



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: KARIN CLARK
Virginia Department of Social Services

FROM: ALLEN T. WILSON
Senior Assistant Attorney General

DATE: July 27, 2012

SUBJECT: Final Regulation 22 VAC 40-41-10 et seq.
Neighborhood Assistance Tax Credit Program

I have reviewed the above-referenced final regulation to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the final regulation and if this action by the State Board is exempt from the Administrative Process Act (APA).

It appears that the State Board has the authority to promulgate the proposed regulation, subject to compliance with the provisions of Article 2 of the APA, and has not exceeded that authority. The changes to the regulations are necessary to reflect the changes in Code by the adoption of Chapters 596, 731, 837 and 842 of the 2012 Acts of Assembly, which changed certain statutory definitions and requirements related to the program. This action also is incorporating Chapter 463 of the 2008 Acts of Assembly, which added marketable securities as a qualifying type of donation. These changes require the State Board to amend this regulation to ensure that it is consistent with the statutory language. Pursuant to § 2.2-4006(A)(4)(a) of the Virginia Code, this action by the Board is exempt from the requirements of the APA.

If you have any questions, please feel free to call me at 786-0095.

