



## Final Regulation Agency Background Document

<b>Agency name</b>	Common Interest Community Board
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 48-50
<b>Regulation title</b>	Common Interest Community Manager Regulations
<b>Action title</b>	Initial Common Interest Community Manager Regulations
<b>Date this document prepared</b>	October 28, 2009

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. 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.*

This is a new regulation that establishes the licensure requirements for common interest community managers, as well as the standards of practice and conduct for common interest community managers and requirements for training programs. The regulation will ultimately replace emergency regulations that were implemented as a result of the enactment of Chapters 851 and 871 of the Acts of the 2008 General Assembly, which were the result of HB 516 and SB 301. These Acts required regulations to be effective within 280 days of enactment, thus the implementation of emergency regulations on November 13, 2008.

### 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 October 26, 2009, the Common Interest Community Board adopted final amended regulations for 18 VAC 48-50, Common Interest Community Manager Regulations, to implement the licensure requirements

for common interest community managers as a result of the enactment of Chapters 851 and 871 of the Acts of the 2008 General Assembly.

**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 Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe 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, 54.1-2349(A)(2) states that the Board shall establish criteria for the licensing of common interest community managers and § 54.1-2349(A)(6) states that the Board shall establish standards of conduct for common interest community managers. § 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 mandatory to implement Chapters 851 and 871 of the Acts of the 2008 General Assembly.

**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.*

The new regulation establishes qualifications and standards of practice and conduct for common interest community managers. The new regulation is necessary to implement Chapters 851 and 871 of the Acts of the 2008 General Assembly, which were the result of HB 516 and SB 301. The goal of the regulation is to establish qualifications and standards of practice and conduct for common interest community managers in accordance with HB 516 and SB 301.

The General Assembly determined that regulatory oversight of common interest community managers is essential to protect the health, safety, and welfare of the citizens of Virginia. Minimum qualifications for common interest community managers, annual assessment filing requirements, provisional licensure, and the standards of conduct and practice are the general items that will be addressed in the regulations.

**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.*

Clarifies requirements found in Chapter 23.3 of Title 54.1 of the Code of Virginia. The regulation is new in its entirety; therefore, there are no changes to previously existing sections.

General: Defines terms used throughout the regulations.

Entry: States the application procedures; provides qualifications for licensure of common interest community managers, including bond and insurance requirements, past conviction and financial information submission requirements, and experiential and professional qualifications.

Fees: Lists all fees, including initial application fees, renewal fees, and reinstatement fees. Also includes annual assessment requirements.

Renewal and Reinstatement: Establishes standards and requirements for renewal and/or reinstatement of license, including requirement for reinstatement, status of license during reinstatement periods, and the Board’s discretion regarding denial of licenses.

Standards of Practice and Conduct: Outlines grounds for disciplinary action, license maintenance requirements, client account maintenance and management requirements, requirements for changing a business entity, notifying the board of adverse actions, prohibited acts; and establishment of code of conduct and internal accounting controls in accordance with § 54.1-2346.E of the Code of Virginia.

Training Programs and Examinations: Provides requirements to be approved as a training provider, outlines program curriculum, and provides record-keeping provisions; reporting requirements; provisions for withdrawal of approval; and examination provisions.

**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.*

The primary advantage to the public is that common interest community managers will be regulated to ensure that the health, safety, and welfare of the public, particularly those residing in common interest communities, are protected. The only foreseeable disadvantage is that the increased costs from managers and associations will likely be passed along to association members (i.e., homeowners, unit owners, etc.).

The primary advantage to the Commonwealth is that the regulation of common interest community managers reflects the importance that Virginia places on ensuring that those providing management services to associations and their members’ have met specific minimum requirements for licensure and must maintain certain standards of practice and conduct in order to provide those services.

**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.*

Section number	Requirement at proposed stage	What has changed	Rationale for change
30.G	This regulation states that the Board has the discretion to deny an application if the applicant, responsible person, and any principals of the firm have been the subject of any adverse disciplinary action prior to applying for licensure in Virginia.	The regulation has been amended to state that the Board has the discretion to deny an application if the applicant, responsible person, and any principals of the firm have been the subject of any adverse disciplinary action prior to obtaining licensure in Virginia.	The application can remain in a pending status for up to one year from receipt (if it is incomplete, the applicant has one year to complete the application before it is purged); therefore, the Board wanted to ensure its authority to deny a license for any adverse disciplinary action obtained prior to licensure, including the time period wherein an application may have been received but not yet processed.
30.J	The regulation states, in part, that at least 50% of those persons who have principal responsibility for management services meet specific training and experience requirements.	The amended regulation states, in part, that at least 50% of those persons who have principal responsibility for management services to a common interest community in Virginia meet specific training and experience requirements.	The regulation was clarified to specify that only those employees providing management services to Virginia common interest communities must meet the training and experience requirements since some firms provide services in other states and it would be unnecessary for personnel not performing any work for Virginia communities to meet the Virginia CIC Board's requirements.
30.J.4	The subsection states, in part, that a training program and certifying examination approved by the Board must have been completed.	The amended regulation states, in part, that a training program must have been completed and the certifying examination must have been passed.	The clarification was made to ensure that the examination was not just completed, but that it was completed successfully.
60	The section provides the fees for various applications. One of the fees listed is for a Training Program Provider Add Program.	The section has been amended to state that one of the fees listed is for a Training Program Provider Additional Program	This section was amended to clarify that the fee is for an additional program.
180.A	The section requires that regulants notify the board of specific disciplinary and conviction information.	The section has been amended to clarify that the information that must be reported by the regulant applies to disciplinary and conviction information against the firm, the	This amendment was necessary in order for it to coincide with the initial licensure requirements pertaining to disciplinary

