

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 55-362, 55-369, 55-370, and 55-374 of the Code of Virginia, relating to the Real Estate Time-Share Act.

[H 2120]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-362, 55-369, 55-370, and 55-374 of the Code of Virginia are amended and reenacted as follows:

§ 55-362. Definitions.

When used in this chapter, or in a time-share instrument, unless the context requires a different meaning:

"Additional land" has the meaning ascribed to it in subsection C of § 55-367;

"Alternative purchase" means anything valued in excess of \$100 which is offered to a potential purchaser by the developer during the developer's sales presentation and which is purchased by such potential purchaser for more than \$100, even though the purchaser did not purchase a time-share. An alternative purchase is not a time-share. A membership camping contract as defined in § 59.1-313 is not an alternative purchase. An alternative purchase shall be registered with the Board unless it is otherwise registered as a travel service under the Virginia Travel Club Act (§ 59-445 et seq.), and shall include, without limitation, vacation packages (howsoever denominated) and exit programs (howsoever denominated);

"Association" means the association organized under the provisions of § 55-368;

"Board" means the Real Estate Board, an agency within the meaning of the Administrative Process Act (§ 9-6.14:1 et seq.);

"Board of directors" means an executive and administrative entity, by whatever name denominated, designated in a time-share estate project instrument as the governing body of the time-share estate owners' association;

"Common elements" means the real estate, improvements thereon, and the personalty situate within the time-share project ~~which~~ *that* are subject to the time-share program. "Common elements" shall not include the units and the time-shares.

"Contract," "sales contract," "purchase contract," "contract of purchase" or "contract to purchase" shall be interchangeable throughout this chapter and shall mean any legally binding instrument executed by the developer and a purchaser whereby the developer is obligated to sell and the purchaser is obligated to purchase either a time-share and its incidental benefits or an alternative purchase registered under this chapter;

"Conversion time-share project" means a real estate improvement which prior to the disposition of any time-share, was wholly or partially occupied by persons as their permanent residence or on a transient pay-as-you-go basis other than those who have contracted for the purchase of a time-share and those who occupy with the consent of such purchasers;

"Developer" means any person or group of persons acting in concert who (i) offers to dispose of a time-share or its or their interest in a time-share unit for which there has not been a previous disposition or (ii) applies for registration of the time-share program;

"Developer control period" has the meaning ascribed to it in § 55-369;

"Development right" means any right reserved by the developer to create additional units which may be dedicated to the time-share program;

"Dispose" or "disposition" means a transfer of a legal or equitable interest in a time-share, other than a transfer or release of security for a debt;

"Exchange agent" or "exchange company" means a person or persons who exchange or offer to exchange time-shares in an exchange program with other time-shares;

"Exchange program" means any opportunity or procedure for the assignment or exchange of time-shares among owners in ~~the same or~~ other time-share programs as evidenced by a past or present written agreement executed between an exchange company and the developer or the time-share estate association; however, an "exchange program" shall not ~~include~~ *be either an incidental benefit or an opportunity or procedure whereby a time-share owner can exchange his time-share for another time-share within either the same time-share or another time-share project owned in part by the developer;*

"Incidental benefit" means anything valued in excess of \$100 provided by the developer ~~which~~ *that*

57 is acquired by a purchaser upon acquisition of a time-share *and includes without limitation exchange*
 58 *rights, travel insurance, bonus weeks, upgrade entitlements, travel coupons, referral awards, and golf*
 59 *and tennis packages.* An incidental benefit is not a time-share *or an exchange program.* An incidental
 60 benefit shall *not* be registered with the Board ~~unless it is otherwise registered as a travel service under~~
 61 ~~the Virginia Travel Club Act (§ 59.1-445 et seq.) and includes without limitation internal exchange~~
 62 ~~rights, travel insurance, bonus weeks, upgrade entitlements, travel coupons, referral awards, and golf and~~
 63 ~~tennis packages and shall not be registered with the Board;~~

64 "Lien holder" means either a person who holds an interest in an encumbrance that is not released of
 65 record as to a purchaser or such person's successor in interest who acquires title to the time-share project
 66 at foreclosure or by deed in lieu of foreclosure, or other instrument however denominated;

