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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Virginia Manufactured Housing Board
Virginia Administrative Code (VAC) Chapter citation(s)	13 VAC6-20
VAC Chapter title(s)	Manufactured Housing Licensing Transaction Recovery Fund Regulations
Action title	Regulatory Reduction Consideration Pursuant to EO19
Date this document prepared	March 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

This regulatory action is initiated to consider amendments to the Manufactured Housing Licensing Transaction Recovery Fund regulations that will accomplish the directives related to regulatory reduction proscribed in Executive Order 19 (2022). This review will be considered in accordance with the provisions of Chapter 4.2 of Title 36 of the Code of Virginia and Chapter 40 of Title 2.2, all as related to the development and amendment of regulations. The goal of the action includes the review of discretionary requirements related to the Manufactured Housing Licensing Transaction Recovery Fund to determine whether such requirements impose burdens that may not be necessary to protect the public health, safety, and welfare in accordance with the regulatory reduction goal of Executive Directive Number One (2022) and Executive Order 19 (2022).

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

MHB – Manufactured Housing Board

MHLTRF – Manufactured Housing Licensing Transaction Recovery Fund

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

The impetus for this regulatory action is 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 regulatory requirements 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” as well as Executive Order 19 (2022) which requires every regulatory agency “to review all existing regulations...to reduce the overall regulatory burden on the public.”

This action is not the result of a mandate.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

The Virginia Manufactured Housing Board is the promulgating agency. The MHB has authority to promulgate regulations through Sections 36-85.18 and 36-85.36 of the Code of Virginia.

Section 36-85.18 states that the MHB has the power and duty “to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) as are necessary to carry out the provisions of this chapter [Title 36, Chapter 4.2. Manufactured Housing Licensing Transaction Recovery Fund Law], including but not limited to the licensure of manufactured home brokers, dealers, manufacturers, and salespersons and the relicensure of manufactured home brokers, dealers, manufacturers, or salespersons after license revocation or nonrenewal.”

Additionally, Section 36-85.36 states that “The Board is authorized to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) consistent with this chapter [Title 36, Chapter 4.2. Manufactured Housing Licensing Transaction Recovery Fund Law] for the administration of the fund to assure the satisfaction of claims.”

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

As the regulation is developed, the MHB, in accordance with Executive Directive Number One (2022) and Executive Order 19 (2022), will review discretionary requirements to determine whether such requirements impose burdens that are not necessary to protect the public health, safety, and welfare; or are not necessary to effectively administer the MHLTRF. To the extent any such current requirement may not be necessary to protect the public health, safety, and welfare, or not necessary to effectively administer the MHLTRF, the MHB will consider amending or eliminating the requirement.

These issues are not inclusive of all potential issues that may be addressed during development of the regulation.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

At this time, there are no new substantive provisions or substantive changes to existing provisions that have been identified for amendment. The review of the MHLTRF regulations will be conducted to include the expertise and perspective of stakeholders and the solicitation of public comments.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

A goal of this regulatory action is to review discretionary requirements to determine whether such requirements impose burdens that are not necessary to protect the public health, safety, and welfare; or are not necessary to effectively administer the MHLTRF, in accordance with the regulatory reduction goal of Executive Directive Number One (2022) and Executive Order 19 (2022). As the regulation is developed, the MHB will consider potential alternatives to existing requirements that may be less burdensome or intrusive while still meeting the essential purpose of the regulation.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Virginia Manufactured Housing Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Chase Sawyer: 600 E. Main Street, Suite 300, Richmond, VA 23219 (mail); chase.sawyer@dhcd.virginia.gov (email); or 804-371-7090 (fax). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.