		responsible person, and any principals of the firm.	action and conviction information contained in 18 VAC 48-50-30.
180.A.1	The subsection states that disciplinary action taken by another jurisdiction, board, or administrative body must be reported.	The subsection has been amended to state that disciplinary action taken by any jurisdiction, board, or administrative body must be reported.	This change is necessary to ensure that 18 VAC 48-50-190.4 can be applied, which authorizes the Board to take disciplinary action against a regulant who is disciplined by any Board, including the CIC Board.
190.A.7	This subsection states that a licensee is prohibited from intentionally or unjustifiably failing to comply with the terms of the contract, operating agreement, or governing documents.	The subsection has been amended to state that a licensee is prohibited from intentionally or unjustifiably failing to comply with the terms of the management contract, operating agreement, or association governing documents.	This was a change to clarify that the contract referenced was the contract for management services, and that the governing documents referenced were those of the association.
220	This section states that the regulant must respond within 10 days to the board or any of its agents regarding a filed complaint.	The subsection has been amended to state that the regulant must respond within 10 days to a request by the board or any of its agents regarding a filed complaint.	The change was to clarify that the regulant must respond if the board or its agents make a request for information.
230	The section states that all training programs must be approved by the Board, may be distance or online, and that training programs may be approved retroactively, but a regulant will not receive credit until the training program is approved by the Board.	The section has been amended to state that all training programs proposed for the purposes of meeting the requirements of the regulations must be approved by the board, an approved training program may be distance or online, and no applicant will receive credit until the training program is approved by the Board.	The change was to clarify that the training program referred to is one that is intended to meet the requirements for a CIC Board-approved training provider, that the program approved by the board may be distance or online, and that an applicant may receive credit via retroactive approval, since a regulant of the Board would already hold the license and would not need credit for the training program that is necessary to meet the qualifications for licensure.
240.5	This subsection states that specific information regarding the instructor must be supplied, including license numbers, a list of other trade-appropriate designations, as well as a summary of acceptable teaching experience, subject-matter knowledge,	This subsection has been amended to state that specific information regarding the instructor must be supplied, including license number(s), a list of trade-appropriate designations, as well as teaching experience, subject-matter knowledge, and qualifications acceptable to the board.	The amendment was to indicate that one or more license numbers, as applicable, must be provided. In addition, any trade-appropriate designations must be provided, not just "other" trade appropriate designations. Finally, the

	and qualifications.		subsection was amended to clarify that teaching experience, subject-matter knowledge, and qualifications must all be acceptable to the Board, not just the teaching experience.
250.E	This is a new subsection.	The subsection was added to require training program providers to provide students with a certificate or some form of documentation that the student may use as proof of program completion.	This subsection was added to ensure that the student had a means of documenting course completion when an application for licensure was submitted.
260	This section stipulates the records that a provider must maintain certain records for each student. The requirement that a provider shall maintain students' social security numbers or DMV control numbers was deleted.	The section stipulates the records that a provider must maintain for each student.	The security concerns associated with a provider maintaining data that may subject an individual to identity theft prompted the removal of social security numbers and DMV control numbers from the records that must be maintained by the provider.
270	This section requires that changes in the training program must be provided to the Board within stipulated time frames. In addition, failure to report the changes as directed may result in withdrawal of approval.	The section was amended to remove the requirement from this section that failure to report a change will result in withdrawal of approval and adds a statement that any change in information submitted will be reviewed to ensure compliance with the chapter.	The deletion of the statement regarding failure to report changes was to move it to the next section entitled "Withdrawal of approval" as that seems to be a more appropriate location for this regulation. The addition of the statement that any change in information submitted will be reviewed to ensure compliance was to clarify that not only must the change be reported, it will also be reviewed and must meet the Board's requirements.
280	This section lists the reasons that the Board may withdraw approval.	This section was amended to add as a reason to withdraw approval, failure to comply with 18 VAC 48-50-270.	The previous subsection was amended to delete language related to withdrawal of approval as it was more appropriate to include it in this regulation, which consolidates into one section the reasons that approval may be

			withdrawn.
290	This section states that all examinations required for licensure shall be approved by the Board and provided by the Board or a testing service acting on behalf of the Board, or another governmental agency or organization.	The section was amended to state that all examinations required for licensure shall be approved by the Board and administered by the Board, a testing service acting on behalf of the Board, or another governmental agency or organization.	The amendment was to clarify that one of the following three will administer, as opposed to not provide, the examination: the Board, a testing service on behalf of the Board, or another governmental agency or organization.

