



Final Regulation Agency Background Document

Agency name	Board for Contractors
Virginia Administrative Code (VAC) citation	18 VAC 50-22
Regulation title	Board for Contractor Regulations
Action title	Contractor Regulations – Regulatory Reform
Date this document prepared	December 20, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The Board seeks to amend its current regulations to eliminate the requirement of the Qualified Individual to report past adverse financial history and to extend the reinstatement period from one to two years.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.

At its meeting of December 17, 2013, The Board for Contractors adopted as final these regulations that amend the Board for Contractors Regulations (18 VAC 50-22)

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Section 54.1-1102 of the Code of Virginia provides the authority for the Board to promulgate regulations for the licensure of contractors in the Commonwealth. The content of the regulations is pursuant to the Board's discretion, but shall not be in conflict with the purposes of the statutory authority.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The Board for Contractors, along with other regulatory boards, was tasked by the Governor to review its regulations to determine if any provisions could be identified as obsolete, unnecessary, or overly burdensome and subsequently eliminated. The Board identified two current provisions of the regulations that can be identified as a burden to its licensees with no measurable level of protection to the health, safety and welfare of the general public.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Section 18 VAC 50-22-40 of the regulations requires that the qualified individual, or individuals, of an applicant for a Class C license, submit information on any past-due debts, judgments, or defaults on bonds. The proposed amendments will remove this requirement.

Section 18 VAC 50-22-50 of the regulations requires that the qualified individual, or individuals, of an applicant for a Class B license, submit information on any past-due debts, judgments, or defaults on bonds. The proposed amendments will remove this requirement.

Section 18 VAC 50-22-60 of the regulations requires that the qualified individual, or individuals, of an applicant for a Class A license, submit information on any past-due debts, judgments, or defaults on bonds. The proposed amendments will remove this requirement.

Section 18 VAC 50-22-170 of the regulations currently prohibits the reinstatement of a license once more than one year has passed since the expiration date. The proposed amendments will extend the reinstatement period from one year to two years after expiration.

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 there are no disadvantages to the public or the Commonwealth, please indicate.*

1) The proposed amendments will remove the burden of compiling and providing documentation of a past adverse financial history for the Qualified Individual for all three classes of license. Currently, the Qualified Individual, who may only be an employee of a licensed contractor, has been held to the same reporting standard as the Responsible Managers (owner/officers) and the Designated Employee (the individual who completed the business examination), both of whom are referenced in § 54.1-1106 and § 54.1-1108 of the Code of Virginia. While a licensed contractor is required to have a Qualified Individual who has demonstrated a level of technical expertise, this position is not based on any financial criteria and the Board does not hold this individual accountable for any disciplinary action that relates to the financial status of the company. Often, the applicant must compile this data, which may take several days or weeks to obtain, and submit it to the Board for review, all of which can delay the awarding of a license to the business. The elimination of this requirement will result in an immediate reduction in the amount of time it takes for a company, with a Qualified Individual with an adverse financial history, to obtain its license. There is no reduction in the protection to the public as the individuals held accountable for the financial decisions made by the company (owner/officers) must still report past adverse financial events as before. This only affects the Qualified Individual.

The extension of the reinstatement period will allow those individuals who may have inadvertently allowed their license to expire for a year, bring their license into compliance, without the burden of having to complete the education and examination requirements of a new license.

2) The primary advantage to the Commonwealth is to allow businesses that must comply with the current regulations, to obtain their license faster, allowing them to go to work faster. The agency will benefit from less documentation having to be tracked and reviewed during the normal course of processing the application. Any decreases in the amount of time currently spent processing applications has a direct affect on the number of applications that may be processed, resulting in an overall decrease in the time it takes to process all applications.

3) There are no other pertinent matters of interest to the regulated community, government officials, and the public.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

There are no changes to the text of the proposed regulations since the publication of the proposed state.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

No public comment was received.

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
18 VAC 50-22-40 C		Requires that applicants for a Class C license provide documentation of any adverse financial history for the Qualified Individual.	<p>The proposed amendment would eliminate the requirement that any adverse financial history for the Qualified Individual be documented and reported.</p> <p>There are two individual components of a Class C license, the Responsible Management and the Qualified Individual. The members of Responsible Management (owners/officers) of the business are the individuals held accountable, by the Board for Contractors, for compliance with the regulations. Applications for initial licensure or modifications to existing licenses must be signed by a member of Responsible Management. They are required to take the pre-license education course and demonstrate that the company meets the financial requirements set forth in the statutes and regulations.</p> <p>The Qualified Individual is the person that has the technical skills in a particular licensing specialty or classification, which will be listed on the license. For example, a contractor business with the home improvement specialty must have a Qualified Individual who has the requisite years of experience for the class of the license and who has successfully completed the home improvement technical examination. There are no financial requirements placed on the Qualified Individual.</p>

