



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Real Estate Board
Virginia Administrative Code (VAC) citation	18 VAC135-50
Regulation title	Fair Housing Regulations
Action title	Amending regulations to incorporate needed changes
Date this document prepared	12-17-09

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of the planned regulatory action is to make clarifying changes, ensure consistency with Federal and State law and other changes which may be necessary may also be considered.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 54.1-2105.A of the Code of Virginia states that the Real Estate Board “may do all things necessary and convenient for carrying into effect the provisions of this chapter and may promulgate necessary regulations.” In accordance with § 54.1-2344.D of the Code of Virginia, the Real Estate Board is responsible for the administration and enforcement of the Fair Housing Law with respect to real estate licensees or their agents or employees and the Fair Housing Board is responsible for the administration and enforcement of the Fair Housing Law with respect to all others who allegedly violated or violated the Fair Housing Law. Chapter 575, clauses 3 and 4 of the 2003 Acts of Assembly, states the Real Estate

Board and Fair Housing Board may coordinate the adoption of their respective regulations and otherwise provide for consistent application of the Virginia Fair Housing Law.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The regulations need to be amended to ensure that the regulations conform to the most current statutes and standards of practice in the industry which are necessary to protect the health, safety and welfare of the citizens. Other changes which may be necessary may also be considered.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

135-50-10 Add definitions such as “authorized representative” for clarity.

135-50-20 Clarify purpose section. For example, clarify discriminatory conduct covered by the Virginia Fair Housing Law.

135-50-50 Clarify scope section to ensure it encompasses the scope of the Virginia Fair Housing Law.

135-50-110 Amend discriminatory, advertisements, statements and notices to include update language for publisher’s notices.

135-50-200 Amend general prohibitions against discrimination because of handicap to include new definitions such as “disability”; from where to obtain ANSI A117.1 accessibility standards and to include guidance document references for reasonable accommodations and reasonable modifications.

135-50-270 Amend list of words indicative of protected classes to ensure consistency.

135-50-290 Amend fair housing policy and practices to ensure individuals know how to obtain equal housing logos, statement, or slogan.

135-50-350 Clarify the procedure for determining the date of filing a fair housing complaint.

135-50-400 Clarify the administrator’s duties.

135-50-440 Clarify when investigations are complete.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Failure to adopt these changes will result in regulations not being as clear as possible.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also 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 comments may do so via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail, email or fax to Christine Martine, DPOR Real Estate Board 9960 Mayland Drive, Suite 400, Richmond, VA 23233, 804-367-8552, Fax 804-527-4298, fhcertification@dpor.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

In addition, the agency is seeking information on (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.}

A public hearing will be held and notice of the hearing may be found on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory

approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Real Estate Board and Fair Housing Board will be using the participatory approach in the development of the proposed regulations.

Family impact

Assess the potential 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 changes are not expected to have an impact on families.