**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.*

#	REGULATION #	SUMMARY OF COMMENT(S)
	COMMENTOR'S NAME	BOARD RESPONSE
1	18 VAC 48-50-10	The definitions should clearly define the terms “firm”, “regulant”, “applicant”, and “responsible person.”
	Jeanne F. White, PCAM; Armstrong Management Services, Inc.; Community Associations Institute and National Board of Certification for Community Association Managers	Each of the terms referenced has been defined to reflect its meaning within the regulations and usage was carefully considered when crafting the regulations and the applicability of the requirements to each.
2	18 VAC 48-50-10	The definition of “address of record” should be amended to delete the second sentence and a new definition of “notice” created based on the deleted sentence.
	Community Associations Institute and National Board of Certification for Community Association Managers	Based on the varying contexts in which “notice” is used throughout the regulations, it does not appear that this change would assist in clarifying the regulations.
3	18 VAC 48-50-30.D	The requirement to disclose conviction information in accordance with this section should be expanded to include employees.
	Jeanne F. White, PCAM	This requirement would be too burdensome for many firms and the processing and review of conviction information for, in some cases, dozens of employees who may have no role in providing management services could require a significant increase in fees as the Board is self-funding.
4	18 VAC 48-50-30.E	The application should include a statement from the applicant that promises to keep a fidelity bond policy in force at all times.
	Armstrong Management Services, Inc.; Community Associations Institute	18 VAC 48-50-150.D requires that the regulant notify the Board of any change in bond or insurance policy.

	and National Board of Certification for Community Association Managers	Further, 18 VAC 48-50-100 requires proof of current bond or insurance policy be submitted for renewal. Changes to the application are made independently from this regulatory action.
5	18 VAC 48-50-30.H	The commenters have concerns about disclosure of past-due debts
	Armstrong Management Services, Inc.; Community Associations Institute and National Board of Certification for Community Association Managers	The requirement to provide information regarding past-due debts was in a previous version of the draft regulations and is not included in the proposed regulations adopted by the Board.
6	18 VAC 48-50-30.J	A provision should be made for firms that may have some portion of their employees in another state. Suggests amending to state “. . . at least 50% of persons who have principal responsibility for management services in the state of Virginia meet one of the following . . .”.
	Legum & Norman, Inc.	In order to more accurately reflect the statutory requirements contained in §54.1-2346, the Board modifies this section to state “. . . at least 50% of persons who have principal responsibility for management services to a common interest community in the Commonwealth of Virginia meet one of the following . . .”, to be followed in accordance with the definition of “common interest community” contained in § 54.1-2345.
7	18 VAC 48-50-30.J	Community Associations Institute (CAI) should not be the only approved provider for continuing education classes. Also, schools approved by the Real Estate Board should be accepted as well.
	Jeanne F. White, PCAM	The Board does not currently require continuing education; therefore, no continuing education provisions exist in these regulations. In addition, Part VI has been added to provide the training program requirements for initial licensure for Board-approved programs. All providers who wish to offer training programs for those wishing to be licensed as a common interest community manager must meet the Board’s requirements; there are no waivers for programs approved by other boards or organizations.
8	18 VAC 48-50-30.J.4	The regulations should be modified to state that the individual has “completed an introductory training program . . . and passed a certifying examination . . .” to clarify that the individual must pass the examination.
	Armstrong Management Services, Inc.; Community Associations Institute and National Board of Certification for Community Association Managers	The Board concurs with the suggested change and the section has been amended accordingly.
9	18 VAC 48-50-60	The commenter has concerns about fee amounts and who pays the fees, as well as payment of the fees associated with meeting education and training requirements.



	Jeanne F. White, PCAM	Because the Board is self-funded, the establishment of the fees is based on the expenses the Board incurs in order to operate. In addition, Part VI of these regulations provide the requirements for training programs to obtain approval, which will increase the options available to those seeking to meet the requirements for licensure.
10	18 VAC 48-50-60	Amend "Training Program Provider Add Program" in fee chart to read "Training Program Provider Additional Program."
	Community Associations Institute and National Board of Certification for Community Association Managers	The Board concurs with the suggested change and the section has been amended accordingly.
11	18 VAC 48-50-70	The annual assessment should only apply to the portion of the management firm's gross receipts that are accrued in Virginia as the benefits of the regulatory program will flow to the residents and businesses with the Commonwealth and the Board's authority does not extend beyond Virginia.
	Armstrong Management Services, Inc.; Community Associations Institute and National Board of Certification for Community Association Managers	The Board understands that not all firms provide management services only in Virginia. Therefore, the proposed regulations include the definition of "gross receipts" in 18 VAC 48-50-10, which states, in part, ". . . all revenue derived from providing management services to common interest communities in the Commonwealth of Virginia . . ." in order to exclude revenue that is acquired outside of Virginia and that is not attributable to the performance of management services.
12	18 VAC 48-50-90	This provision would require a year of fees for a six month provisional license due to the statutory requirement that the provisional license expire on June 30, 2011.
	Legum and Norman, Inc.	In accordance with § 54.1-2346.F, provisional licenses could only be issued to those making application before January 1, 2009, and cannot be renewed. This renewal requirement applies only to "standard" licenses which expire one year from the end of the month in which they were issued.
13	18 VAC 48-50-180.A	The disciplinary action included in this section is very broad and may include minor infractions and/or penalties. In addition, it is not clear if the subject to the disciplinary action is the firm, responsible person, or all employees of the firm.
	Armstrong Management Services, Inc.; Community Associations Institute and National Board of Certification for Community Association Managers	The Board's ability to enforce its regulations in every circumstance is paramount in drafting regulatory language, which necessitates broader terms in some instances in order to be able to fulfill the Board's responsibility to protect the health, safety, and welfare of the public. Pursuant to this regulation, the Board, not the regulant, will have discretion in determining whether the prior disciplinary action warrants additional review. As to the subject of the disciplinary action, the regulation has been amended to clarify that the actions listed apply to the firm, the responsible person, and any of the

