



**Virginia
Regulatory
Town Hall**

**Notice of Intended Regulatory Action
Agency Background Document**

Agency Name:	Real Estate Board
VAC Chapter Number:	18 VAC 135-50-20
Regulation Title:	Fair Housing Regulations
Action Title:	Amendment to Fair Housing Regulations
Date:	09/29/00

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The Real Estate Board (the Board) proposes to amend existing fair housing regulations that describe discriminatory housing practices and outline investigative and conciliation procedures. The Board proposes to amend, clarify and delete certain fair housing regulations as they relate to the fair housing law. Between 1992 and 2000 the General Assembly amended the fair housing law five times. In some cases the General Assembly deleted statutory language. In other cases the General Assembly added statutory language. The fair housing regulations on the other hand have not been reviewed since 1991.

Numerous discrepancies now exist between the fair housing law and the fair housing regulations. In several instances fair housing regulations still contain language that the General Assembly deleted from the law. In other cases certain regulations are missing important language that the General Assembly added to the law. In still other cases, the regulations repeat verbatim what the law states, which is duplicative and unnecessary. The Board is therefore proposing to amend its fair housing regulations to make them consistent with the fair housing law. The Board is also proposing to delete certain regulations that are duplicative of

the law and as such unnecessary. The Board will seek public comment on its regulations in their entirety and will consider amendments to any provision that public comments suggest are necessary or appropriate.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Virginia's Fair Housing Office is under the auspices of the Department of Professional and Occupational Regulation. It investigates allegations of housing discrimination and functions as the investigative arm of Virginia's Real Estate Board. Chapter 21 of Title 54.1 of the Code of Virginia (specifically § 54.1-2105.A) provides that the Board may do all things necessary and convenient for carrying into effect the provisions of the chapter and may promulgate necessary regulations. Furthermore, since this explanation addresses the Real Estate Board's authority to amend fair housing regulations, reference is made to Title 36, Chapter 5.1, § 36.96.20.C which states that "the Board shall perform all acts necessary and proper to carry out the provisions of this chapter and may promulgate and amend regulations." The Board's authority is discretionary.

One of the fundamental needs of all citizens is for safe and affordable housing. In this regard it is the policy of the Commonwealth of Virginia to provide for fair housing throughout the Commonwealth, to all its citizens regardless of race, color, religion, national origin, sex, elderliness, familial status or handicap, and to that end to prohibit discriminatory practices with respect to residential housing by a person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all inhabitants of the Commonwealth may be protected and insured. This law shall be deemed an exercise of the police power of the Commonwealth of Virginia for the protection of the people of the Commonwealth. § 36-96.1, Code of Virginia. Fair Housing regulations are therefore among the most important because they safeguard one of our most fundamental needs, housing.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The Board's proposed regulatory changes include but are not limited to the following:
18VAC 135-50-10 Definitions. Amend to change the definition of department from Virginia Department of Commerce to Department of Professional and Occupational Regulation.

18VAC 135-50-70 Real estate practices prohibited. Delete section "B. 1-7" as it is duplicative of the law, section 36.96.3.A.1-9.

18VAC 135-50-80 Unlawful refusal to sell or to negotiate for the sale or rental. Amend to add discriminatory terms or references and clarifying language.

18VAC 135-50-90 Discrimination in terms, conditions and privileges and in services facilities. Amend to clarify discriminatory conduct..

18VAC 135-50-100 Other prohibited sale and rental conduct. Amend to clarify discriminatory conduct..

18VAC 135-50-110 Discriminatory advertisements, statements and notices. Amend paragraph four to change the Virginia Department of Commerce to Department of Professional and Occupational Regulation.

18VAC 135-50-150 Discriminatory practices in residential real estate related transaction. Delete section as it is duplicative of the law, section 36.96.4.

18VAC 135-50-210 Housing for older persons. Delete paragraph 3.a. Last year the General Assembly deleted the significant services and facilities requirements from the law. This change will conform the regulation to the law.

18VAC 135-50-270 Use of words, phrases, symbols and visual aids. Delete the last sentence in paragraph six to conform regulation to changes that the General Assembly made to code section 36-96.3.3.

18VAC 135-50-300 Submission of information to file a complaint. Amend to clarify complaint filing procedure.

18VAC 135-50-420 Conduct of investigation. Amend to add testing as an additional tool available during the investigative process.

18VAC 135-50-440 Completion of investigation. Delete the last sentence in paragraph B. Two years ago the General Assembly deleted the one year requirement law. This amendment will conform the regulation to the law.

18VAC 135-50-450 Final investigative report. Delete section as it is duplicative of the law, section 36-96.10.

18VAC 135-50-530 Reasonable cause determination. Amend paragraph B.2. to clarify complaint dismissal procedures.

18VAC 135-50-540 Local Zoning and land use. Delete section as it is duplicative of the law, section 36-96.17.

18VAC 135-50-550 Pending private civil action. Delete section as it is duplicative of the law, section 36-96.14.

18VAC 135-50-560 Time to make reasonable cause determination. Delete section as it is duplicative of the law, section 36-96.11.

18VAC 135-50-570 Time to make administrative disposition. Delete section as the General Assembly deleted the one year requirement. The paragraph is otherwise duplicative of the law, section 36-96.11. and 36-96.12.

18VAC 135-50-580 Issuance of charge. Delete section as it is duplicative of the law, section 36-96.14.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

The Board's objective is to evaluate the burden and intrusion that its regulations have, if any, on commerce and to evaluate from public comments whether its regulatory scheme is appropriate or needs revision. The Board will consider each regulation in order to identify a less burdensome and less intrusive alternative.

Family Impact Statement

Please provide a preliminary analysis of the potential 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.

Current fair housing regulations serve to protect families as defined under the fair housing law, including families with children, by prohibiting certain practices that discriminate against families with children. The Board's review of its fair housing regulations will include reviewing whether current or proposed regulations strengthen or erode parental rights and marital commitment.