attorney licensed under the laws of this Commonwealth such funds may be placed in that broker's or attorney's regular escrow account and need not be placed in a separate designated account. Such escrow funds shall not be subject to attachment by the creditors of either the purchaser or the declarant.

B. In lieu of escrowing deposits as provided in subsection A, the declarant of a condominium consisting of more than 50 units may:

1. Obtain and maintain a corporate surety bond issued by a surety authorized to do business in the Commonwealth, in the form and amount set forth below, or

2. Obtain and maintain an irrevocable letter of credit issued by a financial institution whose accounts are insured by the FDIC, in the form and amount set forth below.

The surety bond or letter of credit shall be maintained until (i) the granting of a deed to the unit, (ii) the purchaser's default under a purchase contract for the unit entitling the declarant to retain the deposit, or (iii) the refund of the deposit to the purchaser, whichever occurs first.

C. The surety bond shall be payable to the Commonwealth for the use and benefit of every person protected under the provisions of this chapter. The declarant shall file the bond with the Real Estate Board. The surety bond may be either in the form of an individual bond for each deposit accepted by the declarant or, if the total amount of the deposits accepted by the declarant under this chapter exceeds \$10,000, it may be in the form of a blanket bond. If the bond is a blanket bond, the amount shall be as follows. If the amount of such deposits is:

1. \$75,000 or less, the blanket bond shall be \$75,000;

2. More than \$75,000 but less than \$200,000, the blanket bond shall be \$200,000;

3. \$200,000 or more but less than \$500,000, the blanket bond shall be \$500,000;

4. \$500,000 or more but less than \$1,000,000, the blanket bond shall be \$1,000,000; and

5. \$1,000,000 or more, the blanket bond shall be 100 percent of the amount of such deposits.

D. The letter of credit shall be payable to the Commonwealth for use and benefit of every person protected under this chapter. The declarant shall file the letter of credit with the Real Estate Board. The letter of credit may be either in the form of an individual letter of credit for each deposit accepted by the declarant or, if the total amount of the deposits accepted by the declarant under this chapter exceeds \$10,000, it may be in the form of a blanket letter of credit. If the letter of credit is a blanket letter of credit, the amount shall be as follows. If the amount of such deposits is:

1. \$75,000 or less, the blanket letter of credit shall be \$75,000;

2. More than \$75,000 but less than \$200,000, the blanket letter of credit shall be \$200,000;

3. \$200,000 or more but less than \$500,000, the blanket letter of credit shall be \$500,000;

4. \$500,000 or more but less than \$1,000,000, the blanket letter of credit shall be \$1,000,000; and

5. \$1,000,000 or more, the blanket letter of credit shall be 100 percent of the amount of such deposits.

For the purposes of determining the amount of any blanket letter of credit that a declarant maintains in any calendar year, the total amount of deposits considered held by the declarant shall be determined as of May 31 in each calendar year and the amount of the letter of credit shall be in accordance with the amount of deposits held as of May 31.

ENROLLED

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