		principals of the firm, consistent with 18 VAC 48-50-130.
14	18 VAC 48-50-190	Violations should be added for “out of control Boards, Committee members, who have excessive power.” In addition, there are not clear definitions of standards of conduct and code of ethics.
	Jeanne F. White, PCAM	These regulations prescribe the requirements that common interest community managers must meet and the standards by which a licensee must abide. Discipline of association governing boards is not within the auspices of these regulations. Regarding the standards of conduct and code of ethics, the regulations include Standards of Conduct and Practice the regulants must follow in order to maintain a common interest community manager license. Also, 18 VAC 48-50-200 includes the requirement that the common interest community manager must establish a code of conduct in accordance with §54.1-2346.E. and provides guidelines for the code of conduct.
15	18 VAC 48-50-190.A.7	The subsection should be amended to clarify “. . . failure to comply with the terms of the management contract, operating agreement, or association governing documents.”
	Legum and Norman, Inc.	The Board concurs with the suggested change and the subsection has been amended accordingly.
16	18 VAC 48-50-190.8	This subsection should apply to management firms dealing with both association governing boards and individual owners.
	Stanley Cook	Management firms are under contract with the association to provide management services to the association. The prohibited acts reflect the statutory requirements pertaining to management services that are provided to a common interest community. Any additional responsibilities the manager has to individual owners in a particular association should be delineated in the contract.
17	18 VAC 48-50-190.A.10	This subsection should apply to management firms dealing with both association governing boards and individual owners. In addition, the term “incompetence” is very broad and subjective, which could result in meritless or retaliatory complaints.
	Stanley Cook; Legum and Norman, Inc.; Armstrong Management Services, Inc.	Management firms are under contract with the association to provide management services to the association. The prohibited acts reflect the statutory requirements pertaining to management services that are provided to a common interest community. Any additional responsibilities the manager has to individual owners in a particular association should be delineated in the contract. The Board’s ability to enforce its regulations in every circumstance is paramount in drafting regulatory language, which necessitates broader terms in some instances in order to be able to fulfill the Board’s responsibility to protect the health, safety, and welfare of the public. All complaints are thoroughly investigated to determine whether or not there appears to be a violation of the regulations. Those

		that are found to be without merit or not a violation of the regulations are closed. If probable cause for a violation exists, the respondent is afforded all rights available in accordance with the Administrative Process Act. Any action that results in a finding of a violation by a regulant requires the vote of the majority of the Board and must be handled in accordance with the requirements of the Administrative Process Act and affords due process to the respondent involved.
18	18 VAC 48-50-190.A.10	This subsection should be amended to provide more qualification of the range of incompetence that would trigger review. A suggested change is: "Incompetence in providing management services including but not limited to any of the enumerated prohibitions under this section or other acts as determined by the board."
	Community Associations Institute and National Board of Certification for Community Association Managers	The suggested change is unnecessary as it does not change the range of acts that could be cited in the original language to be considered incompetence since it includes the prohibited acts and any other acts determined by the Board.
19	18 VAC 48-50-190.A.13	This subsection is very subjective and is a contract issue.
	Legum and Norman, Inc.	Section 54.1-2345 provides the definition of "management services", which affords a management firm significant authority in carrying out the association's business and financial matters. Accordingly, the manager has an obligation to disclose material facts of which it is aware relating to the association's property or concerning management services as failure to do so could significantly and adversely affect the association.
20	18 VAC 48-50-190.A.14	This subsection should apply to management firms' communications with individual owners.
	Stanley Cook	Management firms are under contract with the association to provide management services to the association. The prohibited acts reflect the statutory requirements pertaining to management services that are provided to a common interest community. Any additional responsibilities the manager has to individual owners in a particular association should be delineated in the contract.
21	18 VAC 48-50-190.A.17	In "safeguarding the interests of the public," who is "the public"?
	Legum and Norman, Inc.	The purpose of these regulations is to ensure that minimum requirements for licensure have been met by those providing management services to common interest communities, and to provide the requirements for maintaining the license, including the standards of conduct and practice that must be met by licensees. These regulations are administered in order to protect the interests of associations and thereby the public's interest in the quality of management services provided by Virginia common interest community managers.
22	18 VAC 48-50-190.A.18	This subsection may be too vague and allows the Board to select what it believes is appropriate to be included.

