



Virginia  
Regulatory  
Town Hall

## Proposed Regulation Agency Background Document

<b>Agency Name:</b>	Board of Housing and Community Development
<b>VAC Chapter Number:</b>	13 VAC 5-21-10 et seq. and Amending 13 VAC 5-80-10, 40, 50, 60, 70, 80, 90, 100, 110, 120, 130 and 140 and repealing 13 VAC 5-80-20, 30 and 150
<b>Regulation Title:</b>	Virginia Certification Standards and Virginia Standards for Individual and Regional Code Academies
<b>Action Title:</b>	Proposed
<b>Date:</b>	9/25/02

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 et seq. of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

### Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The substantive amendments to the Virginia Certification Standards proposed by the Board of Housing and Community Development (Board) are as follows:

To add the following definitions: "certificate", "guidance document" and "training".

To delete the list of categories of BHCD certificates and the list of approved testing agencies and examinations.

To require the Department of Housing and Community Development (Department) to develop a "training and certification guidance document" which list (a) the approved testing agencies and

examinations which meet nationally accepted standards for each type of certificate and (b) the categories of Board certificates.

To establish circumstances and conditions under which a person may be issued a Board provisional certificate.

The proposed amendments to the Virginia Standards for Individual and Regional Code Academies proposed by the Board of Housing and Community Development (Board) are intended to update this regulation, which is used to accredit a individual or regional code academy to conduct educational programs for persons seeking to become certified to enforce Virginia's building and fire related regulations, by adding standard definitions, repealing unnecessary adoption provisions, deleting the maximum amount of levy funds that may be carried over and by repealing the VAC section with DHCD's address.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.*

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There is no federal source of legal authority to promulgate the regulation.

The statutory authority for the Board of Housing and Community Development (Board) to promulgate the Virginia Certification Standards is found in the General Assembly's mandate to the Board in § 36-137(5) of the Code of Virginia, which directs and empowers the Board to make such rules and regulations as may be necessary to carry out its responsibilities. One of the Board's responsibilities is to issue a certificate of competence concerning the content, application, and intent of specified subject areas of the building and fire prevention regulations to any persons seeking to become qualified to perform inspections pursuant to the building and fire regulations adopted by the Board as found in the General Assembly's mandate to the Board in § 36-137 (6).

§ 36-137. Powers and duties of Board; appointment of Building Code Academy Advisory Committee.

The Board shall exercise the following powers and duties, and such others as may be provided by law:

1. Provide a means of citizen access to the Department.
2. Provide a means of publicizing the policies and programs of the Department in order to educate the public and elicit public support for Department activities.
3. Monitor the policies and activities of the Department and have the right of access to departmental information.
4. Advise the Governor and the Director on matters relating to housing and community development.
5. Make such rules and regulations as may be necessary to carry out its responsibilities and repeal or amend such rules when necessary.
6. Issue a certificate of competence concerning the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board to present or prospective personnel of local governments and to any other persons seeking to become qualified to perform inspections pursuant to Chapter 6 (§ 36-97 et seq.) of this title, Chapter 9 (§ 27-94 et seq.) of Title 27, and any regulations adopted thereunder, who have completed training programs or in other ways demonstrated adequate knowledge.
7. Levy by regulation up to two percent of building permit fees authorized pursuant to § 36-105 to support training programs of the Building Code Academy established pursuant to § 36-139. Local building departments shall collect such levy and transmit it quarterly to the Department of

Housing and Community Development. Localities that maintain, individual or regional, training academies accredited by the Department of Housing and Community Development shall retain such levy. However, such localities may send employees to training programs of the Building Code Academy upon payment of a fee calculated to cover the cost of such training. Any unspent balance shall be reappropriated each year for the continued operation of the Building Code Academy.

The Board shall appoint a Building Code Academy Advisory Committee (the Committee) comprised of representatives of code enforcement personnel and construction industry professions affected by the provisions of the building and fire prevention regulations promulgated by the Board. Members of the Committee shall receive no compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in accordance with § 2.2-2813. The Committee shall advise the Board and the Director on policies, procedures, operations, and other matters pertinent to enhancing the delivery of training services provided by the Building Code Academy.

8. Establish general policies, procedures, and programs for the Virginia Housing Partnership Revolving Fund established in Chapter 9 (§ 36-141 et seq.) of this title.

9. Determine the categories of housing programs, housing sponsors and persons and families of low and moderate income eligible to participate in grant or loan programs of the Virginia Housing Partnership Revolving Fund and designate the proportion of such grants or loans to be made available in each category.

10. Advise the Director of the Department on the program guidelines required to accomplish the policies and procedures of the Virginia Housing Partnership Revolving Fund.

