



Proposed Regulation Agency Background Document

Agency name	Department of Professional and Occupational Regulation/ Auctioneers Board
Virginia Administrative Code (VAC) citation	18 VAC 25-21
Regulation title	Auctioneers Board Regulations
Action title	Review to amend existing regulations.
Date this document prepared	October 10, 2012

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The Auctioneers Board seeks to amend its current regulations for clarity and modify sections relating to disciplinary actions. Other sections will be as necessary.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

None

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.

§ 54.1-602 of the Code of Virginia authorizes the Board to promulgate regulations for a regulatory system. While the Board is mandated to establish regulations, the content of the regulations is up to the discretion of the Board.

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, the environmental benefits, and the problems the proposal is intended to solve.

The purpose of the regulation review is to amend the existing regulations for further clarification.

Substance

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

The Board is proposing to perform a review of the existing regulations dealing with disciplinary actions and the compliance of such actions. The proposed changes and any other identified changes will improve the clarity of the regulations and thereby better protect the citizens of the Commonwealth.

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 indicate.

The primary advantage to the public and the Commonwealth should be that the licensed auctioneers and consumers will have clearer and comprehensible regulations which should permit a positive outcome for all parties. In addition, the changes will assist with disciplinary actions and the compliance of such actions.

No disadvantage to the public or the Commonwealth could be identified.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality would be particularly affected by this regulatory action.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is 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 may do so via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail, email or fax to:

Kate Nosbisch, Executive Director
9960 Mayland Dr., Suite 400
Richmond, VA 23233
auctioneers@dpor.virginia.gov
(866) 465-6206 (Fax)

Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and the Commonwealth Calendar. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements create the anticipated economic impact.

Auctioneers Board
Fiscal Impact of Proposed Regulation

Summary:

The current regulations for the Auctioneers Board are being revised to provide clarity in various sections of the regulations. The included clarifications are in the sections referencing the examination fees, escrow accounts, renewals, reinstatements, contracts, and continuing education requirements. No fiscal impact is expected as a result of these changes.

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 2011	FY 2012	FY2013	FY2014
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Service Area	560 46	560 46	560 46	560 46

Impact of Regulatory Changes:				
One-Time Costs	0	0	0	0
Ongoing Costs	0	0	0	0
Total Fiscal Impact	0	0	0	0
FTE	0.00	0.00	0.00	0.00

Description of Costs:

One-Time: No one-time costs are expected as a result of this regulatory change.

Ongoing: No ongoing costs are expected as a result of this regulatory change.

Cost to Localities: No change anticipated.

Description of Individuals, Businesses, or Other Entities Impacted: The revised regulations apply to auctioneers and auctioneer firms.

Estimated Number of Regulators: There are approximately 1,396 individual auctioneers and 255 auctioneer firms.

Projected Cost to Regulators: There is no anticipated additional cost to the regulators.

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. 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 regulation.

The Board will consider any and all comments received during the comment periods as to any proposed alternatives.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The regulations were developed with consideration that the industry consists of small businesses. The Board considers that the regulatory methods implemented were promulgated to accomplish the applicable law while minimizing the adverse impact on small businesses.

Public comment

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

Commenter	Comment	Agency response
-----------	---------	-----------------

Frank W. MaGann	Recommended a request for adoption by DPOR and the Auctioneer Board of a regulatory Virginia Administrative Code section granting an exemption for the reinstatement of auctioneer licenses applicable to reserve military personnel who are <u>involuntarily</u> called to active duty in the armed forces of the United States	As this matter is addressed in § 54.1-117 of the Code of Virginia, the recommended language is not necessary.
-----------------	--	---

Family impact

Please assess the 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.

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

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please describe the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

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

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
10		Definitions.	Language added to clarify definition.
50.A		Application.	Language deleted for clarity.
70		Fees.	Language removed due to contracted charges. Language added as required by § 2.2-4300 of the Code of Virginia.
80		Renewal/Reinstatement.	Language changed and added for clarity.

90		Failure to renew.	Language changed and added for clarity.
	95	Board Discretion to Deny Renewal.	Language added as required by § 2.2-4000 of the Code of Virginia.
110		Contracts.	Language added for clarity, in addition to disciplinary and compliance issues.
120		Conduct at auctions.	Language changed for clarity.
140		Documentation.	Language changed for clarity.
150		Escrow funds.	
160		Records.	Language changed for clarity.
170		Change of address.	Language changed and added for clarity.
180		Discipline.	Language changed and added for clarity.
185		Cooperation with the board.	Language changed for clarity.
220		Periodic requalification for continued course approval.	Language changed for clarity.
250		Continuing education requirements for renewal or reinstatement.	Language changed for clarity. B.2- New language added regarding licensee who has completed continuing education in another state who shares a reciprocal agreement and will provide the same privilege to Virginia licensees.
280		Periodic requalification for continued course approval.	Language changed for clarity.