		This may also inject the Board into setting the terms and conditions of private contracts.
	Armstrong Management Services, Inc.	While the contract between a manager and an association may include many terms and varies from contract to contract, this regulation establishes minimum requirements that must be included in the contract in order to protect the interests of the association.
23	18 VAC 48-50-220.A	This subsection should be amended to require response in accordance with the regulation “regarding any complaint filed with the department concerning such regulant” as opposed to any complaint filed with the department.
	Armstrong Management Services, Inc.	This section has been amended to indicate that a “regulant must respond within 10 days to a request by the board or any of its agents regarding any complaint filed with the department” in order to clarify that the regulant is expected to respond when a request for information is made by the board or its agents.
24	18 VAC 48-50-230	This section should be amended to clarify that the training program referred to is that approved by the Board.
	Armstrong Management Services, Inc.; Community Associations Institute and National Board of Certification for Community Association Managers	The Board concurs with the suggested change and the section has been amended accordingly.
25	18 VAC 48-50-240.5	This subsection should be amended to clarify that the teaching experience, subject-matter knowledge, and qualifications are all reviewed to determine if they are acceptable to the Board.
	Armstrong Management Services, Inc.; Community Associations Institute and National Board of Certification for Community Association Managers	The Board concurs with the suggested change and the subsection has been amended accordingly.
26	18 VAC 48-50-240	The regulation does not address how a provider adds an educator to the provider’s program once a potential provider has submitted an application for a training program and whether the new educator must be approved by the Board and any cost associated with adding an educator.
	Armstrong Management Services, Inc.; Community Associations Institute and National Board of Certification for Community Association Managers	18 VAC 48-50-270 requires that any change in information must be reported to the Board with 30 days of the change and no fee is required for reporting such changes. An amendment has been made to clarify the process for reporting. In addition, prior to the regulations becoming effective, forms will be developed to facilitate providing information in accordance with the regulatory requirements.
27	18 VAC 48-50-250.C	The section refers to “common interest communities” and “associations.” “Associations” should be deleted as the language is redundant.
	Community Associations Institute and National Board of Certification for Community Association Managers	Section 55-528 of the Code of Virginia separately defines “common interest community” and “association”; therefore, they are listed separately in this section.
28	18 VAC 48-50-250.C.2	Taxation and internal controls should be added as

		subjects to be included in the financial matters portion of the training program.
	Armstrong Management Services, Inc.; Community Associations Institute and National Board of Certification for Community Association Managers	The Board concurs with the suggestion to add internal controls to 18 VAC 48-50-250.C.2 of the regulations. In addition to internal controls, the Board provided budgets, reserves, investments, and assessments as a few of the areas to be included in financial matters. These are not intended to be all-inclusive. The Board identified these areas as essential for applicants to receive training, however, the Board also wants to allow training providers flexibility in creating the framework for their courses so long as they continue to meet the requirements of the regulations.
29	18 VAC 48-50-260	Training providers should not be required to collect and/or maintain social security numbers or driver's license numbers.
	Armstrong Management Services, Inc.; Community Associations Institute and National Board of Certification for Community Association Managers	The Board concurs with the suggested change and the section has been amended accordingly. In addition, as a method of verifying course completion, 18 VAC 48-50-250.E was added regarding certificates of training program completion.
30	18 VAC 48-50-280	Failure to comply with 18 VAC 48-50-270 should be added as a reason to withdraw approval.
	Armstrong Management Services, Inc.; Community Associations Institute and National Board of Certification for Community Association Managers	The Board concurs with the suggested change and the section has been amended accordingly. Also, to eliminate redundancy, the last sentence of 18 VAC 48-50-270 was deleted.
	18 VAC 48-50-290	Several clarifying changes were suggested to indicate that examinations will be approved by the Board but may be administered by the Board or another party.
	Armstrong Management Services, Inc.; Community Associations Institute and National Board of Certification for Community Association Managers	The Board concurs with the suggested change and the section has been amended accordingly.

Enter any other statement here

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
10	This section provides the definitions of various terms used in the regulations.	Definitions contained in Chapter 23.3 of Title 54.1	Explanation of various terms used in regulation.
20	This section provides the application procedures for applicants seeking licensure as a common interest	None	The intent of the section is to explain a complete versus incomplete application; the Board's process for requesting

	community manager; includes timeframes for review of applications and explanation of what constitutes a complete application		additional information; and the timeframe for completing an application.
30	Provides the qualifications for licensure. The requirements include: proper registration of business and/or trade names; disclosure of mailing and physical addresses and address from which management services for Virginia common interest communities are provided, and includes prohibition against using a post office box as the sole address; disclosure of all felony convictions, misdemeanor convictions, and any plea of nolo contendere; evidence of a blanket fidelity bond or employee dishonesty bond; certification that the applicant complies with standards of conduct and practice contained in regulations; the applicant, responsible person, and any principals shall be in good standing and disclose any disciplinary action by any board or administrative body in any jurisdiction; disclosure of any relevant information about the firm, responsible person, and any principals of the firm for the past seven years prior to the application on any outstanding judgments, past-due assessments, defaults on bonds, or pending or past bankruptcies, specifically those that relate to management services; disclosure if any principals who owned more than 50% equity interest in the firm are or were equity owners holding a 10% or greater	Chapter 23.3 of Title 54.1	The intent of the section is to provide the requirements for licensure of common interest community managers.