11. Advise the Virginia Housing Development Authority on matters relating to the administration and management of loans and grants from the Virginia Housing Partnership Revolving Fund.

12. Establish the amount of the low-income housing credit, the terms and conditions for qualifying for such credit, and the terms and conditions for computing any credit recapture amount for the Virginia income tax return.

13. Serve in an advisory capacity to the Center for Housing Research established by § 23-135.7:14.

14. Advise the Department in the development of the Consolidated Plan Strategy to guide and coordinate the housing programs of the Department, the Virginia Housing Development Authority, and other state agencies and instrumentalities.

15. Advise the Governor and the Department on the expansion of affordable, accessible housing for older Virginians and Virginians with disabilities, including supportive services.

(1977, c. 613; 1978, c. 751; 1980, c. 107; 1981, c. 309; 1984, c. 720; 1986, c. 427; 1988, c. 687; 1989, c. 279; 1992, c. 754; 1993, c. 814; 2002, cc. 245, 461, 555.)

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+36-137>

The Office of the Attorney General has certified that the Board of Housing and Community Development has the statutory authority to promulgate the proposed amendments.

§ 36-137 (5) of the Code of Virginia provides the legal authority for the Board to adopt the Virginia Standards for Individual and Regional Code Academies.

§ 36-137 (7) of the Code of Virginia provides the legal authority for the Department to accredit individual or regional, training academies maintained by localities, which retain the building permit fee levy authorized under the Uniform Statewide Building Code (13 VAC 5-62-10 et seq.).

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+36-137>

§ 36-137. Powers and duties of Board; appointment of Building Code Academy Advisory Committee.

The Board shall exercise the following powers and duties, and such others as may be provided by law:

1. Provide a means of citizen access to the Department.
  2. Provide a means of publicizing the policies and programs of the Department in order to educate the public and elicit public support for Department activities.
  3. Monitor the policies and activities of the Department and have the right of access to departmental information.
  4. Advise the Governor and the Director on matters relating to housing and community development.
  5. Make such rules and regulations as may be necessary to carry out its responsibilities and repeal or amend such rules when necessary.
  6. Issue a certificate of competence concerning the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board to present or prospective personnel of local governments and to any other persons seeking to become qualified to perform inspections pursuant to Chapter 6 (§ 36-97 et seq.) of this title, Chapter 9 (§ 27-94 et seq.) of Title 27, and any regulations adopted thereunder, who have completed training programs or in other ways demonstrated adequate knowledge.
  7. Levy by regulation up to two percent of building permit fees authorized pursuant to § 36-105 to support training programs of the Building Code Academy established pursuant to § 36-139. Local building departments shall collect such levy and transmit it quarterly to the Department of Housing and Community Development. Localities that maintain, individual or regional, training academies accredited by the Department of Housing and Community Development shall retain such levy. However, such localities may send employees to training programs of the Building Code Academy upon payment of a fee calculated to cover the cost of such training. Any unspent balance shall be reappropriated each year for the continued operation of the Building Code Academy.
- The Board shall appoint a Building Code Academy Advisory Committee (the Committee) comprised of representatives of code enforcement personnel and construction industry professions affected by the provisions of the building and fire prevention regulations promulgated by the Board. Members of the Committee shall receive no compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in accordance with § 2.2-2813. The Committee shall advise the Board and the Director on policies, procedures, operations, and other matters pertinent to enhancing the delivery of training services provided by the Building Code Academy.
8. Establish general policies, procedures, and programs for the Virginia Housing Partnership Revolving Fund established in Chapter 9 (§ 36-141 et seq.) of this title.

9. Determine the categories of housing programs, housing sponsors and persons and families of low and moderate income eligible to participate in grant or loan programs of the Virginia Housing Partnership Revolving Fund and designate the proportion of such grants or loans to be made available in each category.
10. Advise the Director of the Department on the program guidelines required to accomplish the policies and procedures of the Virginia Housing Partnership Revolving Fund.
11. Advise the Virginia Housing Development Authority on matters relating to the administration and management of loans and grants from the Virginia Housing Partnership Revolving Fund.
12. Establish the amount of the low-income housing credit, the terms and conditions for qualifying for such credit, and the terms and conditions for computing any credit recapture amount for the Virginia income tax return.
13. Serve in an advisory capacity to the Center for Housing Research established by § 23-135.7:14.
14. Advise the Department in the development of the Consolidated Plan Strategy to guide and coordinate the housing programs of the Department, the Virginia Housing Development Authority, and other state agencies and instrumentalities.
15. Advise the Governor and the Department on the expansion of affordable, accessible housing for older Virginians and Virginians with disabilities, including supportive services. (1977, c. 613; 1978, c. 751; 1980, c. 107; 1981, c. 309; 1984, c. 720; 1986, c. 427; 1988, c. 687; 1989, c. 279; 1992, c. 754; 1993, c. 814; 2002, cc. 245, 461, 555.)

