



Virginia
Regulatory
Town Hall

townhall.virginia.gov

Proposed Regulation Agency Background Document

Agency name	Real Estate Appraiser Board
Virginia Administrative Code (VAC) citation	18 VAC 130-20
Regulation title	Real Estate Appraiser Board Regulations
Action title	Fee Adjustment
Date this document prepared	October 15, 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 proposed changes in the regulations will adjust licensing fees for regulants of the Real Estate Appraiser Board (Board). The Board must establish fees adequate to support the costs of the Board's operations and a proportionate share of the Department of Professional and Occupational Regulation's (Department) operations. By the close of the next biennium, fees will not provide adequate revenue for those costs.

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.

"Department" means the Department of Professional and Occupational Regulation.

"Board" means the Real Estate Appraiser Board.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

The proposed regulatory action is mandated by the following sections of the Code of Virginia. To comply with these statutes, the Board evaluates its current and projected financial position, and determines the type of fees and amounts to be established for each fee that will provide revenue sufficient to cover its expenses.

§ 54.1-113 (Callahan Act) Regulatory boards to adjust fees – Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

§ 54.1-201.4 describes each regulatory board's power and duty to "levy and collect fees for the certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department..."

§ 54.1-304.3 describes the power and duty of the Director to "collect and account for all fees prescribed to be paid into each board and account for and deposit the moneys so collected into a special fund from which the expenses of the Board, regulatory boards, and the Department shall be paid..."

§ 54.1-308 provides for compensation of the Director, employees, and board members to be paid out of the total funds collected. This section also requires the Director to maintain a separate account for each board showing moneys collected on its behalf and expenses allocated to the board.

§ 54.1-2013 provides the Real Estate Appraiser Board with the power and duty to "levy and collect fees for the certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department..."

These Code sections require the Department to:

- pay expenses of each board and the Department from revenues collected;
- establish fees adequate to provide sufficient revenue to pay expenses;
- account for the revenues collected and expenses charged to each board; and
- revise fees as necessary to ensure that revenue is sufficient but not excessive to cover all expenses.

To comply with these requirements, the Department:

- Accounts for the revenue collected for each board distinctly;
- Accounts for direct board expenses for each board, and allocates a proportionate share of agency operating expenses to each board;
- Reviews the actual and projected financial position of each board biennially to determine whether revenues are adequate, but not excessive, to cover reasonable and authorized expenses for upcoming operating cycles; and

- Recommends adjustments to fees to respond to changes and projections in revenue trends and operating expenses. If projected revenue collections are expected to be more than sufficient to cover expenses for upcoming operating cycles, decreases in fees are recommended. If projected revenue collections are expected to be inadequate to cover operating expenses for upcoming operating cycles, increases in fees are recommended.

Fee adjustments are mandatory in accordance with these Code sections. The Board exercises discretion on how the fees are adjusted by determining the amount of adjustment for each type of fee. The Board makes its determination based on the adequacy of the fees to provide sufficient revenue for upcoming operating cycles.

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 intent of the proposed change in the regulations is to adjust licensing fees for regulants of the Real Estate Appraiser Board (Board). The Board must establish fees adequate to support the costs of the Board’s operations and a proportionate share of the Department of Professional and Occupational Regulation’s (Department) operations. By the close of the next biennium, fees will not provide adequate revenue for those costs.

The Department receives no general fund money but, instead, is funded almost entirely from revenue collected for license applications, renewal fees and other licensing fees. The Department is self-supporting and must collect adequate revenue to support its mandated and approved activities and operations. Fees must be established at amounts which will provide that revenue. Fee revenue collected on behalf of the various boards funds the Department’s authorized special revenue appropriation.

The Board has no other source of revenue from which to fund its operations.

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 existing regulations are being amended to adjust the fees related to obtaining and maintaining licensure, registration, certification or approval as an appraiser, appraiser trainee, appraisal business, appraisal instructor and appraisal course.

18VAC130-20-90. Application and Registration Fees.

- 1) The registration fee for an appraisal business is adjusted from \$100 to \$160.
- 2) The application fee for an appraiser license is adjusted from \$141 to \$201.
- 3) The application fee for a temporary appraiser license is adjusted from \$45 to \$75.
- 4) The application fee for an appraiser trainee license is adjusted from \$96 to \$146.
- 5) The application fee to upgrade an appraiser license is adjusted from \$65 to \$130.
- 6) The application fee for an appraisal instructor certification is adjusted from \$135 to \$150.

18VAC130-20-130. Fees for Renewal and Reinstatement.