67 "Managing agent" means a person who undertakes the duties, responsibilities, and obligations of the
 68 management of a time-share project;

69 "Managing entity" means the managing agent or, if there is no managing agent, the time-share
 70 owners' association in a time-share estate project and the developer in a time-share use project;

71 "Material change" means a change in any information or document disclosed in or attached to the
 72 public offering statement which renders inaccurate, incomplete or misleading any information or
 73 document in such a way as to affect substantially a purchaser's rights or obligations, but shall not
 74 include a change (i) in the real estate tax assessment or rate, utility charges or deposits, maintenance
 75 fees, association dues, assessments, special assessments or any recurring time-share expense item
 76 provided the change is made known (a) immediately to the prospective purchaser by a written addendum
 77 in the public offering statement and (b) to the Board by filing with the developer's annual report copies
 78 of the updated changes occurring over the immediately preceding twelve months; (ii) which is an aspect
 79 or result of the orderly development of the time-share project in accordance with the time-share
 80 instrument; (iii) resulting from new, updated, or amended information contained in the annual report
 81 prepared and distributed pursuant to § 55-370.1; (iv) correcting spelling, grammar, omissions or other
 82 similar errors not affecting the substance of the public offering statement; or (v) occurring in the
 83 issuance of an exchange company's updated annual report or disclosure document, provided upon its
 84 receipt by the developer, it shall be distributed in lieu of all others in order to satisfy § 55-374;

85 "Offering" or "offer" means any act to sell, solicit, induce, or advertise, which originates in this
 86 Commonwealth, whether by radio, television, telephone, newspaper, magazine, or mail, whereby a
 87 person is given an opportunity to acquire a time-share;

88 "Person" means one or more natural persons, corporations, partnerships, associations, trustees of a
 89 trust, limited liability companies, other entities, or any combination thereof capable of holding title to
 90 real property;

91 "Product" means each time-share and its incidental benefits and all alternative purchases which are
 92 registered with the Board pursuant to this chapter;

93 "Project" means the same as the term "time-share project";

94 "Project instrument" means any recorded documents, by whatever name denominated, which create
 95 the time-share project and program and which may contain restrictions or covenants regulating the use,
 96 occupancy, or disposition of time-shares in a project;

97 "Public offering statement" means the statement required by § 55-374;

98 "Purchaser" means any person other than a developer or lender who owns or acquires a product, or
 99 who otherwise enters into a contract for the purchase of a product;

100 "Sales person" means a person who sells or offers to sell time-share interests in a time-share
 101 program;

102 "Situs" means the place outside the Commonwealth where a developer's time-share project is located;

103 "Situs Time-Share Act" means the Act, howsoever denominated, that regulates the offering,
 104 disposition, and sale of time-shares applicable to the property outside the Commonwealth where the
 105 time-share project is located;

106 "Time-share estate" means a right to occupy a unit or any of several units during five or more
 107 separated time periods over a period of at least five years, including renewal options, coupled with a
 108 freehold estate or an estate for years in a time-share project or a specified portion thereof;

109 "Time-share estate occupancy expense" has the meaning ascribed to it in § 55-369;

110 "Time-share expense" means (i) expenditures, fees, charges, or liabilities incurred with respect to the
 111 operation, maintenance, administration or insuring of the time-shares, units, and common elements
 112 comprising the entire time-share project, whether or not incurred for the repair, renovation, upgrade,
 113 refurbishing or capital improvements; and (ii) any allocations of reserves;

114 "Time-share instrument" means any document, however denominated, which creates the time-share
 115 project and program, and which may contain restrictions or covenants regulating the use, occupancy, or
 116 disposition of time-shares in a project;

117 "Time-share" means either a time-share estate or a time-share use plus its incidental benefits;

"Time-share owner" or "owner" means a person who is an owner or co-owner of a time-share other than as security for an obligation;

