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Final Regulation Agency Background Document

Agency name	Board for Contractors
Virginia Administrative Code (VAC) citation(s)	18 VAC 50-22
Regulation title(s)	Board for Contractors Regulations
Action title	Addition of Commercial Building Classification
Date this document prepared	May 22, 2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The Board seeks to review and amend the definitions of classifications and specialties. The proposed amendments are required in order to comply with the provisions of Chapter 116 of the Acts of the General Assembly, approved on March 6, 2013.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

There are no technical terms or acronyms in this document that are not defined in the Regulations.

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 taking the action; and 3) the title of the regulation.

The Board for Contractors adopted the amended definitions of classifications and specialties to include “Commercial Building Contractors” and “Residential Building Contractors” to the Board for Contractors Regulations on April 14, 2015.

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. Describe the specific reasons the regulation 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 seeks to amend the current regulations to include “Commercial Building Contractors” and “Residential Building Contractors.” The proposed amendments are required in order to comply with the provisions of Chapter 116 of the Acts of the General Assembly, approved on March 6, 2013.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.

18 VAC 50-22-20 of the Board for Contractors Regulations defines the scope of practice allowed for each classification. The proposed amendments would add the classification of commercial building contractors and outline the scope of practice this classification is permitted to perform. It would also amend the current definition of building contractor, changing it to residential building contractor, and would change the definition so that it would only reference residential work.

18 VAC 50-22-30 of the Board for Contractors Regulations defines the scope of practice allowed for each specialty. The proposed amendments would change the definition of any specialty that would require a reference to the new commercial building contractor classification.

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 complying with the provisions of legislation signed into law this year establishing the requirement for “Commercial Building Contractors” and “Residential Building Contractors.” The General Assembly determined a need for this level of regulation in order to protect the public. One advantage to these amendments is to ensure that work done on both residential property and commercial property is performed by companies who have demonstrated enough experience to reasonably assume competency in the specific area they are licensed in. Another advantage to these amendments is to the commercial building contractors. The new legislation excludes contractors holding the commercial building contractor classification from paying into the Transaction Recovery Fund.

One possible disadvantage to amending these regulations is a contractor that performs both residential and commercial building, will need to apply for a contractor license with both classifications. The qualified individual will need to complete an exam for each classification. Another potential disadvantage is a decrease of the balance of the Transaction Recovery Fund. This decrease is expected to be minimal. However, it should be noted that customers of commercial contractors have never eligible for reimbursement from the Fund; contractors only performing commercial construction work have been paying assessments into the Fund as there was not a separate commercial building breakout; subsequently, commercial building contractors have been paying into a Fund in that their customers have no access.

2) The primary advantage to the agency is that the revisions to the regulations will make it easier for investigations concerning the Transaction Recovery Fund. There are no disadvantages to the agency or the commonwealth.

3) There are no other pertinent matters of interest.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There will be no localities particularly affected by this proposed regulatory action.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

These amendments will have no impact on the institution of the family or family stability.

Changes made since the proposed stage

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. *Please put an asterisk next to any substantive changes.*

Section number	Requirement at proposed stage	What has changed	Rationale for change
18VAC50-22-20	Proposed regulations for “Commercial Building Contracting” did not allow contractors to construct, remove, repair, improve or demolish dwelling and townhouses.	The final regulations will allow these contractors to remove or demolish dwellings and townhouses as defined in the Uniform Statewide Building Code.	The Board determined that these contractors have the necessary experience and knowledge necessary to remove or demolish these structures.
18VAC50-22-20	The definition of “Plumbing Contracting” allowed these contractors to perform work on limited area sprinklers as defined in the Uniform Statewide Building Code.	The final regulations amend this definition to remove limited area sprinklers from the definition and specifies that these contractors may work on sprinklers that are tied into the domestic water supply.	Limited area sprinklers are no longer defined in the Virginia Uniform Statewide Building Code.
18VAC50-22-20	The definition of “Residential Building Contractors” allowed these contractors to	The final regulations remove the exception of dwelling units within commercial buildings. This will allow these contractors to perform	Public comment received expressed concern that the proposed language may limit these

	perform work on dwellings and townhouses with the exception of dwelling units within commercial buildings.	work on all dwellings and townhouses as defined in the Uniform Statewide Building Code.	contractors from doing minor work within multi-family building. The Board agreed that they did not want to limit these contractors from that type of work and amended the language.
18VAC50-22-30	The definition of “Commercial Improvement Contracting” allowed these contractors to repair or improve nonresidential property and multifamily property as defined in the Virginia Uniform Statewide Building Code.	The final regulations changes the language to allow these contractors to repair or improve structures not defined as dwellings and townhouses in the Uniform Statewide Building Code.	This change is to make the language clearer and more specific that these contractors are not to work on dwellings and townhouses. This clarification was based on the public comment received.
18VAC50-22-30	The definition of “Home Improvement Contracting” allowed these contractors to repair or improve one-family and two-family residential buildings and dwellings within commercial buildings.	The final regulations changes the language to say that these contractors may repair and improve dwellings and townhouses an structures annexed to those dwellings or townhouses as defined in the Uniform Statewide Building Code.	This change is to make the language clearer and more specific about what type of structures these contractors can work on. This clarification was based on the public comment received.

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. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

Commenter	Comment	Agency response
Virginia Building Code Officials Association (VBCOA), Region VIII	The commenter commends the Board and DPOR staff on moving forward with this regulatory amendment. Their concern is with the proposed language that allows “Residential Building Contractors” and “Home Improvement Contractors” to perform an unlimited scope of work within existing multi-family buildings. These types of buildings involve construction and components which are not typical of small-scale residences. Allowing contractors that have not demonstrated the technical knowledge or experience related to these types of structures in contrary	Thank you for submitting your public comment for the final regulations to add an additional license classification of commercial building to the Board for Contractors Regulations. The Board voted at the last meeting, held on April 14, 2015, to adopt final regulations as submitted with several amendments. These amendments will clarify that “Residential Building Contractors” and “Home Improvement Contractors” may only work on dwellings and townhouses as defined in the Uniform Statewide Building Code. The Board did review your comment and did make these amendments as a result of your comment.

	to the overall intent or the statutory requirement.	
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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. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
18 VAC 50-22-20		Definitions of license classifications	The proposed change includes removing the definition of “Building Contractors” and adding the definitions of “Commercial Building Contractors” and “Residential Building Contractors.” An amendment to the “Plumbing Contractor” definition was done in order to conform with the provisions of the Virginia Uniform Statewide Building Code.
18 VAC 50-22-30		Definitions of specialty services	The proposed amendments change the definition of any specialty that would require a reference to the new commercial building contractor and residential building contractor classifications. Specialties that need to be changed are: “Accessibility Services Contracting”, “Accessibility Services Contracting – LULA”, “Billboard/Sign Contracting”, “Commercial Improvement Contracting”, “Concrete Contracting”, “Equipment/Machinery Contracting”, “Farm Improvement Contracting”, “Fire Alarm Systems Contracting”, “Home Improvement Contracting”, “Industrialized Building Contracting”, “Landscape Service Contracting”, “Marine Facility Contracting”, “Masonry Contracting”, “Natural Gas Fitting Provider Contracting”, “Painting and Wallcovering Contracting”, “Radon Mitigation Contracting”, “Recreational Facility Contracting”, “Roofing Contracting”, “Sewage Disposal Systems Contracting”, and “Swimming Pool Construction Contracting.”