The Office of the Attorney General has certified that the Board of Housing and Community Development has the statutory authority to promulgate the proposed amendments.

**Purpose**

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

The rationale for the substantive changes to the Virginia Certification Standards being proposed by the Board is as follows:

- To add the following definitions: "certificate", "guidance document" and "training".
- To delete the list of categories of BHCD certificates and the list of approved testing agencies and examinations.
- To require the Department of Housing and Community Development (Department) to develop a "training and certification guidance document" which list (a) the approved testing agencies and examinations which meet nationally accepted standards for each type of certificate and (b) the categories of Board certificates.
- To establish circumstances and conditions under which a person may be issued a Board provisional certificate.

These amendments proposed by the Board are intended to bring the Virginia Standards for Individual and Regional Code Academies into line with the other building and fire related regulations promulgated by the Board and only the deletion of the maximum amount of levy funds that may be carried over to the next fiscal year for operation of the individual or regional, training academies is considered to change the status quo.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.*

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The key provisions of the Virginia Certification Standards that changes the current status of law is the moving of the list of categories of BHCD certificates and the list of approved testing agencies and examinations from the regulation to a guidance document and the establishment of the circumstances and conditions under which a person may be issued a Board provisional certificate.

Only the deletion of the maximum amount of levy funds that may be carried over to the next fiscal year for operation of the individual or regional, training academies is considered to change the status quo.

## Issues

*Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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 there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

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The primary advantage for the public of implementing the new regulation (VCS) will be the moving of the list of categories of BHCD certificates and the list of approved testing agencies and examinations from the regulation to a guidance document and the establishment of the circumstances and conditions under which a person may be issued a Board provisional certificate, which should be less burdensome and intrusive. The agency sees no disadvantages for the public or the Commonwealth.

There are no disadvantages to the public or the Commonwealth to promulgate the proposed amendments to the Virginia Standards for Individual and Regional Code Academies.

## Fiscal Impact

*Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.*

The minimum included identity of anticipated fiscal impacts for the proposed regulation as are being proposed are as follows:

- (a) The projected cost increase to the state to implement and enforce the proposed regulation is zero.
- (i) The fund source / fund detail is not applicable.
  - (ii) The budget activity with a cross-reference to program and subprogram is not applicable.
  - (iii) The delineation of one-time versus on-going expenditures is not applicable.
- (b) The projected cost of the regulation on localities may be zero.
- (c) A description of the individuals, businesses or other entities that are likely to be affected by the regulation is unknown.
- (d) The agency's best estimate of the number of such entities that will be affected is unknown.

## Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.*

All of the substantive changes to the VCS being proposed by the Board are the following:

To add the following definitions: "certificate", "guidance document" and "training".

To delete the list of categories of BHCD certificates and the list of approved testing agencies and examinations.

To require the Department of Housing and Community Development (Department) to develop a "training and certification guidance document" which list (a) the approved testing agencies and examinations which meet nationally accepted standards for each type of certificate and (b) the categories of Board certificates.

To establish circumstances and conditions under which a person may be issued a Board provisional certificate.

The deletion of the maximum amount of levy funds that may be carried over to the next fiscal year for operation of the individual or regional, training academies is the only change considered to be substantive.



## Alternatives

*Please describe the specific 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.*

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During the proposed adoption phase of this regulatory action the Board of Housing and Community Development (Board) asks various groups to review the provisions of this regulation and offer comments and suggestions for specific alternatives.

The Board decided to adopt as proposed regulations, most of the suggestions submitted to the Board for improvement, in order to provide a public review of the format, arrangement and the amendments. The rationale of this procedure forms the basis of the process used by the Board to select the least burdensome and intrusive alternatives that meets the essential purpose of this regulatory action.

## Public Comment

*Please summarize all public comment received during the NOIRA comment period and provide the agency response.*

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The agency received no public comment during the NOIRA comment period.

## Clarity of the Regulation

*Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.*

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Based on the Board's thorough examination of this regulation and relevant public comments received on the draft proposed regulations, the Board has determined that the proposed regulation is clearly written and easily understandable by the individuals and entities affected.

## Periodic Review

*Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.*

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The Board will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. Such a review will take place no later than three years after the final regulation becomes effective. And the specific and measurable regulatory goals will be:

1. A regulation that represents the least burdensome or intrusive alternative that meets the essential purpose required of that regulation, and
2. A regulation that is clearly written and easily understandable by the individuals and entities affected.

### Family Impact Statement

*Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.*

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N/A