"Time-share program" or "program" means any arrangement of time-shares in one or more time-share projects whereby the use, occupancy, or possession of real property has been made subject to either a time-share estate or time-share use in which such use, occupancy, or possession circulates among owners of the time-shares according to a fixed or floating time schedule on a periodic basis occurring over any period of time in excess of five years;

"Time-share project" means all of the real property subject to a time-share program created by the execution of a time-share instrument;

"Time-share use" means a right to occupy a time-share unit or any of several time-share units during five or more separated time periods over a period of at least five years, including renewal options, not coupled with a freehold estate or an estate for years in a time-share project or a specified portion thereof. "Time-share use" shall not mean a right to use which is subject to a first-come, first-served, space-available basis as might exist in a country club, motel, hotel, health spa, campground, or membership or resort facility;

"Time-share unit" or "unit" means the real property or real property improvement in a project which is divided into time-shares and designated for separate occupancy and use.

§ 55-369. Developer control in time-share estate program.

A. The time-share instrument for a time-share estate program shall provide for a period of time, to be called the "developer control period," during which the developer or a managing agent selected by the developer shall manage and control the time-share estate project and the common elements and units, or portions thereof, comprising it. All costs associated with the control, management, and operation of the time-share estate project during the developer control period shall belong to the developer, except for time-share estate occupancy expenses ~~which~~ *that shall, if required by the developer in the time-share instrument,* be allocated only to and paid by time-share estate owners other than the developer. "Time-share estate occupancy expenses" means all costs and expenses incurred in (i) *the formation, organization, operation and administration, including capital contributions thereto, of the association and both its board of directors and its members and* (ii) all owners' use and occupancy of the time-share estate project including without limitation its completed and occupied time-share estate units and common elements available for use. Such *costs and* expenses include but are not limited to maintenance and housekeeping charges; repairs; refurbishing costs; insurance premiums, including the premium for comprehensive general liability insurance required by subdivision 8 of § 55-368; taxes; properly allocated labor, operational, and overhead costs; *general and administrative expenses;* managing agent's fee; utility charges and deposits; ~~and~~ the cost of periodic repair and replacement of ~~wall walls~~ and window treatments and furnishings, including furniture and appliances; *filing fees and annual registration charges of the State Corporation Commission and the Board; counsel fees and accountant charges; and reserves for any of the foregoing.* Nothing shall preclude the developer, during the developer control period, from collecting a ~~periodic~~ *an annual or specially assessed* charge from each time-share estate owner for the payment of the time-share estate occupancy expenses *by way of a "maintenance fee";* however, any such funds received and not spent or any other funds received and allocated to the benefit of the association, shall be transferred to the association by the developer at the termination of the developer control period.

B. Fee simple title to the common elements, shall be transferred to the time-share estate owners' association, free of charge, no later than at such time as the developer either transfers to purchasers legal or equitable ownership of at least ninety percent of the time-share estates or completes all of the common elements and facilities comprising the time-share estate project, whichever occurs later. The developer may, but shall not be required to, make such transfer when the period has ended for a phase or portion of the time-share estate project. The transfer herein required of the developer shall not exonerate it from the responsibility of completion of the promised and incomplete common elements once the transfer occurs. Upon transfer of the time-share project or portion to the association, the developer control period for such project or portion thereof shall terminate.

§ 55-370. Time-share estate owners' association control liens; books and records; meetings.

A. ~~Upon the termination of the developer control period described in § 55-369,~~ The board of directors of the ~~time-share estate owners'~~ association shall have the authority to adopt regular annual assessments and to levy periodic special assessments against each of the time-share estate unit owners and to collect the same from such owners according to law, if the purpose in so doing is determined by the board of directors to be in the best interest of the project and the proceeds are used to pay time-share expenses. *In addition, the board of directors of the association shall have the authority to collect, on behalf of the developer or on its own account, the maintenance fee imposed by the developer pursuant to § 55-369.* The authority hereby granted and conferred upon the association shall exist notwithstanding any covenants and restrictions of record applicable to the project stated to the contrary

and any such covenants and restrictions are hereby declared void.

