



Virginia
Regulatory
Town Hall

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Proposed Regulation Agency Background Document

Agency name	DPOR/Auctioneers Board
Virginia Administrative Code (VAC) citation	18 VAC 25-21
Regulation title	Rules and Regulations of the Virginia Auctioneers Board
Action title	Develop necessary regulations to implement a mandatory continuing education program
Document preparation date	January 5, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

Develop necessary regulations to implement a mandatory continuing education program for the renewal/reinstatement of auctioneer licenses as required by HB1022 from the 2004 session of the General Assembly.

Other changes which may be necessary may also be considered.

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

The mandatory continuing education program is mandatory pursuant to § 54.1-603.1 of the Code of Virginia. In addition, § 54.1-602 provides the Board with its broad authority to establish regulations in order to obtain and retain licenses.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

Develop necessary regulations to implement a mandatory continuing education program for the renewal/reinstatement of auctioneer licenses as required by HB1022 from the 2004 session of the General Assembly. Such a program should lead to better educated auctioneers which should, thereby, increase the protection of the health, safety and welfare of the public.

Other changes which may be necessary may also be considered.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The Board will develop regulations to implement the continuing education program in accordance with the provisions of § 54.1-603.1 of the Code of Virginia which are as follows:

§ 54.1-603.1. Continuing education.

A. The Board shall promulgate regulations governing continuing education requirements for auctioneers licensed by the Board. Such regulations shall require the completion of the equivalent of at least six hours of Board-approved continuing education courses for any license renewal or reinstatement. The Board shall establish criteria for continuing education courses including, but not limited to (i) content and subject matter of continuing education courses, (ii) curriculum of required continuing education courses, (iii) standards and procedures for the approval of courses, course sponsors, and course instructors, (iv) methods of instruction for continuing education courses, and (v) the computation of course credit. Any continuing education courses completed by an auctioneer pursuant to a requirement of the Certified Auctioneer's Institute or participation in the educational programs sponsored by the National Auctioneer's Association or Virginia Auctioneer's Association shall satisfy the continuing education requirement of this section.

B. The Board may grant exemptions or waive or reduce the number of continuing education hours required in cases of certified illness or undue hardship.

Other changes which may be necessary may also be considered.

Issues

Please identify the issues associated with the proposed regulatory action, including:
 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
 3) *other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The public and the Commonwealth should be better served as licensed auctioneers will have to show compliance with the Board's continuing education requirements which should result in auctioneers being better educated and, therefore, less of a threat to the public due to inadequate knowledge. However, the cost of complying with the new requirements will most likely be passed on by licensed auctioneers to their customers.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Fiscal Impact of Proposed Regulation

Summary:

All costs incurred in support of board activities and regulatory operations are paid by the department and funded through fees paid by applicants and licensees. All boards within the Department of Professional and Occupational Regulation must operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201. Each regulatory program's revenues must be adequate to support both its direct costs and a proportional share of agency operating costs. The department allocates costs to its regulatory programs based on consistent, equitable, and cost-effective methodologies. The board has no other source of income.

Fiscal Impact:

	FY 2005	FY 2006	FY2007	FY2008
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Subprogram	560 44	560 44	560 44	560 44

Impact of Regulatory Changes:				
One-Time Costs	31,500	0	0	0
Ongoing Costs	0	0	0	0

Total Fiscal Impact	31,500	0	0	0
FTE	0.00	0.00	0.00	0.00

Description of Costs:

One-Time: Costs to be incurred in FY05 include \$1,500 for court reporters for public hearings, \$5,000 for printing and mailing of applications, notifications for public participation guidelines, and regulations, and \$25,000 for systems development. The Board is expected to experience a one-time reduction in revenue of approximately \$15,000 in FY06 as a result of this regulatory change.

Ongoing: There are no ongoing costs associated with the proposed regulations.

Cost to Localities: None anticipated.

Description of Individuals, Businesses, or Other Entities Impacted:

Estimated Number of Regulators: Approximately 1,400 individuals licensed as auctioneers. The board estimates that as many as 430 regulators would choose to give up their license as a result of this regulatory requirement.

Projected Cost to Regulators: The Board has adequate cash balances to absorb the one-time costs and potential decrease in revenues without increasing the cost to be licensed. No changes to licensing fees are anticipated as a result of this regulatory change.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

There are no available alternatives as this is a statutorily mandated requirement.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

COMMENTS	COMMENT	AGENCY RESPONSE
Elaine Christian, Executive Director, Virginia Auctioneers Association	Require course sponsors to report completion of the course to the Board based on the North Carolina Auctioneers Board requirements.	As the Auctioneers Board will be relying on an audit system for verification of continuing education, the recommended language would not be applicable.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The contemplated changes are not anticipated to have any significant impact on Virginia's families.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

VAC #	SUMMARY
N/A	Change the title of the regulations by deleting "Rules and" as they are just regulations.
18 VAC 25-21-80	Add language stating that individual license holders applying for renewal are required to certify compliance with the continuing education requirements.
18 VAC 25-21-90.B	Add language stating that individual license holders applying for reinstatement are required to provide evidence of compliance with the continuing education requirements.
18 VAC 25-21-90.D	Clarify that the date that a complete renewal application (including fees and all required documentation) is received will determine whether a license will be renewed without penalty.
18 VAC 25-21-90.E	Clarify wording.
18 VAC 25-21-180.A.1	Clarify that the Board may discipline someone who reinstates their license through fraud or misrepresentation.
18 VAC 25-21-180.A.5, A.6, and A.7	Add new section (A.7) that allows the Board to discipline an individual who misrepresents any information pertaining to their compliance with the Board's continuing education requirements.
18 VAC 25-21-180.B	Clarify that the Board may deny reinstatement of a license for the same reasons that it may discipline a license holder.
18 VAC 25-21-230 (new section)	Add criteria for continuing education course approval.
18 VAC 25-21-240 (new section)	Add criteria for continuing education course administration.
18 VAC 25-21-250 (new section)	Add criteria for continuing education requirements to be met by license holders for renewal or reinstatement.
18 VAC 25-21-260 (new section)	Add reference to the provisions contained in § 54.1-603.1.B of the Code of Virginia for exemptions, waivers or reduction of continuing education requirements in cases of illness or hardship.
18 VAC 25-21-270 (new section)	Add requirement that approved course providers notify the Board of any changes within 10 days of occurrence. Further, provide that instances of non-compliance with the Board's requirements from such changes shall result in the automatic suspension of the approval until such time as deficiency is corrected and the Board is notified of the correction.
18 VAC 25-21-280 (new section)	Provide that the Board may periodically require approved course providers to provide evidence that they continue to comply with the Board's requirements.