<p>18 VAC 50-22-50 E</p>			<p>The compilation of historical data regarding an adverse financial history can often be time consuming and somewhat burdensome. An important burden for the individual who will be ultimately responsible for the fiscal dealings of the licensee and an even more important tool for the Board to determine an individual's potential risk to consumers if awarded a license. It is an unnecessary burden if the information will not be used by the Board to determine eligibility for licensure.</p> <p>Detailed data has not been kept by the Board identifying affected licensees, but anecdotal evidence suggests that a dozen or so applicants per month spend from three to ten days trying to compile this information before submitting an application. The vast majority of these applications for licensure would have been approved upon initial review. The amount of time the company could have been licensed is reduced by the amount of time it takes to compile the information.</p> <p>Had this amendment been in place, these businesses would have been licensed sooner and would have been able to perform work. It is even reasonable to deduce that some of these applicants may have lost potential contracts when they were unable to meet licensing deadlines due to this delay.</p> <p>The proposed amendment would eliminate the requirement that any adverse financial history for the Qualified Individual be documented and reported.</p> <p>There are three individual components of a Class B license, the Responsible Management, the Designated Employee, and the Qualified Individual. The members of Responsible Management (owners/officers) of the business are the individuals held accountable, by the Board for Contractors, for compliance with the regulations. Applications for initial licensure or modifications to existing licenses must be signed by a member of Responsible Management. They are required to take the pre-license education course and demonstrate that the company</p>
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		<p>meets the financial requirements set forth in the statutes and regulations.</p> <p>The Designated Employee is the individual chosen by the business to successfully complete the contractor business examination. Additionally, this individual is identified in § 54.1-1110 of the Code of Virginia, as being a party to the “substantial identity clause” of the licensing law, allowing the Board for Contractors, in the event that one license is revoked, to take disciplinary action against any other licenses the Designated Employee is affiliate with.</p> <p>The Qualified Individual is the person that has the technical skills in a particular licensing specialty or classification, which will be listed on the license. For example, a contractor business with the home improvement specialty must have a Qualified Individual who has the requisite years of experience for the class of the license and who has successfully completed the home improvement technical examination. There are no financial requirements placed on the Qualified Individual.</p> <p>The compilation of historical data regarding an adverse financial history can often be time consuming and somewhat burdensome. An important burden for the individual who will be ultimately responsible for the fiscal dealings of the licensee and an even more important tool for the Board to determine an individual’s potential risk to consumers if awarded a license. It is an unnecessary burden if the information will not be used by the Board to determine eligibility for licensure.</p> <p>Detailed data has not been kept by the Board identifying affected licensees, but anecdotal evidence suggests that a dozen or so applicants per month spend from three to ten days trying to compile this information before submitting an application. The vast majority of these applications for licensure would have been approved upon initial review. The amount of time the company could have been licensed is reduced by the amount of time it takes to compile the information.</p>
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<p>18 VAC 50-22-60 E</p>			<p>Had this amendment been in place, these businesses would have been licensed sooner and would have been able to perform work. It is even reasonable to deduce that some of these applicants may have lost potential contracts when they were unable to meet licensing deadlines due to this delay.</p> <p>The proposed amendment would eliminate the requirement that any adverse financial history for the Qualified Individual be documented and reported.</p> <p>There are three individual components of a Class A license, the Responsible Management, the Designated Employee, and the Qualified Individual. The members of Responsible Management (owners/officers) of the business are the individuals held accountable, by the Board for Contractors, for compliance with the regulations. Applications for initial licensure or modifications to existing licenses must be signed by a member of Responsible Management. They are required to take the pre-license education course and demonstrate that the company meets the financial requirements set forth in the statutes and regulations.</p> <p>The Designated Employee is the individual chosen by the business to successfully complete the contractor business examination. Additionally, this individual is identified in § 54.1-1110 of the Code of Virginia, as being a party to the “substantial identity clause” of the licensing law, allowing the Board for Contractors, in the event that one license is revoked, to take disciplinary action against any other licenses the Designated Employee is affiliate with.</p> <p>The Qualified Individual is the person that has the technical skills in a particular licensing specialty or classification, which will be listed on the license. For example, a contractor business with the home improvement specialty must have a Qualified Individual who has the requisite years of experience for the class of the license and who has successfully</p>
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<p>18 VAC 50-22- 170</p>			<p>completed the home improvement technical examination. There are no financial requirements placed on the Qualified Individual.</p> <p>The compilation of historical data regarding an adverse financial history can often be time consuming and somewhat burdensome. An important burden for the individual who will be ultimately responsible for the fiscal dealings of the licensee and an even more important tool for the Board to determine an individual's potential risk to consumers if awarded a license. It is an unnecessary burden if the information will not be used by the Board to determine eligibility for licensure.</p> <p>Detailed data has not been kept by the Board identifying affected licensees, but anecdotal evidence suggests that a dozen or so applicants per month spend from three to ten days trying to compile this information before submitting an application. The vast majority of these applications for licensure would have been approved upon initial review. The amount of time the company could have been licensed is reduced by the amount of time it takes to compile the information.</p> <p>Had this amendment been in place, these businesses would have been licensed sooner and would have been able to perform work. It is even reasonable to deduce that some of these applicants may have lost potential contracts when they were unable to meet licensing deadlines due to this delay.</p> <p>This proposed amendment will extend the reinstatement period for all contractors from one year to two years. The requirement for making the applicant apply for a new license and meet current requirements after reinstatement period ends, will remain the same. This change will give these individuals that let their license lapse an additional year to pay the reinstatement fee to bring their license into compliance. This will reduce the expense to those individuals that may be required to complete the exam and the time to wait for a new application to be reviewed.</p>
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