B. The ~~time-share estate owners'~~ association shall have a lien on every time-share estate within its project for unpaid *and past due* regular or special assessments levied against that estate in accordance with the provisions of this chapter *and for all unpaid and past due maintenance fees*.

The ~~time-share estate owners'~~ association, in order to perfect the lien given by this subsection, shall file, before the expiration of ~~one year~~ *four years* from the time such special or regular assessment *or maintenance fee* became due and payable, in the clerk's office of the county or city in which the project is situated, a memorandum verified by the oath of any officer of the association or its managing agent and containing the following information:

1. The name and location of the project;
2. The name and address of each owner of the time-share on which the lien exists and a description of the unit in which the time-share is situate;
3. The amount of unpaid *and past due* special or regular assessments ~~currently due or past due or unpaid and past due maintenance fees~~ applicable to the time-share, together with the date when each ~~fell~~ became due; ~~and~~

4. *The amount of any other charges owing occasioned by the failure of the owner to pay the assessments or maintenance fees, including late charges, interest, postage and handling, attorneys' fees, recording costs and release fees;*

5. *The name, address and telephone number of the association's trustee who will be called upon by the association to foreclose on the lien upon the owner's failure to pay as provided in this subsection; and*

6. The date of issuance of the memorandum.

Notwithstanding any other provision of this chapter, or any other provision of law requiring documents to be recorded in the deed books of the clerk's office of any court, from July 1, 1981, all memoranda of liens arising under this subsection shall be recorded in the deed books in such clerk's office. Any such memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for time-share estate regular or special assessments *or maintenance fees*.

It shall be the duty of the clerk in whose office such memorandum shall be filed as provided herein to record and index the same as provided in this subsection, in the names of the persons identified therein as well as in the name of the time-share estates owners' association. The cost of recording such memorandum shall be taxed against the ~~person found liable for any judgment or decree enforcing such lien~~ *owner of the time-share on which the lien is placed*. The filing with the clerk of one memorandum on which is listed ~~all of the two or more~~ delinquent time-share estate unit owners ~~shall be sufficient to create~~ *is permitted in order to perfect* the lien hereby allowed and the cost of filing in this event shall be the clerk's fee as prescribed in subdivision A. 2. of § 17.1-275.

The lien perfected under this subsection may be foreclosed upon by the association in the same manner as a deed of trust is foreclosed upon by a trustee, provided that the foreclosure occurs within ~~two~~ *five* years from the perfection and is conducted pursuant to §§ 55-59, 55-59.1 through 55-59.4, and 55-60.

When payment or satisfaction is made of a debt secured by the lien perfected by this subsection, such lien shall be released in accordance with the provisions of § 55-66.3. For the purposes of § 55-66.3, any officer of the time-share estate owners' association or its managing agent shall be deemed the duly authorized agent of the lien creditor.

C. *The commissioner of accounts to whom an account of sale is returned in connection with the foreclosure of either a lien under subsection B or a purchase money deed of trust taken back by the developer in the sale of a time-share in order to satisfy § 26-15 shall be entitled to a fee, not to exceed forty-five dollars, on each such sale.*

D. Any time-share owner within the project having executed a contract for the disposition of the time-share, shall be entitled, upon request, to a recordable statement setting forth the amount of unpaid regular or special assessments *or maintenance fees* currently levied against that time-share. Such request shall be in writing, directed to the president of the time-share estate owners' association, and delivered to the principal office of the association. Failure of the association to furnish or make available such statement within twenty days from the actual receipt of such written request shall extinguish the lien created by ~~this~~ subsection B as to the time-share involved. Payment of a fee ~~not exceeding twenty-five dollars~~ *reflecting the reasonable cost of materials and labor, not to exceed the actual cost thereof*, may be required as a prerequisite to the issuance of such a statement if ~~the bylaws of the time-share estate owners' association so provide~~.

E. Notwithstanding any provisions of the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) to the contrary:

1. The bylaws of the association may prescribe different quorum requirements for meetings of its members;

2. A director of the association may be removed from the office pursuant to any procedure provided in its articles of incorporation and, if none is provided, may be removed at a meeting called expressly for that purpose, with or without cause, by such vote as would suffice for his election;

3. Books and records of the association shall be made available to members except for use in matters not concerning the membership of the time-share association. The association's membership list and addresses shall not be used for purposes of commercial solicitation.

