



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Board of Optometry , Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18VAC105-20-10 et seq.
<b>Regulation title</b>	Regulations Governing the Practice of Optometry
<b>Action title</b>	Conform the fee for returned check to the amount fixed in statute
<b>Final agency action date</b>	2/7/06
<b>Document preparation date</b>	2/7/06

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 21 (02) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Currently, regulations of the Board of Optometry provide for a fee of \$25 for a check that is not paid by a financial institution on which it is drawn because of insufficient funds in the account. The Administrative Process Act specifies that the penalty shall be \$35 or the amount of any costs, whichever is greater.

§ 2.2-614.1. Authority to accept revenue by commercially acceptable means; service charge; bad check charge.

*... C. If any check or other means of payment tendered to a public body in the course of its duties is not paid by the financial institution on which it is drawn, because of insufficient funds in the account of the drawer, no account is in the name of the drawer, or the account of the drawer is closed, and the check or other means of payment is returned to the public body unpaid, the amount thereof shall be charged to the person on whose account it was received, and his liability and that of his sureties, shall be as if he had never offered any such payment. A penalty of \$35 or*

*the amount of any costs, whichever is greater, shall be added to such amount. This penalty shall be in addition to any other penalty provided by law, except the penalty imposed by § [58.1-12](#) shall not apply.*

Accordingly, the Board has adopted an amendment under an exempt action to conform regulations to the statute.

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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On February 7, 2006, the Board of Optometry adopted an exempt action to amend the returned check fee in 18VAC105-20-10 et seq., Regulations Governing the Practice of Optometry to conform to § 2.2-614.1 of the Code of Virginia. Although required to comply with the Virginia Register Act, the agency is exempt from provisions of the Administrative Process Act for the implementation of these regulations pursuant to § 2.2-4006 A 4, which grants an exemption if the action is: “Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved.”

**Family impact**

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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There is no impact of this regulatory action on the institution of the family and family stability.