	<p>interest in any entity licensed by any agency of the Commonwealth that was subject to any adverse disciplinary action within the seven years preceding application; the applicant must hold an active designation as an Accredited Association Management Company by the Community Associations Institute or must certify that the applicant has i.) at least one supervisory employee or officer with five years of experience in providing management services and who has successfully completed a comprehensive training program as described in 18 VAC 48-50-250.B, as approved by the board, involved in all aspects of the management services offered and provided by the firm, and ii.) at least 50% of persons who have principal responsibility for management services meet one of the following: hold an active designation as a Professional Community Association Manager and certify having provided management services for a period of 12 months immediately preceding application; or hold an active designation as a Certified Manager of Community Associations by the National Board of Certification for Community Association Managers and certify having two years of experience in providing management services of which a minimum of 12 months of experience must have been gained immediately preceding application; or hold an active designation as an Association</p>		
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	<p>Management Specialist and certify having two years of experience in providing management services of which a minimum of 12 months of experience must have been gained immediately preceding application; or have completed an introductory training program, as set forth in 18 VAC 48-50-250.A, and certifying examination approved by the board and certify having two years experience in providing management services of which a minimum of 12 months of experience must have been gained immediately preceding application; and the applicant shall name a responsible person for the firm.</p>		
40	<p>This section details the provisions whereby the Board may deny an application for licensure and the provision to appeal the Board's decision.</p>	<p>§ 54.1-204; Chapter 40 of Title 2.2</p>	<p>The intent is to provide information concerning denial of an application and the appeal procedures.</p>
50	<p>This section provides the general fee requirements, including that fees are nonrefundable and shall not be prorated. In addition, it provides that the date fees are received determines whether or not the fees are on time.</p>	<p>None</p>	<p>The intent is to provide general information on receipt of fees by the Department.</p>
60	<p>The schedule of fees is provided in this section, including the types of fees, amount of fees, when recovery fund fees are applicable, and when the specified fee is due.</p>	<p>§ 55-530.1</p>	<p>The intent is to clearly provide all fees that are payable and when they are due.</p>
70	<p>This section provides the requirements for submitting annual assessments, documentation necessary for confirming the annual assessment due and the waiver of such</p>	<p>§ 54.1-2349.A.1</p>	<p>The intent is to clarify the annual assessment requirements and procedures for submitting the assessment to the Board.</p>



	documentation if the maximum annual assessment is submitted.		
80	This section provides the requirements for maintaining a provisional license, including stipulating that the annual assessment is due each year the provisional license is in effect as well as the documentation necessary for confirming the annual assessment due and the waiver of such documentation if the maximum annual assessment is submitted. Further, this section requires that proof of current bond or insurance policy must be submitted and that the bond/policy must be maintained in accordance with the Board's regulations and applicable statutes.	§ 54.1-2346.F, § 54.1-2346.D, § 54.1-2349.A.1, 18 VAC 48-50-150.D	The intent is to clarify that all annual assessment and bond/insurance requirements apply to provisional license-holders as well as those licensed through the standard process.
90	This section contains the general provisions related to renewal, including that licenses expire one year from the last day of the month in which the license was issued, fees required for renewal, the expiration of provisional licenses on June 30, 2011, and the non-renewability of provisional licenses.	§ 54.1-2346.F	The intent is to provide that licenses are valid for one year and fees are required to renew, and to clarify the expiration date and nonrenewability of provisional licenses.
100	This section details the provisions related to expiration and renewal of a license. This includes the requirement that proof of current bond/insurance policy be submitted. In addition, the section stipulates that a renewal notice will be mailed but failure to receive the renewal notice does not relieve the regulant of the obligation to renew. Further, this section provides the procedures for renewing if the renewal	18 VAC 48-50-30.D, 18 VAC 48-50-60, 18 VAC 48-50-70, 18 VAC 48-50-140 et seq., and § 54.1-2346.D	The intent is to provide the requirements for renewing a license issued by the Board.

	<p>notice is not received, including the stipulation that submitting the application for renewal constitutes certification that the regulant continues to comply with the standards of conduct and practice of the Board. Finally, the section provides that all applicants for renewal shall continue to meet all of the Board's qualifications for licensure.</p>		
110	<p>This section provides the requirements for reinstatement. Reinstatement is required when the requirements for renewal of a license are not completed within 30 days of the license expiration date. The license may be reinstated up to six months following the expiration date. After that time, the license may not be reinstated and the regulant must apply as a new applicant and meet all entry requirements in effect at that time. Further, the section explains that any regulated activity conducted subsequent to the license expiration date may constitute unlicensed activity and subject to prosecution.</p>	<p>18 VAC 48-50-30.D, 18 VAC 48-50-60, § 54.1-2346.D, Chapter 1 of Title 54.1</p>	<p>The intent is to provide the provisions for reinstating a license when renewal requirements are not completed within required timeframes, as well as the time whereby reinstatement is no longer possible. Further, it provides the consequences for providing management services with a license that has not been reinstated.</p>
120	<p>This section provides for the status of a license prior to the reinstatement of the license. A regulant who applies for reinstatement of a license shall be subject to all of the laws and regulations as if the regulant had been continuously licensed and remains under the Board's authority during the entire period.</p>	<p>None</p>	<p>The intent is to provide notice to regulants that failure to renew in a timely manner does not relieve them of the obligation for compliance with the Board's requirements and emphasizes that the Board still has authority over a regulant during this time period and may discipline a regulant for violating a regulation or statute during this period.</p>
130	<p>This section provides the circumstances in which renewal or reinstatement of a license may be denied. These circumstances</p>	<p>None</p>	<p>The intent is to provide the provisions whereby the Board may deny renewal or reinstatement of a license.</p>

	include any of the reasons that initial licensure may be denied, failure to meet the terms of an agreement for licensure, failure to satisfy sanctions, or failure to fully pay any monetary penalty or costs imposed by the Board.		
140	This section provides the possible sanctions that may be imposed in the event that a regulant is found in violation of the Board's regulations or statutes.	Chapter 23.3 of Title 54.1	The intent is to provide the regulant and public with the Board's authority as to the imposition of sanctions for violating the Board's regulations.
150	This section provides the requirements for maintaining a license as a common interest community manager. These provisions include prohibition of assigning or transferring a license; requirement to report, in writing, all changes of address to the Board within 30 days; requirement to notify the Board of any change in the qualifications for licensure within 30 days of the change; and the requirement to notify the Board of the cancellation, amendment, expiration, or any other change of any bond or insurance policy within five days of the change.	18 VAC 48-50-150.C, 18 VAC 48-50-30.D, § 54.1-2346.D	The intent is to provide the regulant with the requirements, including applicable timeframes, for maintaining a common interest community manager license.
160	This section provides the requirements for maintaining and managing funds from associations. This includes the requirement that all managers that hold funds that belong to others as a result of the fiduciary relationship between them be labeled as such to clearly distinguish funds that belong to others from those funds of the common interest community manager.	§ 54.1-2353.A	The intent is to clarify the statutory requirements related to managing funds that belong to associations.
170	This section requires that regulants who change the	None	The intent of the regulation is to clarify that licenses are issued to