~~D.~~ *F.* Subject to the provisions of subdivision 3 of subsection ~~C~~ *D*, all books and records kept by or on behalf of the association shall be available for examination and copying by a member in good standing or his authorized agent. This right of examination shall exist without reference to the duration of membership and may be exercised only during reasonable business hours or at a mutually convenient time and location and upon five days' written notice.

Books and records kept by or on behalf of an association may be withheld from inspection to the extent that they concern:

1. Personnel records;
2. An individual's medical records;
3. Records relating to business transactions that are currently in negotiation;
4. Privileged communications with legal counsel;
5. Complaints against an individual member of the association;
6. Agreements containing confidentiality requirements;
7. Pending litigation;
8. Disclosure of information in violation of law; or
9. Meeting minutes or other records of an executive session of the board of directors held in accordance with subsection ~~E~~ *G*.

The association may impose and collect a charge, reflecting the actual costs of materials and labor, prior to providing copies of any books and records to a member in good standing under this section.

~~E.~~ *G.* Meetings of the board of directors shall be open to all members of record who are eligible to vote and who are in good standing. Minutes shall be recorded and shall be available as provided in subdivision 3 of subsection ~~C~~ *F*. The board of directors may convene in closed session to consider personnel matters; consult with legal counsel; discuss and consider contracts, potential or pending litigation and matters involving violations of the time-share instrument or rules and regulations adopted pursuant thereto for which a member, his family members, tenants, guests or other invitees are responsible; or discuss and consider the personal liability of members to the association upon the affirmative vote in open meeting to assemble in closed session. The motion shall state specifically the purpose for the closed session. Reference to the motion and the stated purpose for the closed session shall be included in the minutes. The board of directors shall restrict the consideration of matters during the closed portions of meetings only to those purposes specifically exempted and stated in the motion. No contract, motion or other action adopted, passed or agreed to in closed session shall become effective unless the board of directors, following the closed session, reconvenes in open meeting and takes a vote on such contract, motion or other action which shall have its substance reasonably identified in the open meeting. The requirements of this section shall not require the disclosure of information in violation of law.

~~F.~~ *H.* The developer may provide that it not be obligated to pay all or a portion of any assessment, dues, or other charges of the association, however denominated, passed or adopted, pursuant to subsection A ~~above~~, if such developer so provides, in bold type, in the time-share instrument for the time-share estate project. If no such provision exists, the developer shall be responsible to pay the same assessment, dues, or other charges that a time-share estate owner is obligated to pay for each of its unsold time-shares existing at the end of the fiscal year of the association and no more if the board of directors of the association so determines. In no event shall either a time-share expense or the dues, assessment, or charges of the association discriminate against the developer.

§ 55-374. Public offering statement.

A. The developer shall prepare and distribute to each prospective purchaser prior to the execution of a contract for the purchase of a time-share, a copy of the current public offering statement about which the time-share relates. The public offering statement shall fully and accurately disclose the characteristics of the time-share project registered under this chapter and such time-share offered, and shall make known to each prospective purchaser all material circumstances affecting such time-share project. A developer need not make joint disclosures concerning two or more time-share projects owned by the developer or any related entity unless such projects are included in the same time-share program and marketed jointly at any of the time-share projects. The proposed public offering statement shall be filed with the Board, and shall be in a form prescribed by its regulations. The public offering statement may limit the information provided for the specific time-share project to which the developer's registration relates. The public offering statement shall include the following only to the extent a given disclosure is

applicable; otherwise no reference shall be required of the developer or contained in the public offering statement:

1. The name and principal address of the developer and the time-share project registered with the Board about which the public offering statement relates, including:

a. The name, principal occupation and address of every director, partner, limited liability company manager, or trustee of the developer;

b. The name and address of each person owning or controlling an interest of twenty percent or more in each time-share project registered with the Board;

c. The particulars of any indictment, conviction, judgment, decree or order of any court or administrative agency against the developer or managing entity for violation of a federal, state, local or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements or any similar or related activity;

d. The nature of each unsatisfied judgment, if any, against the developer or the managing entity, the status of each pending suit involving the sale or management of real estate to which the developer, the managing entity, or any general partner, executive officer, director, limited liability company manager, or majority stockholder thereof, is a defending party, and the status of each pending suit, if any, of significance to any time-share project registered with the Board; and

e. The name and address of the developer's agent for service of any notice permitted by this chapter.

