



Virginia
Regulatory
Town Hall

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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) citation	18 VAC48-70
Regulation title	Common Interest Community Ombudsman Regulations
Action title	Initial Common Interest Community Ombudsman Regulations
Date this document prepared	January 17, 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*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The new regulation establishes the requirement that each association must establish reasonable procedures for the resolution of written complaints from the members of the association and other citizens, record-keeping related to complaints filed, forms and procedures to be provided, transmittal of information to members regarding the Office of the Common Interest Community Ombudsman, and procedures for filing a notice of final adverse decision with the Board. 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 establish the requirements for associations to handle complaints and provide information to the public for filing a notice of adverse decision with the Board, in accordance with HB 516 and SB 301.

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 number(s), 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Section 55-530.I states that “[t]he Board may prescribe regulations which shall be adopted, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) to accomplish the purpose of this chapter.” In addition, § 55-530.E states that “[t]he Board shall establish by regulation a requirement that each association shall establish reasonable procedures for the resolution of written complaints from the members of the association and other citizens. . .” § 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.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The General Assembly determined that regulatory requirements related to an association’s resolution of written complaints is essential to protect the health, safety, and welfare of the citizens of Virginia. Minimum qualifications related to maintenance of records resulting from complaints filed, forms and procedures to be provided to members, transmittal of information to members regarding the Office of the Common Interest Community Ombudsman, and procedures for filing a notice of final adverse decision with the Board are some of the general items that will be addressed in the regulations.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The regulation will include provisions required pursuant to § 55-530.E, F, G, and I of the Code of Virginia. This includes, but may not be limited to, requirements for the association complaint process, process for filing a notice of final adverse decision, submitting an inquiry to the Office of the Common Interest Community Ombudsman and related provisions.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Chapters 851 and 871 of the Acts of the 2008 General Assembly and the Code of Virginia mandate the establishment of the regulation. Therefore, no alternatives exist to evaluate.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to Trisha L. Henshaw, Executive Director, Common Interest Community Board, 9960 Mayland Drive, Suite 400, Richmond, Virginia 23233, fax to (804) 527-4297, or email to cic@dpor.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will not be held.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board will use the participatory approach to develop a proposal if it receives at least 15 written requests to use the participatory approach prior to the end of the public comment period. Persons requesting the agency use the participatory approach and interested in assisting in the development of a proposal should notify the department contact person by the end of the comment period and provide their name, address, phone number, email address and their organization (if any). Notification of the composition of the advisory committee will be sent to all applicants.

Family impact

Assess the potential 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.