



Virginia Department of Planning and Budget **Economic Impact Analysis**

18 VAC 25-21 Regulations of the Virginia Auctioneers Board
Department of Professional and Occupational Regulation
Town Hall Action/Stage: 6153 / 10437
September 16, 2024

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB’s best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

The Auctioneers Board (Board) proposes to 1) limit the look-back period for criminal convictions that must be disclosed by the license applicants, 2) allow consideration of prior regulatory discipline other than discipline related to the practice of auctioneering for licensure, 3) remove the five-year experience requirement for auctioneer school instructors as well as the requirement that a school have five licensed instructors, and 4) eliminate or revise several administrative requirements to reduce regulatory burdens.

Background

The initial impetus for this action was Executive Directive Number One (2022), which directs Executive Branch entities under the authority of the Governor “...to initiate regulatory processes to reduce by at least 25 percent the number of regulations not mandated by federal or state statute, in consultation with the Office of the Attorney General, and in a manner consistent with the laws of the Commonwealth.”

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

This regulation establishes rules for individuals and firms that conduct or offer to conduct an auction by requiring that such individuals and firms obtain a license to sell at auction. During the review of the regulation conducted pursuant to the directive, the Board identified certain requirements as overly burdensome to regulants and unnecessary for the protection of the health, safety, and welfare of the public as discussed below.

Estimated Benefits and Costs

The Board proposes to reduce the look-back period for criminal convictions that must be disclosed to three years for any non-marijuana misdemeanors involving moral turpitude, sexual offenses, drug distribution, or physical injury and ten years for felonies. The revised criminal history provisions would potentially expand the pool of qualified applicants by allowing additional individuals with a prior criminal history to qualify for licensure without requiring the Board to review and approve the application. However, the Board does not track such cases and do not have an estimate on how many applicants may qualify for licensure under the proposed revision. Additionally, according to the Board, after an application is received by the Board for an applicant with a prior criminal history it can take about six to eight months to have the application reviewed and considered before it may be approved. As a result, this change is expected to produce time savings for such individuals.

On the other hand, amendments to the disciplinary action provisions require that an applicant be not found by any regulatory board or agency to have violated any applicable law or regulation. The expanded provisions would thereby allow the Board to consider prior regulatory discipline other than discipline related to the practice of auctioneering. This change is more restrictive than the current requirement and may result in some applicants being disqualified from licensure. Similarly, however, data are lacking to provide an estimate on the number of such potential cases.

Another proposed change would reduce the stringency of the qualifications for auctioneering school instructors. Currently, the regulation establishes that a school have at least five instructors who have been licensed for five years and who specialize in different fields of the auction business. The proposal would remove five-year experience requirement as well as the requirement that a school have five licensed auctioneer instructors. This change potentially would expand the pool of qualified instructors, reduce staffing costs for the schools, and allow

additional auction courses to be approved by the Board as the requirements for course instructors are reduced.

The proposal also contains numerous administrative changes, including a proposed reduction in the record retention period from four years to three years; removal of requirements for individuals and firms to display their licenses in a conspicuous location at the address of record; removal of a requirement that an auctioneer carry a copy of the auctioneer's license on their person and produce the document upon request; removal of a requirement for an auctioneer to include the auctioneer's or auction firm's name and license number in all advertisements; lessening the restrictiveness of the timeframe for placing proceeds of a personal property auction in escrow; and removal of the provisions regarding mailing of the renewal notice by the Board to the licensee. Generally, these changes are expected to provide small administrative cost savings to the licensees as well as the Board.

Businesses and Other Entities Affected

According to the Board, there were 984 licensed auctioneers and 230 auctioneer firms as of July 1, 2023. There are also 14 Board approved auctioneering schools across the country; only one of which is in Virginia. No entity appears to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.² An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.³ On net, the Board expects an expansion of the pool of qualified applicants for the auctioneering license and training instructors by unknown amounts and some cost savings from reduced staffing requirements as well as the administrative burdens. Thus, no adverse impact is indicated.

² Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

³ Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

Small Businesses⁴ Affected:⁵

According to the Board, many licensed business entities are likely to be business entities that meet the definition of "small business" in § 2.2-4007.1 of the Code of Virginia. In addition, many individual licensees are likely to be owners or employees of business entities that fall within the meaning of "small business." However, the proposed amendments, on net, do not appear to adversely affect any entity including small businesses.

Localities⁶ Affected⁷

The proposed amendments do not introduce costs for local governments.

Projected Impact on Employment

The expansion of the pool of qualified auctioneering or training applicants may increase their supply and reduced staffing of minimum five auctioneers at training schools may reduce the demand for instructors. However, whether such changes would have a material impact on total employment cannot be determined.

Effects on the Use and Value of Private Property

The anticipated reduction in staffing and administrative costs may have a positive small impact on asset values of training schools and the licensed businesses. No other impact on the use and value of private property nor on real estate development costs is expected.

⁴ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

⁵ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁶ "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁷ § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.