- 1) The renewal fee for an appraisal business is adjusted from \$60 to \$120.
- 2) The renewal fee for an appraiser license is adjusted from \$61 to \$116.
- 3) The renewal fee for an appraiser trainee license is adjusted from \$61 to \$116.
- 4) The renewal fee for an appraisal instructor certification is adjusted from \$125 to \$150.
- 5) The reinstatement fee for an appraisal business is adjusted from \$40 to \$160.
- 6) The reinstatement fee for an appraiser license is adjusted from \$60 to \$180.
- 7) The reinstatement fee for an appraiser trainee license is adjusted from \$60 to \$125.
- 8) The reinstatement fee for an appraisal instructor certification is adjusted from \$105 to \$150.

18VAC130-20-240. Course Approval Fees.

- 1) The approval fee for an appraisal course is adjusted from \$135 to \$150.

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 *Code of Virginia* establishes the Board as the state agency that oversees licensure of appraisers providing services in Virginia. The Board's primary mission is to protect the citizens of the Commonwealth by prescribing requirements for minimal competencies; by prescribing standards of conduct and practice; and by imposing penalties for not complying with the regulations. Further, the *Code of Virginia* requires the Department to comply with the Callahan Act. The proposed fee adjustments will ensure that the Board has sufficient revenues to fund its operating expenses.

There are no disadvantages to the public or the Commonwealth in raising the Board's fees as proposed here.

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 localities have been identified that will be particularly affected by the proposed fee adjustments.

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 Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email or fax to Christine Martine, Executive Director, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA, 23233, reappraisers@dpor.virginia.gov, phone (804) 367-8552, fax (866) 350-7849. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last date of the public comment period.

A public hearing will be held after this regulatory stage is published in the *Virginia Register of Regulations* and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). 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 creates the anticipated economic impact.

**Real Estate Appraiser Board
Financial Status and Projections
Current Regulations**

Biennium	Beginning Cash Balance	Revenues	Expenditures	Ending Cash Balance	Callahan Act %
2010-12	347,169	395,347	503,340	239,176	47.5%
2012-14	239,176	423,059	612,031	50,204	8.2%
2014-16	50,204	423,059	626,574	-153,311	-24.5%
2016-18	-153,311	423,059	672,500	-402,752	-59.9%

Number of Regulants

4,243 as of 7/1/2012

<u>Major Fee Type</u>	Fee History \$		Proposed
	<u>1995</u>	<u>1999</u>	<u>2014</u>
Individual Application Fee	120	120	180
Business Application Fee	100	100	160
Individual Renewal Fee	50	40	95
Business Renewal Fee	70	60	120

Individual fees exclude \$21 USPAP booklet fee
 (This fee will adjust to \$30 on January 1, 2013)
 and \$80 National Registry fee

**Real Estate Appraiser Board
 Financial Status and Projections
 Proposed Regulations**

<u>Biennium</u>	<u>Beginning Cash Balance</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Ending Cash Balance</u>	<u>Callahan Act %</u>
2010-12	347,169	395,347	503,340	239,176	47.5%
2012-14	239,176	423,059	612,031	50,204	8.2%
2014-16	50,204	695,788	626,574	119,418	19.1%
2016-18	119,418	695,788	672,500	142,706	21.2%

Number of Regulants

4,243 as of 7/1/2012

<u>Major Fee Type</u>	Fee History \$		Proposed
	<u>1995</u>	<u>1999</u>	<u>2014</u>
Individual Application Fee	120	120	180
Business Application Fee	100	100	160
Individual Renewal Fee	50	40	95
Business Renewal Fee	70	60	120

Individual fees exclude \$21 USPAP booklet fee
 (This fee will adjust to \$30 on January 1, 2013)
 and \$80 National Registry fee

**Real Estate Appraiser Board
Fiscal Impact of Proposed Regulation**

Summary:

The proposed regulations will increase fees for the Real Estate Appraiser Board to ensure that revenues are sufficient but not excessive to cover its ongoing operating expenses. The Board's most recent fee changes were fee decreases that were effective in 1995, 1997, and 1999. The Board has never had a fee increase. The proposed fee increases are expected to become effective by the start of fiscal year 2015. Without the proposed fee increases, the Board will not collect sufficient revenue to pay for operations and may incur a deficit cash balance during fiscal year 2015.

All costs incurred in support of board activities and regulatory operations are paid by the Department of Professional and Occupational Regulation (Department) and funded through fees paid by applicants and licensees. All boards within the Department 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 2013	FY 2014	FY2015	FY2016
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: This regulation change will affect all appraisers, appraisal businesses, instructors, courses, and all applicants.

