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Final Regulation Agency Background Document

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) citation(s)	18 VAC 48-50
Regulation title(s)	Common Interest Community Manager Regulations
Action title	Amendment to Training Program Provisions
Date this document prepared	March 22, 2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

This is a revision to the existing regulations to amend language pertaining to the qualifications of common interest community and fair housing training programs that are utilized to renew certificates issued by the board. The proposed amendments to 18 VAC 48-50-253 and 18 VAC 48-50-255 only require certain training for individuals renewing certifications, as is current practice, and clarify training course content be updates to Virginia laws and regulations directly related to common interest communities.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

No acronyms or technical terms were identified that were not included in the “Definitions” section of the regulations.

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 March 13, 2017, the Common Interest Community Board voted to adopt the proposed amendments to the Common Interest Community Manager Regulations.

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.

The promulgating entity is the Virginia Common Interest Community Board.

Section 54.1-201(A)(5) of the Code of Virginia states, in part, that regulatory boards shall have the power and duty to promulgate regulations in accordance with the Administrative Process Act 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.

Section 54.1-2349(A)(7) states, in part, that the board shall establish an education-based certification program for persons who are involved in the business or activity of providing management services to common interest communities, and authorizes the board to approve training courses and instructors.

The imperative form of the verb “shall” is used, making the board’s authority to regulate mandatory rather than discretionary.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation 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 General Assembly determined that an education-based certification program for individuals involved in the business or activity of providing management services to common interest communities for compensation was essential to protect the health, safety, and welfare of the citizens of Virginia. The board’s current regulations require both applicants for initial licensure and renewal to complete a minimum of two contact-hours in common interest community law and regulation, plus fair housing training. The two contact-hour programs are only applicable for *renewal* of certificates for principal or supervisory employees, and are not a prerequisite to initial certification. The proposed amendment to the regulation provides much-needed clarification of this distinction.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.

The proposed amendments to 18 VAC 48-50-253 and 18 VAC 48-50-255 remove “applicants” from the requirement to complete a two-hour common interest community law and regulation training and a two-hour fair housing training program as a prerequisite for initial certification. In addition, the regulatory action clarifies the topic areas and course of study regarding the two contact hours pertaining to common interest community law and regulation.

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 and the board’s certificate holders is that the revisions will improve clarity of the regulations as it pertains to the training program course content required to renew a certification, and ensure that certificate holders are aware of regulatory and legislative changes related to common interest communities and fair housing. There are no identified disadvantages to the public with the proposed amendments as they do not change any current requirements or practices. The advantage to the Commonwealth is that the change ensures clarity and consistency when reviewing training programs for approval. There are no identified disadvantages.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no components to the proposal that are more restrictive than federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No impact on localities has been identified as resulting from the proposed regulation.

Family impact

Please assess the impact of this 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 amendments to the regulations.

Changes made since the proposed stage

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. *Please put an asterisk next to any substantive changes.*

No substantive changes to the proposed amended regulations have been made since the proposed stage.

During review of the regulatory language at the proposed stage, it was determined that minor revisions to the board’s Training Program Approval Application were needed. The revised form will be submitted as part of the final regulatory package.

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. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

No public comments were received during the public comment period.

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
48-50-253		Requires initial applicants for certification to complete	The proposed change will strike the term “applicants” from this section and strike the

		<p>a two-hour training program on common interest community law and regulation. In addition, the regulation outlines certain topic areas as they pertain to the common interest community training program.</p>	<p>terms “community management and creation, governance, administration, and operations of associations.”</p> <p>The change will clarify the two contact hours shall encompass updates to Virginia laws and regulations <u>directly related</u> to common interest communities, and such contact hours are only required for <i>renewal</i> of a certificate, not initial certification.</p>
<p>48-50-255</p>		<p>Requires initial applicants for certification to complete a two-hour training program on fair housing.</p>	<p>The proposed change will strike the term “applicants” from this section. The proposed change will add “and any updates, all as . . .”</p> <p>The change will clarify the two contact hours shall encompass updates to fair housing laws and regulations <u>directly related</u> to common interest communities, and such contact hours are only required for <i>renewal</i> of a certificate, not initial certification.</p>