

**THE CITY OF ALEXANDRIA  
COMMON INTEREST COMMUNITIES  
EDUCATION SERIES**



**RESALE DISCLOSURE**

**MAY 3, 2025**

**PRESENTED BY**

**LUCIA ANNA TRIGIANI, ATTORNEY AT LAW  
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# Program Overview



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**Failure to Provide Resale Certificate**



**2025 Legislative Update**



# **VIRGINIA RESALE DISCLOSURE ACT**



# Virginia Resale Disclosure Act

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- Effective July 1, 2023
- Consolidated resale disclosure provisions of Virginia statutes:
  - Condominium Act
  - Property Owners' Association Act
  - Real Estate Cooperative Act



# Virginia Resale Disclosure Act

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- Consolidates statutory requirements in a single statute.
- Mandated standard resale certificate form developed by the Common Interest Community Board.
- Contains defined terms frequently used in the context of resale disclosure.
- Payment upon written request – rather than paid out of settlement proceeds.



# Virginia Resale Disclosure Act

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- Clarifies disclosure requirements.
- Adds new disclosure requirements -
  - Parking and Vehicles
  - Home Business Operations
  - Rental Restrictions
  - Pending sale or encumbrance of common elements & common area
  - Insurance Deductible - **2025**



# Exemptions

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- *Initial* disposition by declarant or developer.
- Disposition by gift.
- Disposition by court order.
- Disposition by foreclosure or deed in lieu of foreclosure.



# Exemptions

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- Disposition by a sale at an auction if resale certificate is available prior to auction.
- Disposition of unit in a community with no residential property.





# Contract Disclosure

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- Property is located in a common interest community.
- Seller is required to obtain a resale certificate from association.
- Seller is required to provide resale certificate to purchaser.
- Purchaser has a right to cancel the contract.



# Contract Disclosure

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- Purchaser may request an updated resale certificate.
- Right to receive the resale certificate and to cancel the contract waived conclusively if not exercised before settlement.



# Contract Disclosure – Remedy

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If contract does not contain required disclosure, purchaser's sole remedy is to cancel contract.



# REQUEST & DELIVERY

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# Request

- Requests must be **in writing** from the seller or seller's agent.
- Request must specify -
  - Whether the resale certificate is to be delivered electronically or in hard copy.
  - Complete contact information for the parties to whom the resale certificate is to be delivered.



# Delivery

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- Resale certificates must be delivered within **14 days** after written request by a seller or seller's agent.
- Resale certificates must be delivered to seller **or** the person as seller directs.



# Format

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Resale certificates must be printed or in a generally accepted electronic format – **as the seller requests.**



# Format

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**Must follow Common Interest  
Community Board adopted form**

- Disclosure Statements
- Appendixes that track Disclosure Statements





# PREPARATION FEES



# Preparation Fees – *Generally*

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- The preparer (association, common interest community manager or third party provider) may charge **reasonable** fees.
- Maximum allowable fees established by Common Interest Community Board.
- Fees re-evaluated every 5 years – scheduled for review in 2028.



# Maximum Allowable Fees

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- Only one fee charged for preparation and delivery of resale certificates.
  - **\$211.96** for preparation and hard copy delivery (for no more than two copies) **OR**
  - **\$176.64** for preparation and electronic delivery.



# Maximum Allowable Fees

Inspection of the unit *if authorized in the declaration.*

**\$141.31**

Post-closing fee to update association ownership records (charged to purchaser).

**\$70.66**

Pre-settlement updates to the resale certificate.

**\$70.66**

Additional hard copy.

**\$35.33**



# Maximum Allowable Fees

Expedite inspection, preparation, and delivery of resale certificate (if completed within 5 business days of request) ***only if the preparer agrees to do so.***

**\$70.66**

Third-party commercial delivery service to hand-deliver or overnight resale certificate.

**Actual  
costs**

Additional inspection of the unit if authorized by the declaration.

**\$141.31**



# Fee Increases

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- The maximum allowable fees shall adjust every five years, as of January 1 of that year.
- Equal to the annual increases for the five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.



# CONTENTS



# Contents of Resale Certificate

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Information contained in the  
Resale Certificate shall be  
**current** as of the **date specified**  
on the Resale Certificate.





# Content Checklist

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- Name, address and phone numbers of the preparer of the resale certificate and association managing agent.
- **Executed and recorded copies** of the condominium instruments or governing documents and association rules and regulations.



# Content Checklist

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- Certification of annual report filing with the common interest community board, if applicable.
- Any pending sale or encumbrance of common elements or common area.
- Information on any leasehold estate affecting common elements or common areas.
- Any known project approvals in effect issued by secondary mortgage market agencies.



