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Town Hall

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## Proposed Regulation Agency Background Document

<b>Agency name</b>	DPOR/ Auctioneers Board
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 25-21
<b>Regulation title</b>	Regulations of the Virginia Auctioneers Board
<b>Action title</b>	General review to amend existing regulations
<b>Date this document prepared</b>	June 8, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

The purpose is to review and amend the Board's regulations to allow for clearer and more effective regulations administered by the Board.

Other changes which may be necessary may also be considered.

## 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., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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§ 54.1-602 of the Code of Virginia provides the Board with its broad authority to establish regulations in order to obtain and retain licenses.

## Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

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The purpose of the proposal is to perform a general review to amend the existing regulations to clarify the basic qualifications for license by examination and license by reciprocity, modify the examination application procedures, and to establish and modify the standards of practice and standards of conduct to identify requirements that affect the administration of, and compliance with, the Board's regulations. The proposed changes will improve clarity which will enhance compliance by the Board's licensees and thereby better protect the citizens of the Commonwealth of Virginia.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

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The proposed change is being considered as a means to achieve comprehensive and effective regulations that will improve clarity and increase compliance by the Board's licensees and thereby better protect the citizens of the Commonwealth of Virginia.

Other changes which may be necessary may also be considered.

## 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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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The primary advantage in amending these regulations is to clarify and improve compliance by the Board's licensees and thereby better protect the citizens of the Commonwealth of Virginia. In addition, the Board will have the authority to discipline those regulants who show themselves to be a danger to the public.

There are no anticipated disadvantages.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which are 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.*

Not applicable.

**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.*

Not applicable.

**Public participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

In addition to any other comments, the agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is 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 may do so by mail, email or fax to Marian H. Brooks, Board Administrator, DPOR, 3600 West Broad St., Richmond, VA 23230, Phone (804) 367-8514, FAX (804) 367-2475, AUCTIONEERS@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 date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

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**Fiscal Impact of Proposed Regulation**

**Summary:**

This proposed Auctioneers Board regulatory change provides clarification to current regulations. There is no impact on the board’s funding, revenues, or expenditures as a result of these changes.

All costs incurred in support of board activities and regulatory operations are paid by the department and funded through fees paid by applicants and licensees. All boards within the Department of Professional and Occupational Regulation must operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201. Each regulatory program's revenues must be adequate to support both its direct costs and a proportional share of agency operating costs. The department allocates costs to its regulatory programs based on consistent, equitable, and cost-effective methodologies. The board has no other source of income.

**Fiscal Impact:**

	FY 2007	FY 2008	FY2009	FY2010
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Subprogram	560 46	560 46	560 46	560 46

Impact of Regulatory Changes:				
One-Time Costs	0	0	0	0
Ongoing Costs	0	0	0	0
Total Fiscal Impact	0	0	0	0
FTE	0.00	0.00	0.00	0.00

**Description of Costs:**

One-Time: There are no one-time costs associated with the proposed regulations.

Ongoing: There are no ongoing costs associated with the proposed regulations.

**Cost to Localities:** No change anticipated.

**Description of Individuals, Businesses, or Other Entities Impacted:** Individual auctioneers and firms.

**Estimated Number of Regulators:** Approximately 1,685 individuals and firms.

**Projected Cost to Regulators:** There is no expected change in fees or cost to the regulators.

## Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

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The Board will consider any and all comments received during the comment periods as to any proposed alternatives.

## Regulatory flexibility analysis

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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The regulations were developed with consideration that the industry consists of small businesses. The Board considers that the regulatory methods implemented were promulgated to accomplish the applicable law while minimizing the adverse impact on small businesses.

## Public comment

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

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No public comment was received during the NOIRA public comment period.

## Family impact

*Please assess the 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.*

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The contemplated changes are not anticipated to have any significant impact on Virginia's families.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
18 VAC 25-21-20		N/A	Amend to allow exam flexibility by the Board.
18 VAC 25-21-40		N/A	Delete language as a firm cannot apply for reciprocal licenses.
18 VAC 25-21-50		N/A	Amend as notarization is no longer required on application. Also language added to clarify and allow less burdensome standards.
18 VAC 25-21-60		N/A	Change to simplify when revisions occur to the Code of Virginia.
	18 VAC 25-21-95	N/A	Language added to discipline licenses, public protection.
18 VAC 25-21-110		N/A	Amend to include "auction firm" regarding contracts and language to clarify regulations.
18 VAC 25-21-120		N/A	Amend to include "auction firm" regarding conduct at auctions. Added and deleted language for clarity.
18 VAC 125-21-150		N/A	Amend language to clarify escrow funds.
18 VAC 25-21-170		N/A	Amend to clarify business license.
18 VAC 25-21-180		N/A	Add and remove language to clarify disciplinary issues.