



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) citation	18 VAC48-50
Regulation title	Common Interest Community Manager Regulations
Action title	Amendment to Common Interest Community Manager Regulations to Provide for Individual Certification
Date this document prepared	July 22, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The amendments will establish qualifications and standards of practice and conduct for employees of common interest community managers who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community to ensure the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community pursuant to § 54.1-2349 (A)(3) by July 1, 2011 in accordance with § 54.1-2346 (C). In addition, § 54.1-2349 (A)(7) requires establishment of 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 amendments are necessary to implement Chapters 851 and 871 of the Acts of the 2008 General Assembly, which were the result of HB 516 and SB 301. The goal of the regulation is to establish qualifications and standards of practice and conduct for employees of common interest community managers in accordance with HB 516 and SB 301.

The board will also review the previously implemented Emergency Common Interest Community Manager Regulations to make any additional amendments as needed.

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

Section 54.1-2349 states in part that the Board shall have the power and duty to promulgate regulations to carry out the requirements of Chapter 23.3 of Title 54.1 of the Code of Virginia. In addition, 54.1-2349(A)(3) states that the Board shall establish criteria for the certification of the employees of common interest community managers who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community to ensure the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community. § 54.1-2349(A)(6) states that the Board shall establish standards of conduct for employees of common interest community managers. Also, § 54.1-2349(A)(7) states 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. § 54.1-201(E) states in part that regulatory boards shall promulgate regulations in accordance with the Administrative Process Act necessary to assure continued competence, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulation is mandatory to implement Chapters 851 and 871 of the Acts of the 2008 General Assembly.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The General Assembly determined that regulatory oversight of employees of common interest community managers is essential to protect the health, safety, and welfare of the citizens of Virginia. Minimum qualifications for employees of common interest community managers who have principal responsibility for management services or who have supervisory responsibility for employees who provide management services, and the standards of conduct and practice are the general items that will be addressed in the regulations.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

General: Defines terms used throughout the regulations.

Entry: States the application procedures; provides qualifications for licensure of common interest community managers and certification of employees of common interest

community managers, including past conviction and financial information submission requirements.

Fees: Lists all fees, including initial application fees, renewal fees, and reinstatement fees.

Renewal and Reinstatement: Establishes standards and requirements for renewal and/or reinstatement of license and certification, including requirement for reinstatement, status of license and certification during reinstatement periods, and the Board’s discretion regarding denial of licenses and certifications.

Standards of Practice and Conduct: Outlines grounds for disciplinary action, license and certification maintenance requirements, client account maintenance and management requirements, and prohibited acts.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Chapters 851 and 871 of the Acts of the 2008 General Assembly and the Code of Virginia mandate the establishment of the regulation. Therefore, no alternatives exist to evaluate.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency/board is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency/board is also 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 for the public comment file may do so by mail, email or fax to Trisha L. Henshaw, Executive Director, Common Interest Community Board, 9960 Mayland Drive, Suite 400, Richmond, Virginia 23233, fax to (804) 527-4298, or email to cic@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 day of the public comment period.

A public hearing will not be held.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board will use the participatory approach to develop a proposal if it receives at least 15 written requests to use the participatory approach prior to the end of the public comment period. Persons requesting the agency use the participatory approach and interested in assisting in the development of a proposal should notify the department contact person by the end of the comment period and provide their name, address, phone number, email address and their organization (if any). Notification of the composition of the advisory committee will be sent to all applicants.

Family impact

Assess 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.

No impact on families in Virginia has been identified as resulting from the proposed amendment to the regulation.