



## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Real Estate Board
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC135-20
<b>Regulation title</b>	Real Estate Board Regulations
<b>Action title</b>	General Review 2012
<b>Date this document prepared</b>	June 5, 2012

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) 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 purpose of the planned regulatory action is to make clarifying changes, incorporate revised education requirements and new audit and voluntary compliance requirements, ensure consistency with State law and to make any other changes which may be considered necessary.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

Section 54.1-2105 of the Code of Virginia states that the Real Estate Board "may do all things necessary and convenient for carrying into effect the provisions of this chapter and may promulgate necessary regulations."

## 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 regulations need to be amended to ensure that the regulations conform to the most current statutes and standards of practice in the industry which are necessary to protect the health, safety and welfare of the citizens. Other changes which may be necessary may also be considered.

## Substance

*Please detail any changes that will be proposed. Be sure to define all acronyms. 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.*

---

Amend definitions such as "Principal broker" for clarity.

Clarify necessity of license section.

Amend qualification sections for clarity and to ensure consistency with statutory changes.

Amend activation or transfer of license for clarity.

Amend renewal requirements to ensure consistency with statutory changes.

Amend reinstatement requirements to ensure consistency with statutory changes.

Amend grounds for disciplinary action to ensure consistency with statutory changes.

Amend place of business section for clarity.

Amend duties of supervising broker to ensure consistency with statutory changes.

Clarify the means by which licensees can return licenses to the Board.

Clarify language regarding maintenance and management of escrow accounts.

Clarify language regarding advertising.

Clarify language regarding disclosure of interest.

Amend disclosure of brokerage relationships to be consistent with statute.

Add section on voluntary compliance to ensure consistency with statutory changes.

Clarify language regarding provision of records to the board.

Clarify provisions regarding failing to safeguard the interests of the public and improper, fraudulent or dishonest conduct.

Clarify language regarding conflict of interest.

Amend improper brokerage commission section for clarity.

Amend improper dealing section to be consistent with statute and other regulations.

Amend misrepresentation/omission section to be consistent with statute.

Amend delivery of instruments section to ensure consistency with statutory changes.

Review provisions regarding schools and courses to ensure consistency with changes to the statute and to add clarity.

## 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.*

---

Failure to adopt these changes will result in regulations not being as clear as possible and not conforming to statutory changes.

## Public participation

*Please indicate whether the agency is seeking comments on the intended regulatory action, including 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.*

*Please also indicate pursuant to your Public Participation Guidelines whether a panel will be appointed to assist in the development of the proposed regulation. Please state one of the following: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is \_\_\_\_\_; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.*

---

The agency is seeking comments on this regulatory action, including but not limited to 1) ideas to be considered in the development of this 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) the probable effect of the regulation on affected small businesses, and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Christine Martine, Real Estate Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, 804-367-8552, FAX 866-350-7849,

[reboard@dpor.virginia.gov](mailto:reboard@dpor.virginia.gov) . Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

### 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.*

---

The proposed changes are not expected to have an impact on families.