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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	Real Estate Appraiser Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18 VAC 130-20
<b>VAC Chapter title(s)</b>	Real Estate Appraiser Board Rules and Regulations
<b>Action title</b>	Temporary Fee Reduction
<b>Final agency action date</b>	February 27, 2023
<b>Date this document prepared</b>	February 23, 2023 (amended February 27, 2023)

This information is required for executive branch review pursuant to 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. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to 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*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

In 2021, the Real Estate Appraiser Board temporarily lowered their fees in order to draw down their Callahan Act balance, ensuring that revenues and expenditures were within 10% of each other. The Board has determined that its fund balance is still too high and can extend the temporary fee reduction another two years to continue to draw down the balance. This action will extend the existing reduction another two years.

### Board for Real Estate Appraisers Analysis of Fee Structure and Financial Position

Callahan  
Percentage

161.0%

**Previous  
Biennium**

Date of Last Fee Increase: 2/1/2018  
 Date of Last Fee Decrease: 7/15/2005

Fees End  
5/1/2023

<b>Fee Structure</b>		<b>Current Regulation Fees</b>	<b>Current Temporary Fees</b>	<b>Proposed Temporary Fees</b>
<b>Fee Type</b>				
Renewal	Individual Renewal Fee	87.50	22.50	22.50
Reinstatement	Individual	180.00	180.00	180.00
Renewal	Instructor	150.00	25.00	25.00
Reinstatement	Instructor	150.00	0.00	0.00
Renewal	Trainee	87.50	22.50	22.50
Renewal	USPAP booklet fee	37.50	37.50	37.50
Reinstatement	Trainee	95.00	95.00	95.00
Renewal	Course	150.00	25.00	25.00
Renewal	Business	120.00	25.00	25.00
Reinstatement	Business	160.00	160.00	160.00

<b>Financial Position</b>					
	<b>Actual 2020-22 Biennium</b>	<b>Projected 2022-24 Current Fees</b>	<b>Projected 2024-26 Current Fees</b>	<b>Projected 2022-24 Proposed Fees</b>	<b>Projected 2024-26 Proposed Fees</b>
Cash Carryforward	376,226	603,999	490,601	603,999	411,020
Revenues	602,857	476,139	628,314	396,557	396,557
Expenditures	375,084	589,536	602,674	589,536	589,536
Balance	603,999	490,601	516,241	411,020	218,041
		Projected Callahan Percentage Close of Biennium	85.7%	69.7%	37.0%

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

The proposed regulatory action is mandated by the following sections of the Code of Virginia. To comply with these statutes, the Board evaluates its current and projected financial position, and determines the type of fees and amounts to be established for each fee that will provide revenue sufficient to cover its expenses.

§ 54.1-113 (Callahan Act). Regulatory Boards to adjust fees – At the close of each biennium, the Department of Professional and Occupational Regulation is required by Section 54.1-113 of the Code of Virginia (Callahan Act) to review each board's financial position to determine whether fees need to be adjusted to ensure that revenues are sufficient, but not excessive, to cover the board's operating expenses. Reductions in fees are needed to bring revenues and cash balances to an appropriate amount, allowing the Board to continue gradually using its accumulated cash to support ongoing operations, and will result in a decrease in the Board's cash balance and Callahan Act position.

§ 54.1-201.4 describes each regulatory Board's power and duty to "levy and collect fees for the certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory Board and a proportionate share of the expenses of the Department . . ."

§ 54.1-304.3 describes the power and duty of the DPOR Director to "collect and account for all fees prescribed to be paid into each Board and account for and deposit the moneys so collected into a special fund from which the expenses of the Board, regulatory Boards, and the Department shall be paid . . ."

§ 54.1-308 provides for compensation of the Director, employees, and Board members to be paid out of the total funds collected. This section also requires the Director to maintain a separate account for each Board showing moneys collected on its behalf and expenses allocated to the Board.

These Code sections require the Department to:

- pay expenses of each Board and the Department from revenues collected;
- establish fees adequate to provide sufficient revenue to pay expenses;
- account for the revenues collected and expenses charged to each Board; and
- revise fees as necessary to ensure that revenue is sufficient but not excessive to cover all expenses.

To comply with these requirements, the Department:

- accounts for the revenue collected for each Board distinctly;
- accounts for direct Board expenses for each Board, and
- allocates a proportionate share of agency operating expenses to each Board.

### Statement of Final Agency Action

*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.*

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On February 27, 2023, the Virginia Real Estate Appraiser Board adopted the above described fee structure, extending the Temporary Fee Reduction an additional two years, expiring April 30, 2025.