2. A general description of the time-share project registered with the Board and the units and common elements promised available to purchasers, including without limitation, the developer's estimated schedule of commencement and completion of all promised and incomplete units and common elements.

3. As to all time-shares offered by the developer:

a. The form of time-share ownership offered in the project registered with the Board;

b. The types, duration, and number of units and time-shares in the project registered with the Board;

c. Identification of units that are subject to the time-share program;

d. The estimated number of units that may become subject to the time-share program;

e. Provisions, if any, that have been made for public utilities in the time-share project including water, electricity, telephone, and sewerage facilities;

f. A *general* description of each incidental benefit and each alternative purchase ~~which is registered with the Board and~~ offered by the developer including *all the significant* rights the purchaser acquires, ~~all and the significant~~ obligations undertaken thereby, ~~and all other significant characteristics of such benefits;~~ and

g. A statement to the effect of whether or not the developer has reserved the right to add to or delete from the time-share program a time-share project or any incidental benefit or alternative purchase ~~that has been registered with the Board.~~

4. In a time-share estate program, a copy of the annual report or budget required by § 55-370.1, which copy may take the form of an exhibit to the public offering statement. In the case where multiple time-share projects are registered with the Board, the copy or exhibit may be in summary form.

5. In a time-share use program where the developer's net worth is less than \$250,000, a current audited balance sheet and where the developer's net worth exceeds such amount, a statement by such developer that its equity in the time-share program exceeds that amount.

6. Any initial or special fee due from the purchaser at settlement together with a description of the purpose and method of calculating the fee.

7. A description of any liens, defects, or encumbrances affecting the time-share project and in particular the time-share offered to the purchaser.

8. A general description of any financing offered by or available through the developer.

9. A statement that the purchaser has a nonwaivable right of cancellation, referring such purchaser to that portion of the contract in which such right may be found.

10. If the timeshare interest in a condominium unit may be conveyed before that unit is certified as substantially complete in accordance with § 55-79.58, a statement of the developer's obligation to complete the unit. Such statement shall include the approximate date by which the condominium unit shall be completed, together with the form and amount of the bond filed in accordance with subsection B of § 55-79.58:1.

11. Any restraints on alienation of any number or portion of any time-shares.

12. A description of the insurance coverage provided for the benefit of time-share owners.

13. The extent to which financial arrangements, if any, have been provided for completion of any incomplete but promised time-share unit or common element being then offered for sale, including a statement of the developer's obligation to complete the promised units and common elements comprising the time-share project which have not begun, or begun but not yet completed.

14. 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.

15. The name and address of the managing entity for the project.

16. Copies of the project instrument and the association's articles of incorporation and bylaws, each of which may be a supplement to the public offering statement.

17. Any services which the developer provides or expense it pays and which it expects may become at any subsequent time a time-share expense of the owners, and the projected time-share expense liability attributable to each of those services or expenses for each time-share.

18. A description of the terms of the deposit escrow requirements, including a statement that deposits may be removed from escrow at the termination of the cancellation period.

19. A description of the facilities, if any, provided by the developer to the association in a time-share estate project for the management of the project.

