



townhall.virginia.gov

Periodic Review Report of Findings

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) citation	18 VAC48-60
Regulation title	Common Interest Community Management Information Fund Regulations
Date this document prepared	December 6, 2019

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Acronyms and Definitions

Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

No acronyms are used in this report.

Legal Basis

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

The Common Interest Community Management Information Fund Regulations implement the requirements and duties imposed upon the Common Interest Community Board by Virginia law, including Article 2 of Chapter 23.3 (§ 54.1-2354.1 et seq.) of Title 54.1 of the Code of Virginia, which establishes the Common Interest Community Information Management Fund ("the Fund"). The regulation prescribes

when and how common interest community associations (property owners’ associations, condominium unit owners’ associations, and proprietary lessees’ associations in real estate cooperatives) are to register with the Board by filing an annual report in accordance with Chapters 18, 19, and 21 of Title 55.1 of the Code of Virginia. The regulation establishes registration application filing fees, procedures for renewing registrations, and requirements for updating registration information.

Monies from the Fund support the operations of the Office of the Common Interest Community Ombudsman. The Ombudsman’s office protects the public welfare through fulfilling its statutory obligations to (i) assist association members in understanding their rights and the processes available to them according to the laws and regulations governing common interest communities; (ii) provide members and other citizens information concerning common interest communities upon request; and (iii) receive notices of final adverse decision from association members and members of the public. The Fund also supports the functions of the Board which protects the public welfare, in part, by enforcing the requirements of the Property Owners’ Association Act (Chapter 18 of Title 55.1 of the Code of Virginia), the Virginia Condominium Act (Chapter 19 of Title 55.1 of the Code of Virginia), and the Virginia Real Estate Cooperative Act (Chapter 21 of Title 55.1 of the Code of Virginia); and by discharging its duties under §§ 54.1-2350 and 54.1-2351 of the Code of Virginia.

Sections 54.1-2349 and 54.1-2351 of the Code of Virginia give authority to the Common Interest Community Board to promulgate regulations regarding the registration of common interest community associations. Section 54.1-2349 states, in part:

- A. The Board shall administer and enforce the provisions of this chapter. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:
 - 1. Promulgate regulations necessary to carry out the requirements of this chapter in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.)...
 - 8. Issue a certificate of registration to each association that has properly filed in accordance with this chapter;
- B. 1. The Board shall have the sole responsibility for the administration of this chapter and for the promulgation of regulations to carry out the requirements thereof.

Section 54.1-2351 states, in part:

- A. The Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in furtherance of the objectives of this chapter, but the Board may not intervene in the internal activities of an association except to the extent necessary to prevent or cure violations of this chapter or of the chapter pursuant to which the association is created. The Board may prescribe forms and procedures for submitting information to the Board.

Alternatives

Please describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

No viable alternatives for achieving the purpose of the existing regulation could be determined. The regulation enables the Board to fulfill the statutory requirements established in Chapter 23.3 of Title 54.1, and Chapters 18, 19, and 21 of Title 55.1 of the Code of Virginia. Further, the regulation is necessary to

ensure that the Board’s statutory requirements are executed in the least burdensome and most efficient and cost effective manner possible while protecting the welfare of the citizens of Virginia.

Public Comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
N/A	N/A	N/A

No comments were received during the public comment period following publication of the Notice of Periodic Review. An informal advisory group was not formed for purposes of assisting in the periodic review.

Effectiveness

Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation meets the criteria set forth in Executive Order 14 (2018). The regulation contains the requirements for common interest community associations to obtain and maintain a registration with the Board by filing annual reports required under applicable statute. The regulation is necessary to interpret and apply the requirements imposed upon the Board by applicable statutes, and to protect the public welfare, in part by providing funds for the Board and the Office of the Common Interest Community Ombudsman. The regulation is clearly written and understandable. The regulation is designed to achieve its objective in the most efficient and cost effective manner.

Decision

Please explain the basis for the rulemaking entity’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The agency is recommending that the regulation stay in effect without change.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, 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. Also, discuss why the agency’s decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.

Sections 54.1-2349 and 54.1-2351 of the Code of Virginia mandate the Common Interest Community Board promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The requirements for common interest associations to file annual reports with the Board and make payments into the Fund are established by statute.

CIC associations do not appear to be small businesses as contemplated under § 2.2-4007.1 of the Code of Virginia.

Since no complaints or comments were received during the public comment period, there does not appear to be a reason to amend or repeal the regulation. The regulation is clearly written, easily understandable, and does not overlap, duplicate or conflict with federal or state law or regulation.

The most recent periodic review of the regulation occurred in 2015. On December 5, 2019, the Board discussed the regulation and, for the reasons stated in this section, determined that the regulation should not be amended or repealed, but should be retained in its current form.