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## Proposed Regulation Agency Background Document

<b>Agency name</b>	62
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 62 -20
<b>Regulation title</b>	Fair Housing Board Certification Regulations
<b>Action title</b>	Promulgate new regulations
<b>Document preparation date</b>	July 30, 2004

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

This is a new regulation to implement Chapter 575 of the Acts of the 2003 General Assembly.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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Section 54.1-2344.D states “The Board shall have the power and duty to establish, by regulation, an education-based certification or registration program for persons subject to the Fair Housing Law who are involved in the business or activity of selling or renting dwellings. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this chapter.” These regulations are promulgated by the Fair Housing Board and are mandatory to implement Chapter 575 of the Acts of the 2003 General Assembly.

## Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

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The new regulation establishes the qualifications for obtaining and renewing fair housing certification as well as the qualifications for proprietary schools, instructors and courses which are required to obtain the certification. The new regulation is necessary to implement Chapter 575 of the Acts of the 2003 General Assembly, which was a result of Senate Bill 1102. The goal of the new regulation is to establish an education-based certification program in accordance with the provisions of Senate Bill 1102. People who obtain certification will be more aware of the Fair Housing laws and be less likely to engage in discriminatory behavior therefore providing protection of the public’s health, safety and welfare.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)*

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These regulations are necessary to implement Chapter 575 of the Acts of the 2003 General Assembly, which was a result of Senate Bill 1102, and to create the certification program therein mandated.

The regulations provide:

- 1) Definitions of terms to be used in the regulations;

- 2) Entry standards for those seeking certification by the Fair Housing Board;
- 3) Renewal standards for certificate holders;
- 4) Standards of conduct; and
- 5) Requirements for courses, instructors and providers.

Other regulations which may be necessary will be considered.

The application and renewal fees set in the initial emergency regulations were too high which resulted in no applications being submitted. SB 1102 contains an enactment clause which states the Real Estate Board shall provide funding for the Fair Housing Board until such time as the Fair Housing Board is funded through the implementation of the certification and registration requirements authorized by the provisions of this act. By setting the fee at \$25.00, the Fair Housing Board will be able to generate funds to help support itself.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

The primary advantage to the public and the agency is that the people who obtain certification through this program become more aware of the Fair Housing laws and will be less likely to engage in behavior which may result in a fair housing complaint.

The regulatory action poses no known disadvantages to the public or the Commonwealth.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going</b>	See below.
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<b>expenditures</b>	
<b>Projected cost of the regulation on localities</b>	None anticipated.
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	The new regulations apply to persons subject to the Fair Housing Law who are in the business of selling or renting dwellings as defined in the chapter.
<b>Agency's best estimate of the number of such entities that will be affected</b>	The Department expects to regulate approximately 5,000 individuals.
<b>Projected cost of the regulation for affected individuals, businesses, or other entities</b>	The registration fee will be \$25 per two-year period, for an annual cost of \$12.50 to the certificate holder.

**Summary:**

These are new regulations to establish an education based certification program for persons subject to the Fair Housing Law who are involved in the business or activity of selling or renting dwellings. These regulations are necessary to implement Chapter 575 of the Acts of Assembly of the 2003 General Assembly.

**Fiscal Impact:**

	FY 2004	FY 2005	FY2006	FY2007
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Subprogram	560 44	560 44	560 44	560 44

Impact of Regulatory Changes:				
One-Time Costs	0	0	0	0
Ongoing Costs	62,500	62,500	62,500	62,500
Total Fiscal Impact	62,500	62,500	62,500	62,500
FTE	0.00	0.00	0.00	0.00

**Description of Costs:**

One-Time: There are no one-time costs associated with the proposed regulations.

Ongoing: Direct costs associated with program operations, including postage, printing, board member travel and per diem, and training.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

This is the initial regulation promulgation activity. Chapter 575 of the Acts of the 2003 General Assembly and the current Code of Virginia mandate the creation of these regulations.

No alternatives have been identified to evaluate.

The Department of Professional and Occupational Regulation and the Fair Housing Board will carefully weigh all information coming into its possession as these regulations are being created with the objective of developing regulations which intrude as little as possible into the conduct of commerce by the regulated community and have the least adverse impact on the public.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

Commenter	Comment	Agency response

No comments were received.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

No impact on families in Virginia has been identified as resulting from the proposed regulations.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20		Person in the business of selling or renting dwellings means (ii) within the preceding 12 months, has participated as an agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein.	Remove this language from the definition because real estate agents are exempt from these requirements pursuant to § 54.1-2344.D.
40		Application fee of \$50.00	Reduce to \$25.00 because previous fee resulted in no applications being submitted.
90		Renewal fee of \$50.00	Reduce to \$25.00 because previous fee resulted in no applications being submitted.

Enter any other statement here