



Exempt Action Final Regulation Agency Background Document

Agency name	Board of Social Work, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC140-20-10 et seq.
Regulation title	Regulations Governing the Practice of Social Work
Action title	Conform the fee for returned check to the amount fixed in statute
Final agency action date	12/16/05
Document preparation date	12/16/05

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 21 (02) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Currently, regulations of the Board of Social Work provide for a fee of \$15 for a check that is not paid by a financial institution on which it is drawn because of insufficient funds in the account. The Administrative Process Act specifies in § 2.2-614.1 that the penalty shall be \$35 or the amount of any costs, whichever is greater.

§ 2.2-614.1. Authority to accept revenue by commercially acceptable means; service charge; bad check charge.

... C. If any check or other means of payment tendered to a public body in the course of its duties is not paid by the financial institution on which it is drawn, because of insufficient funds in the account of the drawer, no account is in the name of the drawer, or the account of the drawer is closed, and the check or other means of payment is returned to the public body unpaid, the amount thereof shall be charged to the person on whose account it was received, and his liability and that of his sureties, shall be as if he had never offered any such payment. A penalty of \$35 or

the amount of any costs, whichever is greater, shall be added to such amount. This penalty shall be in addition to any other penalty provided by law, except the penalty imposed by § 58.1-12 shall not apply.

In addition, the Board has stricken language providing for a one-time reduction in the biennial renewal fee that expired on June 1, 2005 under an exemption in § 2.2-4006 that allows for technical corrections to regulations.

§ 2.2-4006. Exemptions from requirements of this article.

A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be exempted from the operation of this article:

...3. Regulations that consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

Accordingly, the Board has adopted amendments under an exempt action to conform regulations to the statute and to make technical corrections.

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 16, 2005, the Board of Social Work adopted an exempt action to amend the returned check fee regulation to conform to § 2.2-614.1 of the Code of Virginia. Although required to comply with the Virginia Register Act, the agency is exempt from provisions of the Administrative Process Act for the implementation of these regulations pursuant to § 2.2-4006 A 3, which grants an exemption for “Regulations that consist only of changes in style or form or corrections of technical errors” and pursuant to § 2.2-4006 A 4, which grants an exemption if the action is: “Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved.”

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

There is no impact of this regulatory action on the institution of the family and family stability.