Estimated Number of Regulants: As of July 1, 2012, the Board regulates 4,243 appraisers and businesses.

Projected Cost to Regulants: All fees cover a two-year period. The cost for an appraiser to become certified or licensed will increase by \$60, from \$120 to \$180. The cost for an appraiser to renew a certification or license will increase by \$55, from \$40 to \$95. No economic impact is anticipated beyond the direct impact of the increased cost to become and remain certified or licensed. Increases in fees are

not expected to have a significant effect on individuals deciding to become or remain certified or licensed by the Board.

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 Department has considered the following alternatives to increasing fees for the Real Estate Appraiser Board:

Reduce services: Because the regulatory activities conducted by the Board are mandated by statute, this is not considered a viable alternative. In addition, reductions in services would result in delays in issuing licenses, creating barriers to citizen’s ability to work, and would decrease the Department’s effectiveness in ensuring that licensees conduct their activities in a manner adequate to protect the public health, safety and welfare.

Obtain a Treasury loan to fund operations: The Department could request a loan from the general fund to cover the Board’s deficit and supplement its ongoing operations. However, this would be a short-term solution only, and would only delay the need for fee increases. When eventually implemented, fee increases would need to be even greater to provide for repayment of the loan.

Supplement Board activities with general funds: The Department currently receives no general fund revenue, and this would require a change in the Code of Virginia and the Appropriation Act. The Department’s boards are intended to be self-funding per §§ 54.1-113, 54.1-201, 54.1-304.3, and 54.1-308 of the Code of Virginia. Use of general funds to support board operations does not appear to be an appropriate use of taxpayer dollars.

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 adjustment of fees is mandated by statute. Consequently, there is no flexibility.

Public comment

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

There was no public comment following the publication of the NOIRA.

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 proposed fee adjustment is not expected to have an impact on 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. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the **pre-emergency** regulation and this 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, intent, rationale, and likely impact of proposed requirements
18VAC130-20-90	N/A	Registration fee for an appraisal business is \$100. Application fee for an appraiser license is \$141. Application fee for temporary appraiser license is \$45. Application fee for appraiser trainee license is \$96. Application fee to upgrade an appraiser license is \$65. Application fee for an appraisal instructor certification is \$135.	Registration fee for an appraisal business is adjusted to \$160 to comply with the Callahan Act. Application fee for an appraiser license is adjusted to \$201 to comply with the Callahan Act. Application fee for a temporary appraiser license is adjusted to \$75 to comply with the Callahan Act. Application fee for an appraiser trainee license is adjusted to \$146 to comply with the Callahan Act. Application fee to upgrade an appraiser license is adjusted to \$130 to comply with the Callahan Act. Application fee for an appraisal instructor certification is adjusted to \$150 to comply with the Callahan Act.
18VAC130-	N/A	Renewal fee for an appraisal	Renewal fee for an appraisal business

<p>20-130</p>		<p>business is \$60.</p> <p>Renewal fee for an appraiser license is \$61.</p> <p>Renewal fee for an appraiser trainee license is \$61.</p> <p>Renewal fee for an appraisal instructor certification is \$125.</p> <p>Reinstatement fee for an appraisal business registration is \$40.</p> <p>Reinstatement fee for an appraiser license is \$60.</p> <p>Reinstatement fee for an appraiser trainee license is \$60.</p> <p>Reinstatement fee for an appraisal instructor certification is \$105.</p>	<p>registration is adjusted to \$120 to comply with the Callahan Act.</p> <p>Renewal fee for an appraiser license is adjusted to \$116 to comply with the Callahan Act.</p> <p>Renewal fee for an appraiser trainee license is adjusted to \$116 to comply with the Callahan Act.</p> <p>Renewal fee for an appraisal instructor certification is adjusted to \$150 to comply with the Callahan Act.</p> <p>Reinstatement fee for an appraisal business registration is adjusted to \$160 to comply with the Callahan Act.</p> <p>Reinstatement fee for an appraiser license is adjusted to \$180 to comply with the Callahan Act.</p> <p>Reinstatement fee for an appraiser trainee license is adjusted to \$125 to comply with the Callahan Act.</p> <p>Reinstatement fee for an appraisal instructor certification is adjusted to \$150 to comply with the Callahan Act.</p>
<p>18VAC130-20-240</p>	<p>N/A</p>	<p>Approval fee for an appraisal course is \$135.</p>	<p>Approval fee for an appraisal course is adjusted to \$150 to comply with the Callahan Act</p>