



Periodic Review / Retain Regulation Agency Background Document

Agency name	Real Estate Board
Virginia Administrative Code (VAC) citation	18 VAC 135-20
Regulation title	Real Estate Board Regulations
Document preparation date	March 7, 2012

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

Code of Virginia § 54.1-201.5 gives authority to the Real Estate Board to promulgate regulations. It states, in part, that the Board has the power and duty "To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board."

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

No viable alternatives for achieving the purpose of the existing regulation could be determined. The regulation enables the Board to fulfill the statutory requirements established in Chapters 2 and 21 of Title 54.1 of the *Code of Virginia*. Further, the regulation is necessary to ensure that the Board's statutory requirements are executed in the least burdensome and most efficient and cost effective manner possible while protecting the health, safety, and welfare of the citizens of Virginia.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Bill Hastings	<p>Mr. Hastings doesn't like the regulation requiring him to have and maintain a written policy and procedures manual when he has no salespeople or employees working for him. Further, if he decides to take on a crew of salespeople again why can't he train and give them instructions orally rather than in writing.</p> <p>He doesn't agree with the proliferation of regulations by federal, state and local government such as the federal do-not call registry and county sign laws. Mr. Hastings also doesn't like the board regulation requiring disclosure if a licensee sells his own home. He thinks the board should get rid of the advertising regulation requiring licensees to include the firm name in newspaper advertisements.</p> <p>While he feels the current atmosphere is one of over regulation, the board should regulate MLS groups as the MLS engages in some practices which block some citizens from listing homes they should be able to list and sell and establishes subgroups which are ageist and sexist.</p>	<p>The Real Estate Board (the board) has a standing regulation review committee which is currently reviewing the board's regulations including the regulations you mentioned in the comment. The comment will be shared with the committee. As for the comments concerning the MLS, the board doesn't have the statutory authority to regulate the organizations which control the MLS.</p>

An informal advisory group was not formed for purposes of assisting in the periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation meets the criteria set forth in Executive Order 14 (2010). The regulation contains the requirements for obtaining a license, renewal and reinstatement of licenses, standards of professional conduct to ensure competence and integrity of all licensees and to administer the regulatory program in accordance with Chapters 2 and 21 of Title 54.1 of the *Code of Virginia*. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency is recommending that the regulation stay in effect without change.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

Code of Virginia § 54.1-201.5 mandates the Real Estate Board to promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The Real Estate Board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who meet specific criteria set forth in the statutes and regulations are eligible to receive a real estate license. The Board is also tasked with ensuring that its regulants meet standards of practice that are set forth in the regulations.

No complaints were received during the public comment period. The regulation is clearly written, easily understandable, and does not overlap, duplicate or conflict with federal or state law or regulation.

The most recent evaluation occurred in 2008.

The Board discussed the regulation and, for the reasons stated in this section, determined that the regulation should not be amended or repealed, but should be retained in its current form.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

No impact on the institution of the family and family stability has been identified.