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Exempt Action Final Regulation Agency Background Document

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| Agency name | State Board of Social Services |
| Virginia Administrative Code (VAC) citation(s) | 22VAC40-160-10 |
| Regulation title(s) | Fee Requirements for Processing Applications |
| Action title | Fee Requirements for Licensure Applications |
| Final agency action date | August 16, 2017 |
| Date this document prepared | August 16, 2017 |

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Fee Requirements for Processing Applications, 22 VAC40-160-10, is being amended to update the Code references in the regulation. The General Assembly repealed Title 63.1 in 2002 and replaced it with Title 63.2. References to fees are located in § 63.2-1700. The total amount for a returned check fee is being removed from the regulation and replaced with the statement, "there will be a return check fee" because the Virginia Department of Social Services does not set the fee to be charged for returned checks.

Statement of final agency action

Please 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 August 16, 2017, the State Board of Social Services approved the exempt action to amend the regulation Fee Requirements for Processing Applications, 22 VAC40-160-10.

Family impact

Please assess the impact of this 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 changes to the regulation will align the regulation with the accurate Code references and provide notification to applicants that a fee will be charged for a check returned for insufficient funds. Changes in this regulation will not erode the authority and rights of parents in the education, nurturing and supervision of their children. The changes to this regulation will not have an impact in encouraging or discouraging economic self-sufficiency, assumption of responsibility, or marital commitment. There is no relationship between this action and disposable family income.

Periodic review/small business impact review report of findings

This section may be used to report the results of a periodic review/small business impact review. Otherwise, delete this section.

Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) 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.

| Commenter | Comment | Agency response |
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| Bridget The Hidenwood Retirement and Assisted Living Community Mitchell, | I do not have problem with the proposed fee structure for Assisted Living Communities. The fees are reasonable and the verbiage is strait forward. | Agency agrees. |
| Patrick Harvey, | The fee structure should be revised | No change will be made; fees will remain the |

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| <p>Retired DSS Licensing Inspector/Facility Trainer</p> | <p>upward from the 1984 levels. Higher flat fees and broader categories for each fee could be initiated, such as a minimum fee of \$50 for the smallest capacity. The highest fee level could be a maximum of \$500. If the Department does not license or register an entity of a capacity of one (1) the table should be revised to reflect the minimum capacity the Department licenses or registers. Fees for initial licensing inspections should also be considered.</p> | <p>same.</p> <p>This suggestion is outside the scope of this regulatory action.</p> <p>No change will be made; there is no indication of a need for inspection fees.</p> |
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Comments received both agree with the current fee structure and provide suggestions outside the scope of this regulatory action. Fee Requirements for Processing Applications 22 VAC40-160-10, is necessary for the protection of public health, safety and welfare of the children and families of Virginia. This regulation is clearly written and easily understandable. This periodic review demonstrates the need to amend the regulation to align it with the current Code references, remove the value associated with the return check fee and to continue to implement the current fee structure. One comment received suggested the fee structure be revised upward. This regulation provides clear and concise information for applicants to determine the correct fee to pay for processing applications for licensing. The Code of Virginia requires the fees to be used for the development and delivery of training for operators and staff of assisted living facilities, adult day care centers, and child welfare agencies. Fee Requirements for Processing Applications, 22 VAC40-160-10, does not overlap, duplicate or conflict with applicable federal or state law or regulation. Periodic review of this regulation was filed with the Virginia Regulatory Town Hall on May 10, 2017. A public comment period began May 29, 2017 and ended June 19, 2017.