



townhall.virginia.gov

Fast-Track Regulation Agency Background Document

Agency name	Department of the Treasury
Virginia Administrative Code (VAC) Chapter citation(s)	1 VAC 75-40
VAC Chapter title(s)	Unclaimed Property Administrative Review Process
Action title	Conforming regulations to the recodification of the statute
Date this document prepared	07/01/2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Treasury seeks to amend 1 VAC 75-40 to update the Code of Virginia citations that are no longer valid due to the recodification of the Uniform Disposition of Unclaimed Property Act in 2019. As the result of the enactment of SB 1080, the code was renumbered § 55.1-2500 et seq. from 55-210.1 et seq. The legislation included renaming the act as the "Virginia Disposition of Unclaimed Property Act". In addition, there were semantic changes within the recodification that will now be reflected in the regulations. For example, in places that had "pay to the State Treasurer" or deliver to the "State Treasurer", the title changed to "administrator". The definition of administrator – "means State Treasurer or his designee" . In addition, the Application for Administrative Review form will be simplified to a request for administrative review in writing.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

N/A

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On, the State Treasurer approved the use of Fast Track regulatory action to update the Unclaimed Property Administrative Review Process to conform regulations to the recodification of the statute.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

Outside of the renaming of the statute and several minor semantic changes, there were no substantive changes to the statute. The recodification legislation, SB 1080 + was approved without dissent.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Pursuant to § 55.1-2541. D of the Code of Virginia, the State Treasurer or designee (the administrator) "shall promulgate regulations pursuant to which any person (i) asserting ownership of property remitted to the Commonwealth under this chapter, (ii) required to pay or deliver abandoned property pursuant to this chapter, or (iii) otherwise aggrieved by a decision of the administrator may file an application for administrative appeal and correction of the administrator's determination."

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The purpose of this revision to the Unclaimed Property Administrative Review Process regulations is the renumbering of Code citations and updating of language in response to recent recodification legislation.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

Treasury has amended 1 VAC 75-40 to include the recodification of the statute as a result of the enactment of SB 1080 (2019).

Issues

Identify the issues associated with the regulatory change, 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 there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

- 1) The regulatory update will potential confusion by the public concerning outdated statutory citations;
- 2) There are no primary advantages and disadvantages to the agency or the Commonwealth;

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

N/A

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

N/A

Localities Particularly Affected

N/A

Other Entities Particularly Affected

N/A

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	None
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	None
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	Consistency between statute and regulation has a beneficial impact on the public.

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	None
Benefits the regulatory change is designed to produce.	Consistency between statute and regulation has a beneficial impact on the public.

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	No individuals, businesses, or other entities are likely to be affected by the regulatory change
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	N/A
All projected costs for affected individuals, businesses, or other entities resulting from the	None

regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	
Benefits the regulatory change is designed to produce.	Consistency between statute and regulation has a beneficial impact on the public.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

None

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

N/A

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

As required by § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Treasury is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency’s regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to William Watt, 101 N 14th St, 3rd Floor, Richmond, VA 23235; Phone: (804) 371-6242; Fax: (804) 225-3187; Email: William.watt@trs.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
10	N/A	Defines “Act” as: “Act” refers to the Uniform Disposition of Unclaimed Property Act, Chapter 11.1 (§55-210.1 et seq.) of Title 55 of the Code of Virginia.	Removes old code section and changes name from “Uniform Disposition of Unclaimed Property Act” to “Virginia Disposition of Unclaimed Property Act”, Chapter 25 (§55.1-2500 et seq.) of Title 55.1 of the Code of Virginia per recodification.
10		Defines “Administrator” as: “Administrator” means the Director of the Unclaimed Property Division at the Department of the Treasury or such other person as shall be designated by the State Treasurer.	Replaces definition of “Administrator” as “the State Treasurer or his designee” per recodification.
20, 30, & 40	N/A	References “State Treasurer”	Substitutes “Administrator”

10 & 20	N/A	References "Virginia" and the "Commonwealth of Virginia"	Replacing the word "Virginia" with the phrase "the Commonwealth," and striking the words "of Virginia" after the word "Commonwealth."
30 & 60	N/A	References § 55-201.22 of the Code of Virginia.	References § 55.1-2534 of the Code of Virginia per recodification.
40, 50 & 60	N/A	References to the form entitled "Application for an Administrative Review"	Replacing "Application for an Administrative Review" with "request" for Administrative Review in writing.
50	N/A	References "Application for an administrative review" in title	Substitutes "Submission of request for administrative review"
50	N/A	References submission of Application for an Administrative Review form	Substitutes request "in writing"
60	N/A	References the "office of the State Treasurer"	Replacing "office of the State Treasurer" with "Department of the Treasury"
60	N/A	References applicant and division making audio copies of the hearing.	Removes division role in preparing a recording of hearing.
All	N/A	References Statutory Authority as § 55 210.1 of the Code of Virginia.	References Statutory Authority as § 55.1-2500 of the Code of Virginia per recodification.
FORMS	N/A	References Application for an Administrative Review (eff. 9/04).	Removes reference to form that is no longer required.

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements	Other regulations and law that apply	Intent and likely impact of new requirements

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

Table 3: Changes to the Emergency Regulation

Emergency chapter-section number	New chapter-section number, if applicable	Current <u>emergency</u> requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage