



## Final Regulation Agency Background Document

<b>Agency name</b>	Board for Contractors
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 50-22
<b>Regulation title</b>	Temporary Licenses
<b>Action title</b>	Board for Contractors Temporary License Provisions
<b>Date this document prepared</b>	April 30, 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 for Contractors seeks to amend its regulations to include "Temporary Licenses" among the types of licenses issued. The proposed amendments include the addition of a definition of Temporary Licenses, establishment of eligibility criteria for such a license, list the fees associated with such a license and identify other administrative requirements.

These proposed regulations would replace the emergency regulations that have been in effect since March 2, 2011.

### 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.*

The Board for Contractors adopted these temporary license provisions as a final regulatory action at its meeting of April 9, 2013.

**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.*

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Section 54.1-1102 of the Code of Virginia, states in part that the Board shall have the power and duty to promulgate regulations to carry out the requirements of Chapter 11 of Title 54.1. Section 54.1-201.1 authorizes regulatory boards within the Department of Professional and Occupational Regulation to issue temporary licenses and certificates to applicants that meet specified criteria.

**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.*

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The proposed amendments address temporary licensure for Contractor entities pursuant to Chapters 260 and 280 of the Acts of the 2010 General Assembly, which were the result of SB 474 and HB 792. The amendments state that the Board for Contractors will issue temporary licenses.

The amendments to the statutes introduce "Temporary License" to the regulatory authority of the Board for Contractors. These regulations will define entry requirements, list fees and the disciplinary authority of the Board for this license.

**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.*

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The Board seeks to amend its Regulations to include a definition and fee for "temporary licenses" and to bring "temporary license" holders under the Board's jurisdiction and disciplinary authority.

18 VAC 50-22-10 (General definitions): General definitions and definitions of classifications and specialties were amended to add “temporary licenses” among the definitions and list of licenses issued by the Board for Contractors.

18 VAC 50-22-65: Amending the regulations to include entry requirements for “temporary license” applicants. This amendment also indicates the length of time for which a “temporary license” is valid and that a “temporary license” is not eligible for renewal or reinstatement.

18 VAC 50-22-66: Amending the regulations to include the Board for Contractors’ disciplinary authority over “temporary license” holders. This amendment also makes working on an expired “temporary license,” who have not obtained an equivalent license, against the law.

18 VAC 50-22-100: Amending the regulations to include a “temporary license” fee of \$50.00.

## 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. In amending these regulations, the Board for Contractors is continuing to provide necessary public protection tasked to them through existing statutes. These proposed amendments will, without compromising that protection, respond to statutory changes. By qualifying for a temporary license, a business entity will be permitted to bid upon or actually commence construction projects within the Commonwealth while working to meet examination, education and other eligibility criteria. In order to meet the current criteria contractor business entities may spend up to a month to schedule and complete the pre-license education requirements, study for and successfully complete the exam, and submit all required documentation. The ability to start a project while working to meet these criteria allows the business entity to hire individuals and properly licensed sub-contractors to work. This allows those individuals and employees of the sub-contractor to start receiving compensation sooner, putting people to work sooner and, as a result, putting more money into the economy. This is a distinct advantage to the public.
2. The implementation of these regulations will have a positive impact on the Commonwealth in that it will allow individuals to work sooner than would normally be occurring as the contractor holding a temporary license could start while working to meet current eligibility requirements. By starting to work sooner, these individuals are receiving money sooner and, subsequently, spending money sooner thus contributing to the local economy.
3. No other pertinent matters of interested were identified by the Board.

**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 made to the regulations since the proposed stage.

**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.*

There were no public comments received for this regulatory action.

**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 and rationale
18VAC50-22-10		General Definitions	The general definitions section will now include the definition of a “temporary license” under Board for Contractors jurisdiction. The definition of “Temporary license” refers to Virginia Code §54.1-201.1 and refers to the requirements necessary to obtain a “temporary license” as well as how long the “temporary license” is valid and what the “temporary license” authorizes the license holder to do. “Temporary licenses” will make it faster for an out-of-state licensed contractor to obtain a Virginia contractor license rather than waiting to meet all eligibility requirements.
18VAC50-		Fees	The fees section will now include the fee

22-100			required for a “temporary license” application fee under the Board for Contractors. The fee to obtain a “temporary license” is \$50.00, in addition to the initial licensure fee.
	18VAC50-22-65	Temporary Licenses	The “temporary licenses” section outlines the requirements necessary to apply for and obtain a temporary license. These requirements include being currently licensed in another state, supplying verification of that license, paying a “temporary license” fee, paying the initial licensure fee, and submitted both a “temporary license application” simultaneously with a permanent license application. This section also lays out that “temporary licenses” cannot be reissued, renewed or reinstated. Additionally, this section indicates that any entity or person working on an expired “temporary license” and who has not obtain a comparable permanent license can be prosecuted under Virginia Code §54.1-111 (A).
	18 VAC50-22-66		This new section outlines the Board’s disciplinary authority over Temporary Licenses. This section makes “temporary license” holders subject to the disciplinary process of the Board as well as all Board laws and regulations.