



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 50-22 – Residential Building Energy Analysts – Firms
Department of Professional and Occupational Regulations
December 20, 2013

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 865 of the 2011 Acts of the Assembly, the Board of Contractors (Board) proposes to promulgate regulations to newly license residential building energy analyst (RBEA) firms. These proposed regulations will replace emergency regulations that became effective July 1, 2013.

Result of Analysis

There is insufficient information to ascertain whether benefits will outweigh costs for these proposed regulations.

Estimated Economic Impact

Chapter 865 of the 2011 Acts of Assembly created a new licensing requirement for RBEAs and firms under newly created sections of the Virginia Code: § 54.1-1144, § 54.1-1145, and § 54.1-1146. In addition, this Chapter mandated that the board adopt regulations to approve accredited RBEA training programs, the licensing requirements for this profession, and the establishment of performance standards for this work that are consistent with the United States Environmental Protection Agency (EPA). This proposed regulatory package would address the licensing of RBEA firms by:

- 1) Adding a definition of “residential building analyst firm”,
- 2) Requiring firms to have at least one “qualified individual” who is over the age of 18, is licensed as an RBEA analyst and is a full time employee of the firm,
- 3) Requiring firms to get and maintain \$500,000 in general liability insurance,

- 4) Establishing an RBEA firm initial license fee of \$210, a biennial renewal fee of \$195, and a reinstatement fee of \$405 (for firms that fail to renew within 30 days of their renewal date),
- 5) Stating that applicants for renewal or reinstatement must meet all licensure requirements and are required to submit proof of insurance,
- 6) Clarifying that RBEA firms who apply for reinstatement are regarded as having been continuously licensed without interruption and may be held accountable for their activities during the entire time period,
- 7) Adding RBEA firms to the relevant sections of the disciplinary provisions of the regulatory text that pertain to prohibited acts and
- 8) Adding two grounds for discipline that are specific to RBEA firms: firms that endorse residential building energy analyses are inconsistent with Board, EPA, or Energy Star Program requirements or fail to maintain the required general liability insurance will be subject to Board discipline.

Firms that are licensed through these regulations will incur explicit costs for required fees and for maintain required insurance; Board staff reports that insurance premiums will vary pretty widely but estimates that the annual cost of a \$500,000 general liability insurance policy for firms should be between \$600 and \$1,500. Firms may also incur implicit and explicit costs for training and testing employees so that they can be licensed as RBEA analysts. For firms these costs would include the value of the time (Board staff approximates 40 hours) that an already licensed firm employee who has been certified as an RBEA trainer must spend training unlicensed employees as well as the \$950 fee for taking a certification exam through one of the two certification programs approved by the Board (the Residential Energy Services Network or the Building Professional Institute). Firms may choose to pay for such training because the cost of outside training for employees, approximately \$2,995, might be prohibitive for many individuals. Firms will likely also incur non-fee costs for compiling and maintaining necessary documents to prove licensure eligibility and for submitting these documents to the Board. These costs must be weighed against any benefit that might accrue to the public if licensure curbs or eliminates shoddy or unethical residential building energy analyses. As these benefits are currently unknown, there is insufficient information to ascertain whether benefits will outweigh costs for this licensure program.

Businesses and Entities Affected

Board staff reports that, as of November 30, 2013, the Board has licensed 28 RBEA firms. All of these firms, as well as any other entities that might want to engage in residential building energy analysis, will be affected by these proposed regulations.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

This proposed regulatory action is likely to reduce the number firms that perform or facilitate residential building energy analysis because having to get and maintain licensure will likely raise costs for such firms.

Effects on the Use and Value of Private Property

To the extent that the right to engage in the business of one's choice unencumbered can be viewed as a private property right, the value of affected firms' private property may be reduced by these proposed regulations. Any reduction in value may be offset partially or completely because licensure programs serve as a barrier to entry that may limit competition and increase market share, and therefore revenues, for surviving firms. Some firms may actually enjoy increased profits if increased revenues outstrip additional costs incurred on account of required licensure.

Small Businesses: Costs and Other Effects

Most if not all RBEA firms qualify as small businesses. These firms will incur implicit and explicit costs for getting and maintaining licensure.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are likely no alternatives to these regulations that would both fulfill the legislative requirements in Chapter 865 and be less costly for small businesses.

Real Estate Development Costs

At this time, this regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, a determination of the public benefit, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has an adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.