



Virginia
Regulatory
Town Hall

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Fast Track Proposed Regulation Agency Background Document

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) citation	18 VAC 48-60
Regulation title	Common Interest Community Management Information Fund Regulations
Action title	Standardization of Renewal Date for Association Registrations
Date this document prepared	December 15, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The regulation will be amended to standardize the renewal date of association registrations as one year from the date of issuance or renewal. Currently the regulation states that the renewal date will be immediately after the annual meeting date. This has been problematic because annual meeting dates change often, which means that associations may have to file more than one annual report per year and pay more than one renewal fee per year. This has become especially burdensome with the increase in renewal fees and the addition of fees as a result of the implementation of Chapters 851 and 871 of the Acts of the 2008 General Assembly, which were the result of HB 516 and SB 301, respectively. This action, in part, established an additional assessment that must be paid by each association with their annual report filing, and established a recovery fund fee that must be paid with the first annual report filing after the implementation of the new law. Finally, the regulations include the requirement that the annual assessment be submitted with the annual report filing in accordance with §§ 55-79.93.1(C), 55-516.1(C), and 55-504.1(C). These sections were changed as a result of the implementation of Chapters 851 and 871 of the Acts of the 2008 General Assembly, which were the result of HB 516 and SB 301, respectively.

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.

On December 2nd, 2008, the Common Interest Community Board voted to proceed with amending the Common Interest Community Management Information Fund Regulation through the fast-track process.

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 General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Section 54.1-2349 states in part that the Board shall have the power and duty to promulgate regulations to carry out the requirements of Chapter 23.3 of Title 54.1 of the Code of Virginia. In addition, § 55-530(I) states in part that the Board may prescribe regulations to accomplish the purposes of Chapter 29 of Title 55 of the Code of Virginia. § 54.1-201(E) states in part that regulatory boards shall promulgate regulations in accordance with the Administrative Process Act necessary to assure continued competence, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulation is discretionary but necessary to standardize the process whereby association file annual reports and registrations are renewed.

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 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 regulation will be amended to standardize the renewal date of association registrations as one year from the date of issuance or renewal. Currently the regulation states that the renewal date will be immediately after the annual meeting date. This has been problematic because annual meeting dates change often, which means that associations may have to file more than one annual report per year and pay more than one renewal fee per year. This has become especially burdensome with the increase in renewal fees and the addition of fees as a result of the implementation of Chapters 851 and 871 of the Acts of the 2008 General Assembly, which where the result of HB 516 and SB 301, respectively. This action, in part, established an additional assessment that must be paid by each association with their annual report filing, and established a recovery fund fee that must be paid with the first annual report filing after the implementation of the new law. By making this change to the regulation, it will establish consistency in renewal for associations because they will be required to renew at the same time every year; it will ensure that the Board is notified of changes in governing boards, addresses, or other changes that are typically only reported on annual report forms, regardless of whether or not the changes occur in conjunction with an annual meeting; and will protect associations and members of the associations by

eliminating the possibility of being required to file more than one annual report, thus paying multiple filing fees per annum.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Currently, associations may have to file more than one annual report per annum. This could occur if an association moved its annual meeting date from September to May, for example. The association would initially come up for renewal in October, which is the month following the annual meeting date and in accordance with the requirements in the regulations. They would indicate on the annual report filing form the change in annual meeting date to May. The registration expiration date (meaning the next date that the annual report must be filed) would be changed to June in accordance with the current regulations. This means that the registration would only be active for eight months before the association’s registration expired and they were required to file the annual report (and pay the associated fees) again. The recommended changes would establish that all registrations are valid for one year regardless of the date of annual meeting, while still ensuring that the Board is notified of important changes within an association (address, members of the governing board, contact persons, etc.). Finally, the regulations include the requirement that the annual assessment be submitted with the annual report filing in accordance with §§ 55-79.93.1(C), 55-516.1(C), and 55-504.1(C). These sections were changed as a result of the implementation of Chapters 851 and 871 of the Acts of the 2008 General Assembly, which where the result of HB 516 and SB 301, respectively.