	<p>business entity must obtain a new license as licenses are not transferable from one entity to another. The dissolution or alteration of a business entity causes the license to become void and must be returned to the Board within 30 days of the change. Such changes include: cessation of the business or the voluntary termination of a sole proprietorship or partnership; death of a sole proprietor; formation, reformation, or dissolution of a general partnership, limited partnership, corporation, limited liability company, association, or any other business entity recognized under the laws of the Commonwealth; or the suspension or termination of the corporation's existence by the State Corporation Commission. The regulation further requires that the new license must be obtained when the new firm is formed and before engaging in any activity regulated by the regulations of the Board or by Chapter 23.3 of Title 54.1.</p>		<p>entities and may not be transferred from one entity to another.</p>
<p>180</p>	<p>This section requires that regulants notify the Board of any adverse action, including: any disciplinary action taken by another jurisdiction, board, or administrative body of competent jurisdiction; any voluntary surrendering of a license, certificate, or registration done in connection with a disciplinary action in another jurisdiction; or any conviction, finding of guilt, or plea of guilty of any felony or misdemeanor in any jurisdiction. The section</p>	<p>§ 54.1-204</p>	<p>The intent of the regulation is to provide the actions that the Board must be notified of in order to ensure that the regulant meets the standards of conduct and practice for licensure.</p>

	<p>requires that the Board be notified within 30 days of the action and specifies the documentation that must be submitted relating to the action.</p>		
<p>190</p>	<p>This section details the acts that regulants are prohibited from engaging in and the violations from which disciplinary action may result. The prohibited actions include, in summary, violating, inducing another to violate, or cooperating with others in violating any of the provisions of any of the regulations of the Board or statutes applicable to the Board; allowing the common interest community manager license to be used by another; obtaining or attempting to obtain a license by false or fraudulent representation, or maintaining, renewing, or reinstating a license by false or fraudulent representation; a regulant having been convicted, found guilty, or disciplined in any jurisdiction of any offense or violation enumerated in 18 VAC 48-50-180 of the regulation; failing to inform the board in writing within 30 days that the regulant was convicted, found guilty, or disciplined in any jurisdiction of any offense or violation enumerated in 18 VAC 48-50-180 of the regulation; failing to report a change as required by 18 VAC 48-50-150 or 18 VAC 48-50-170; the intentional and unjustified failure to comply with the terms of the contract, operating agreement, or governing documents; engaging in dishonest or fraudulent conduct in providing management services;</p>	<p>Chapter 23.3 of Title 54.1, Chapter 4.2 of Title 55, Chapter 24 of Title 55, Chapter 26 of Title 55, Chapter 29 of Title 55, §54.1-102, § 54.1-111, 18 VAC 48-50-180, 18 VAC 48-50-150, 18 VAC 48-50-170, 18 VAC 48-50-160</p>	<p>The intent of the regulation is to provide information on specific acts that are prohibited by the Board and which may result in disciplinary action if a regulant were to be found in violation.</p>

	<p>failing to satisfy any judgments or restitution orders entered by a court or arbiter of competent jurisdiction; incompetence in providing management services; failing to handle association funds in accordance with the provisions of § 54.1-2353(A) or 18 VAC 48-50-160; failing to account in a timely manner for all money and property received by the regulant in which the association has or may have an interest; failing to disclose to the association material facts related to the association's property or concerning management services of which the regulant has actual knowledge; failing to provide complete records related to the association's management services to the association within 30 days of any written request by the association or within 30 days of the termination of the contract unless otherwise agreed to in writing by both the association and the common interest community manager; failing upon written request of the association to provide books and records such that the association can perform pursuant to § 55-510 (Property Owners Association Act), § 55-79.74:1 (Condominium Act), and § 55-474 (Virginia Real Estate Cooperative Act); commingling the funds of any association by a principal, his employees, or his associates with the principal's own funds, or those of his firm; failing to act in providing management services in a</p>		
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	<p>manner that safeguards the interests of the public; failing to make use of a legible, written contract clearly specifying the terms and conditions of the management services to be performed by the common interest community manager. The contract shall include, but not be limited to, the following: beginning and ending dates of the contract; cancellation rights of the parties; records retention and distribution policy; a general description of the records to be kept and the bookkeeping system to be used; and the common interest community manager's license number. Prior to commencement of the terms of the contract or acceptance of payments, the contract shall be signed by the regulant and the client or the client's authorized agent.</p>		
200	<p>This section requires that the regulant establish a code of conduct that addresses business practices including the appropriateness of giving and accepting gifts, bonuses, or other remuneration to and from common interest communities or providers of services to common interest communities. In addition, the code of conduct for officers, directors, and employees, shall also address disclosure of relationships with other firms that may give rise to a conflict of interest.</p>	§ 54.1-2346.E.ii	<p>The intent of the regulation is to clarify the statutory requirement relating to the establishment of a code of conduct and general provisions that must be included in the code of conduct.</p>
210	<p>This section requires that the regulant establish internal accounting controls to provide adequate checks and balances over the financial activities and to</p>	§ 54.1-2346.E	<p>The intent of the regulations is to clarify the statutory requirements related to the establishment of internal accounting controls for common interest community managers.</p>

