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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) Chapter citation(s)	13 VAC 5 -112
VAC Chapter title(s)	Enterprise Zone Grant Program Regulations
Date this document prepared	May 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

NA

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The Board of Housing and Community Development is the promulgating agency. The Board is required promulgate regulations through Section 59.1-541 of the Code of Virginia.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

There are no viable alternatives, the Code of Virginia requires promulgation of the Enterprise Zone Grant Program Regulations.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
David Sacks	<p>I would like to provide the following comments for the periodic review of the Virginia Enterprise Zone Regulations(13VAC5-112):</p> <p>Section 13VAC5-112-280 F 1. There has been confusion and unclear guidance from DHCD regarding eligible jobs. This is an opportunity to correct the problem. The Reg's currently state:</p> <p><i>“F. The following positions are not grant eligible:</i></p> <p><i>1. Those in retail, personal service or food and beverage service.”</i></p> <p>The question arises as to what this means. Does this mean any position in any of these businesses as provided for in the definition section? Or does this mean these types of positions only, but not all positions in these types of businesses? Because of the wording, it is not 100% clear, when you look at the definition of these businesses and substitute the definition for the business type in the above section. I see that the wording in the Regulations essentially parrots the wording in the statute, but the Regulations have an opportunity to make the requirement clear.</p> <p>I will add it does not seem logical to disallow a position just because it is within a retail business. I'll give you an example: A Walmart is a retail business. However, most Walmarts</p>	<p>The agency thanked the commenter and indicated that the comments would be shared with the Board. The agency subsequently followed up with the commenter to advise of upcoming input sessions related to program guidance.</p>

	<p>have auto mechanics, optometrists, and probably some highly technical back office support, such as accountants.</p> <p>I request this be clarified to make it crystal clear one way or the other.</p>	
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No informal advisory committee was formed.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation is required pursuant to Section 59.1 – 541 of the Code of Virginia and is necessary to administer the provisions of the Enterprise Zone Grant Program. The regulations appear to be effective and are easy to understand.

Decision

Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The regulation will be retained without change. The regulation was last updated in 2022 to account for changes to state code. The regulation was also updated in 2021 to update application procedures.

Outside of regulatory changes, the agency is likely to pursue changes to various administrative procedures to streamline program administration and produce greater efficiency.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

1) The regulation governs the administration of the Enterprise Zone Grant Program and is required by state code. 2) There was a comment received regarding classification of jobs and it was given due consideration but it was determined no related update is to be made at this time. 3 & 4) The regulation does not appear to be overly complex, duplicate, or conflict with other federal or state law. 5) The Regulation was updated in 2021 and 2022.

Maintaining consistency with current rules will assist participants (including small business) in continuing to be able to utilize the program.