Substance

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

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year, it will ensure that the Board is notified of changes in governing boards, addresses, or other changes that are typically only reported on annual report forms, regardless of whether or not the changes occur in conjunction with an annual meeting, and will protect associations and members of the associations by eliminating the possibility of being required to file more than one annual report, thus paying multiple filing fees per annum. Finally, the regulations include the requirement that the annual assessment be submitted with the annual report filing in accordance with §§ 55-79.93.1(C), 55-516.1(C), and 55-504.1(C), which were changed as a result of the implementation of Chapters 851 and 871 of the Acts of the 2008 General Assembly, which where the result of HB 516 and SB 301, respectively.

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 primary advantage to associations and members is that the proposed regulatory change eliminates the possibility that an association would have to file an annual report and pay the renewal fee and assessment more than once per year. This permits cost savings for the association, and ultimately the members of the association (home- and property-owners).
2. The primary advantage to the Board is that the process for renewing association registrations will be much more consistent because the renewal dates will be static. In addition, the Board will receive more timely notification of changes to the association because they will not be limited to once per year; instead the Board should be notified whenever changes occur. This will hopefully reduce costs because often renewal notices are mailed to incorrect addresses as the Board is not currently required to be notified of a change in address. Finally, it is anticipated that there will be a reduction in calls because associations are often confused and frustrated about the change in expiration date from one renewal to the next.

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 for this regulation.

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.

No impact on localities in Virginia has been identified as resulting from the proposed amendment to the regulation.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The regulations were developed with consideration that the industry may include small business entities that form some associations. The Board considers that the regulatory methods implemented were promulgated to accomplish the applicable law while minimizing the adverse impact on small businesses.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

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 expenditures	The proposed amendment will not result in any cost to the state as the forms are currently in place for accepting annual report filings, the timing and frequency of mailings will be the only factors to change, which may actually reduce costs.
Projected cost of the regulation on localities	The proposed amendments will not result in costs to localities as the regulation is restricted to association registrations.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Property-owner’s associations, condominium owner’s associations, and cooperative owner’s associations, and the residents thereof, will be affected by the proposed amendment as it will eliminate the possibility of paying more than one renewal fee and assessment per annum.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There are 4,050 associations registered in Virginia. Virtually all of these would be considered small businesses based on the definition to the left.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the	The proposed amendment simplifies the process whereby associations renew. There are not expected to be any costs as the requirements for

<p>projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>filing an annual report are not changing, only the frequency (reduced) and timing may change for some associations.</p>
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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. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The alternative is to leave the regulation as it is now and continue requiring a number of associations to file annual reports, and pay, more than once per year in accordance with the current regulations. This will increase the costs to associations and, ultimately, the residents of the associations.

Family impact

Please assess the impact of the proposed 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.

No impact on families in Virginia has been identified as resulting from the proposed amendment to the regulation.

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:

<p>Current section number</p>	<p>Proposed new section number, if applicable</p>	<p>Current requirement</p>	<p>Proposed change and rationale</p>
<p>N/A</p>	<p>18 VAC 48-60-13</p>	<p>No separate section for definitions. Definition of</p>	<p>Creates a separate section for definitions to facilitate readability. Also creates a definition</p>

		association is currently inserted in 18 VAC 48-60-20, Annual report by association.	of “governing board” as it is used in new section 18 VAC 48-60-15.
N/A	18 VAC 48-60-17	Expiration of registration is currently addressed in 18 VAC 48-60-60, Registration fee. There is no reference to the process for notifying the Board of changes within the association, other than with the annual report filing.	Creates a section whereby the frequency of renewal is simplified and clarified. Registrations will now be current for one year from the date of issuance or renewal, regardless of the date of the annual meeting. The association must continue to notify the board of changes that have been specified: address, members of the governing board, and other changes that have occurred since the last annual report filing.
18 VAC 48-60-20	18 VAC 48-60-20	The definition of association is contained within this section. In addition, this section references fees to be submitted with the annual report filing, but does not reference the annual assessment that is now required based on the implementation of Chapters 851 and 871 of the Acts of the 2008 General Assembly.	The definition of association was moved to a new “Definitions” section. The annual assessment requirement was inserted, along with references to the applicable code sections for the annual assessment requirements.
18 VAC 48-60-60	18 VAC 48-60-60	In addition to listing the fee schedule, this section includes the notation that registration certificates are renewable the month following the association’s annual meeting.	The registration fee table remains in the regulation; however, the statement that registration certificates are renewable the month following the association’s annual meeting was removed to make the annual report filing an annual event that falls on the same date every year.