# Content Checklist

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- A statement disclosing any restraint on the alienability of the unit or lot.
- Pending Suits or Unpaid Judgments.
- Insurance Coverage.
- Notice of current or pending rule or architectural violations.
- Notice of current or pending environmental, health, or building codes violations.



# Content Checklist

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- ***Financials***

- Current association operating budget.
- Most recent balance sheet and income and expense statement, if any.

- ***Meeting Minutes***

- Approved board meeting minutes from the last six months.
- Approved or draft minutes from the most recent association meeting.



# Content Checklist

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## ***Assessments***

- Assessment amount and payment schedule.
- Assessments and other fees currently unpaid, due and payable by owner.
- Other entity or facility to which owner may be liable for assessments, fees or other charges.
- Amount and payment schedule of any *approved* additional assessment and any unpaid amount currently due and payable.



# Content Checklist

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## *Restrictions*

- Number or age of persons who may occupy a dwelling.
- Right to display the US flag.
- Solar energy collection devices.
- Signage.
- Parking and vehicles.
- Operation of a home-based businesses.
- Leasing and rentals.



# Content Checklist

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## ***Reserves & Capital Expenditures***

- *Approved* capital expenditures for the current and succeeding fiscal years.
- Current reserve study, or a summary of reserve study.
- Amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects.



# Content Checklist

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## ***Cooperative Associations Only***

Statement setting forth whether the cooperative association is aware of any statute, regulation, or rule applicable to the cooperative that would affect an owner's ability to deduct real estate taxes and interest paid by the cooperative association for federal income tax purposes.





# Updated Resale Certificate

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Seller or purchaser may request an updated resale certificate if a resale certificate was issued more than 3 but less than 12 months before settlement.



# Updated Resale Certificate

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- Delivered in format requested.
- Delivered within 10 days of written request.
- Must contain current information for all items that may have changed.



# Financial Update

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- May be requested by authorized settlement agent.
- Association must provide within 3 business days of request.



# CANCELLATION



# Cancellation

- ***Before the contract is ratified*** – Purchaser may cancel contract within **3 days** after contract ratification date, or up to **7 days** if extended in contract.
- ***After the contract is ratified*** - Purchaser may cancel contract within **3 days** of receiving resale certificate or being notified certificate is unavailable, or up to **7 days** if extended in contract.
- Right to receive certificate and to cancel contract ***waived conclusively*** at settlement.



# Cancellation

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- Whether or not resale certificate is complete.
- Without penalty.
- Deposit or escrowed funds must be returned promptly to purchaser.
- Cancellation and written notice in accordance with contract terms.
- Purchaser's burden to demonstrate delivery of notice of cancellation.



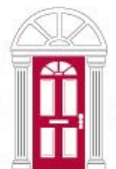
# **FAILURE TO PROVIDE RESALE CERTIFICATE**



# Failure to Provide Resale Certificate

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- Deemed a waiver of the right to pursue issues existing as of the date of the resale certificate or updated resale certificate:
  - Delinquent assessments
  - Violations of governing documents or rules and regulations
- **Does not** negate purchaser's obligation to abide by governing documents and rules and regulations.





# Failure to Provide Resale Certificate

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- Preparer of the resale certificate is liable to the seller in an amount equal to actual damages sustained by the seller in an amount not to exceed \$1,000.
- Common Interest Community Board may assess a monetary penalty for failure to deliver the resale certificate.



# **Failure to Provide Resale Certificate**

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Purchaser or purchaser's agent  
may cancel the contract at any  
time prior to settlement.



# Liability

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- Seller is ***not liable*** to purchaser for -
  - Erroneous information in resale certificate.
  - Failure or delay by association to provide resale certificate.
- Purchase is ***not liable*** for -
  - Unpaid assessments or fees greater than amount in resale certificate, updated resale certificate or financial update.



# Liability

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- Association is **bound** by information contained in resale certificate or updated resale certificate -
  - Current assessment amount
  - Violations of governing documents
- **Unless** purchaser had actual knowledge that resale contents were in error.



# 2025 LEGISLATION



# House Bill 1704 & Senate Bill 808

Delegate David L. Bulova & Senator Christie New Craig

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Requires new disclosure statement in resale certificate:

*Association documents may make an owner responsible for payment of all or part of the deductible when making a claim against any insurance provided by the association for the benefit of the owners or insurance coverage recommended or required to be obtained by the owners.*



# House Bill 2110

Delegate Marcus B. Simon

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Prohibits any association from requiring a purchaser's name *prior to* preparing the resale certificate or requiring such information to be set out on a completed resale certificate prepared pursuant to the provisions of the Resale Disclosure Act.



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