20. Any other information required by the Board to assure full and fair meaningful disclosure to prospective purchasers.

B. If any prospective purchaser is offered the opportunity to subscribe to or participate in any exchange program, the public offering statement shall include as an exhibit or supplement, the disclosure document prepared by the exchange company in accordance with § 55-374.2 and a brief narrative description of the exchange program which shall include the following:

1. A statement of whether membership or participation in the program is voluntary or mandatory;

2. The name and address of the exchange company together with the names of its top three officers and directors;

3. A statement of whether the exchange company or any of its top three officers, directors, or holders of a ten percent or greater interest in the exchange company has any interest in the developer, managing entity or the time-share project;

4. A statement that the purchaser's contract with the exchange company is a contract separate and distinct from the purchaser's contract with the developer; and

5. A brief narrative description of the procedure whereby exchanges are conducted.

C. The public offering statement of a conversion time-share project shall also include the following, which may take the form of an exhibit to the public offering statement:

1. A specific statement of the amount of any initial or special fee, if any, due from the purchaser of a time-share on or before settlement of the purchase contract and the basis of such fee occasioned by the fact that the project is a conversion time-share project;

2. Information on the actual expenditures, if available, made on all repairs, maintenance, operation, or upkeep of the building or buildings within the last three years. This information shall be set forth in a tabular manner within the proposed budget of the project. If such building or buildings have not been occupied for a period of three years then the information shall be set forth for the period during which such building or buildings were occupied;

3. A description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves occasioned by the fact that the project is a conversion time-share project, or, if no provision is made for such reserves, a statement to that effect; and

4. A statement of the present condition of all structural components and major utility installations in the building, which statement shall include the approximate dates of construction, installations, and major repairs as well as the expected useful life of each such item, together with the estimated cost, in current dollars, of replacing each such component.

D. In the case of a conversion project, the developer shall give at least ninety days' notice to each of the tenants of the building or buildings which the developer intends to submit to the provisions of this chapter. During the first sixty days of such ninety-day period, each of these tenants shall have the exclusive right to contract for the purchase of a time-share from the unit he occupies, but only if such unit is to be retained in the conversion project without substantial alteration in its physical layout. Such notice shall be hand delivered or sent by first-class mail, return receipt requested, and shall inform the tenants of the developer's intent to create a conversion project. Such notice may also constitute the notice to terminate the tenancy as provided for in § 55-222, except that, despite the provisions of § 55-222, a tenancy from month to month may only be terminated upon 120 days' notice as set forth herein when such termination is in regard to the creation of a conversion project. If, however, a tenant so notified remains in possession of the unit he occupies after the expiration of the 120-day period with the permission of the developer, in order to then terminate the tenancy, such developer shall give the tenant a further notice as provided in § 55-222.

The developer of a conversion project, shall, in addition to the requirements of § 55-391.1, include with the application for registration a copy of the notice required by this subsection and a certified statement that such notice which fully complies with the provisions of this subsection shall be, at the time of the registration of the conversion project, mailed or delivered to each of the tenants in the

423 building or buildings for which registration is sought.

424 E. The developer shall amend the public offering statement to reflect any material change in the
425 time-share program or time-share project. If the developer has reserved in the time-share instrument the
426 right to add to or delete incidental benefits or alternative purchases, the addition or deletion thereof shall
427 not constitute a material change. Prior to distribution, the developer shall file with the Board the public
428 offering statement amended to reflect any material change.

429 F. The Board may at any time require a developer to alter or supplement the form or substance of
430 the public offering statement to assure full and fair disclosure to prospective purchasers. A developer
431 may, in its discretion, prepare and distribute a public offering statement for each product offered or one
432 public offering statement for all products offered.

433 G. In the case of a time-share project located outside this Commonwealth, similar disclosure
434 statements required by other situs laws governing time-sharing may be acceptable alternative disclosure
435 statements.

436 H. The developer shall prepare and distribute to each prospective purchaser prior to the execution of
437 a purchase contract for a registered alternative purchase, a copy of the public offering statement about
438 which such alternative purchase relates. The public offering statement shall fully and accurately disclose
439 the characteristics of such alternative purchase. The public offering statement for an alternative purchase
440 shall be filed with the Board and shall be in a form prescribed by its regulations.

441 The public offering statement for an alternative purchase need not contain any information about the
442 time-share project, time-share program or the time-shares offered by the developer which was initially
443 offered to such purchaser by the developer. If the developer so elects, the public offering statement for
444 an alternative purchase is not required to have any exhibits.