



Virginia  
Regulatory  
Town Hall

## Final Regulation Agency Background Document

<b>Agency Name:</b>	Virginia Department of Social Services
<b>VAC Chapter Number:</b>	22 VAC 40-685
<b>Regulation Title:</b>	Virginia Energy Assistance Program – Home Energy Assistance Program
<b>Action Title:</b>	Establish Home Energy Assistance Program
<b>Date:</b>	June 18, 2003

Please refer 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* for more information and other materials required to be submitted in the final regulatory action package.

### Summary

*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.*

The proposed regulation will replace the emergency regulation mandated by Chapter 676, 2002 Acts of Assembly that established a Home Energy Assistance Program and created a Home Energy Assistance Fund to assist low-income Virginians in meeting their residential energy needs. The emergency regulation is effective September 1, 2002 through August 31, 2003.

## Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

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The Board of the Virginia Department of Social Services approved the final Virginia Energy Assistance Program – Home Energy Assistance Program, 22 VAC 40-685-10 et seq., regulation at the June 18, 2003 State Board meeting.

## 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, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.*

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Pursuant to §63.2-217 of the Code of Virginia (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+63.2-217>), the State Board of Social Services has authority to promulgate rules and regulations necessary for operation of all assistance programs. The 2001 session of the Virginia General Assembly, directed promulgation of an emergency regulation to establish the Home Energy Assistance Program (Chapter 676, 2001 Acts of Assembly). By law, the emergency regulations are effective for one year. This proposed regulation will replace the emergency regulations. The statutory authority for this program is 63.2-805.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final 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.*

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The purpose of this regulation is to promulgate a permanent regulation to replace an emergency regulation that established the Home Energy Assistance Program and the Home Energy Assistance Fund, HB 2473, enacted by the 2001 Virginia General Assembly. This regulation is required to protect the health and welfare of low-income Virginians by encouraging the continuation of the Home Energy Assistance Program.

## 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 of the regulatory action's detail.*

The planned regulation establishes the Home Energy Assistance Program and the Home Energy Assistance Fund; authorizes the Department of Social Services to receive and disburse monies from the Fund; provides a financial resource for low-income families having difficulty meeting their home energy costs; and provides an opportunity for coordinated efforts between public agencies, private utility service providers, and charitable and community groups seeking to assist low-income families with their home energy needs.

## Issues

*Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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.*

The regulation establishes the Home Energy Assistance Program which adds focus to the unmet needs of households requiring energy assistance; creates additional funding mechanisms for low-income assistance; and provides new leveraging opportunities to increase funding for Virginia's Low-Income Home Energy Assistance Program (LIHEAP) grant. The public, businesses, the Department of Social Services, and the Commonwealth benefit from this regulation because it affords an opportunity to provide an energy supplement to low-income citizens which promotes healthy and safe families and reduces customer account terminations by utility companies. Energy providers may benefit by increasing their revenue through payments for services through the Fund.

The disadvantages of the program are the mandated functions for which no additional resources were provided. There is the potential for staffing issues due to increased caseload demands at local departments of social services and new administrative responsibilities at both the regional and central office levels. The program is funded solely by donations and contributions, state income tax refund check-off, or general funds appropriated by the General Assembly. At the present time, the Home Energy Assistance Program is unfunded.

## Statement of Changes Made Since the Proposed Stage

*Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.*

There are no changes since the proposed stage.

### Public Comment

*Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.*

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No public comments were received.

### 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 crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.*

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The proposed change creates a state Home Energy Assistance Fund through a new source of funding, a state income tax refund check-off, enacted by the 2002 session of the General Assembly at §58.1-346.19 of the *Code of Virginia*. The Home Energy Assistance Program is established through §63.2-805 et seq. of the *Code of Virginia*.