	manage the risk of fraud and illegal acts. The section further requires that the internal accounting controls be in accordance with the American Institute of Certified Public Accountants (AICPA) guidelines or those by any successor authorities.		
220	This section requires that regulants respond to inquiries by the board or any of its agents regarding any complaint filed with the Department within 10 days of the request; that the regulant produce any documents requested by the board or any of its agents within 10 days, unless extended by the board upon a showing of extenuating circumstances prohibiting delivery within 10 days; the regulant may not provide a false, misleading, or incomplete response to the board or its agents seeking information in the investigation of a complaint filed with the board; and the regulant must respond to any inquiry by the board or its agents, other than requested by the previous subsections, within 21 days.	None	The intent is to notify regulants that they are required to respond to any inquiries or requests for records made by the Board or its agents within specified timeframes.
230	This section provides the general requirements for training programs, including that they must be approved by the Board; they may be offered using distance or online education technology; and they may be approved retroactively with the understanding that no applicant will receive credit for the training program until such approval is granted by the board.	§ 54.1-2349	The intent is to provide the general requirements for training programs that are approved by the Board so that an applicant may meet the qualifications for licensure.
240	This section provides the required components of an application for training program approval. These	18 VAC 48-50-60	The intent of the regulation is to detail the requirements for an application for training program approval.



	<p>requirements include: the name of the provider; provider contact person, address, and telephone number; program contact hours; schedule of training program, if established, including dates, time(s), and location(s); instructor information, including name, license number(s) if applicable, and a list of other trade-appropriate designations, as well as a professional resume with a summary of acceptable teaching experience and subject-matter knowledge and qualifications; a summary of qualifications and experience in providing training for common interest communities; training program and material fees; and training program syllabus.</p>		
<p>250</p>	<p>This section provides the requirements for introductory and comprehensive training programs required pursuant to 18 VAC 48-50-30.I. The introductory training program must include a minimum of 16 contact hours and encompass the subject areas set forth in the section. The comprehensive training program must include a minimum of 80 contact hours and the syllabus shall include at least 40 contact hours encompassing all of the subject areas set forth in the section and may include up to 40 contact hours in other subject areas approved by the Board. The subject areas that must be included in each training program are: governance, legal matters, and communications; financial</p>	<p>18 VAC 48-50-30.I, § 54.1-2349.2</p>	<p>The intent of the regulation is to provide the requirements for the two types of training programs to be approved by the Board, introductory and comprehensive, the subject areas that must be included in the training program, and the requirement for a final, written examination.</p>

	<p>matters, including budgets, reserves, investments, and assessments; contracting; risk management and insurance; management ethics for common interest community managers; facilities maintenance; and human resources. The section also requires that all training programs have a final, written examination.</p>		
260	<p>This section provides the records that must be maintained by providers for each student. The record shall include: the student's name and address; social security number or control number issued by the Department of Motor Vehicles; the training program name and hours attended; the training program syllabus or outline; the name or names of the instructor(s); the date of successful completion; and the board's approved training program code. Records shall be available for inspection during normal business hours by authorized representatives of the board. Providers must maintain these records for a minimum of five years.</p>	None	<p>The intent of the regulation is to provide the required records that must be maintained for each student, the Board's authorization to inspect such records, and the minimum timeframe for maintaining the records.</p>
270	<p>This section requires that providers report any changes in information provided in 18 VAC 48-50-240 to the Board within 30 days, exclusive of changes in the schedule of training program offerings which must be reported within 10 days of the change. The section further stipulates that failure to report as required may result in withdrawal of approval of a training program by the Board.</p>	18 VAC 48-50-240	<p>The intent of the regulation is to ensure that the Board is provided with all information related to changes that may impact the approval of a provider, as well as any changes in the schedule, and the consequences for failure to report said changes within the required timeframes.</p>
280	<p>This section provides the circumstances in which</p>	18 VAC 48-50-240, 18 VAC 48-50-260	<p>The intent of the regulation is to allow the Board authority to</p>

	approval of a training program may be withdrawn. The reasons include: the training program being offered no longer meets the standards established by the board; the provider, through an agent or otherwise, advertises its services in a fraudulent or deceptive way; the provider, instructor, or designee of the provider falsifies any information relating to the application for approval, training program information, student records or fails to produce records required by 18 VAC 48-50-260; or a change in the information provided in 18 VAC 48-50-240, except for 18 VAC 48-50-240.4.		withdraw approval of a training program for the reasons specified in order to ensure that all training programs servicing applicants of the Board continue to meet the Board's requirements.
290	This section provides that all examinations must be approved by the Board, and must be provided by the Board, a testing service acting on behalf of the Board, or another government agency or organization.	§ 54.1-2349.2	The intent of the regulation is to clarify who may provide a certifying examination as required in § 54.1-2349.2 of the Code of Virginia.

**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 affected industries consist of small businesses. The Board considers that the regulatory methods implemented were promulgated to accomplish the applicable law while minimizing the adverse impact on small businesses and are consistent with the regulation of small businesses of other professions.

## 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.*

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