



Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	62
Virginia Administrative Code (VAC) citation	18 VAC 62 -20
Regulation title	Fair Housing Board Certification Regulations
Action title	Promulgate new regulations
Document preparation date	April 23, 2004

This form is used when an agency wishes to promulgate an emergency regulation (to be effective for up to one year), as well as publish a Notice of Intended Regulatory Action (NOIRA) to begin the process of promulgating a permanent replacement regulation.

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Preamble

The APA (Code of Virginia § 2.2-4011) states that an “emergency situation” is: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date.

- 1) Please explain why this is an “emergency situation” as described above.
- 2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.

1. This is an emergency situation pursuant to § 2.2-4011(ii) of the Code of Virginia. Chapter 575 of the Acts of the 2003 General Assembly, which was the result of SB 1102, requires regulations to be effective within 280 days of enactment.

2. The new regulation establishes an education-based certification program for persons subject to the Fair Housing Law who are involved in the business or activity of selling or renting dwellings.

Legal basis

Other than the emergency authority described above, 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 54.1-2344.D states “The Board shall have the power and duty to establish, by regulation, an education-based certification or registration program for persons subject to the Fair Housing Law who are involved in the business or activity of selling or renting dwellings. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this chapter.” These regulations are mandatory to implement Chapter 575 of the Acts of the 2003 General Assembly.

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 new regulation establishes the qualifications for obtaining and renewing fair housing certification as well as the qualifications for proprietary schools, instructors and courses which are required to obtain the certification. The new regulation is necessary to implement Chapter 575 of the Acts of the 2003 General Assembly, which was a result of Senate Bill 1102. The goal of the new regulation is to establish an education-based certification program in accordance with the provisions of Senate Bill 1102.

Substance

Please detail any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Set forth the specific reasons why the regulation is essential to protect the health, safety, or welfare of Virginians. Delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

These regulations are necessary to implement Chapter 575 of the Acts of the 2003 General Assembly, which was a result of Senate Bill 1102, and to create the certification program therein

mandated to protect the health, welfare and safety of the public when dealing with persons certified by the Fair Housing Board.

The regulations provide:

- 1) Definitions of terms to be used in the regulations;
- 2) Entry standards for those seeking certification by the Fair Housing Board;
- 3) Renewal standards for certificate holders;
- 4) Standards of conduct; and
- 5) Requirements for courses, instructors and providers.

Other regulations which may be necessary will be considered.

The application and renewal fees set in the initial emergency regulations were too high which resulted in no applications being submitted. SB 1102 contains an enactment clause which states the Real Estate Board shall provide funding for the Fair Housing Board until such time as the Fair Housing Board is funded through the implementation of the certification and registration requirements authorized by the provisions of this act. By setting the fee at \$25.00, the Fair Housing Board will be able to generate funds to help support itself.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

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.

This is the initial regulation promulgation activity. Chapter 575 of the Acts of the 2003 General Assembly and the current Code of Virginia mandate the creation of these regulations.

No alternative have been identified to evaluate.

The Department of Professional and Occupational Regulation and the Fair Housing Board will carefully weigh all information coming into its possession as these regulations are being created with the objective of developing regulations which intrude as little as possible into the conduct of commerce by the regulated community and have the least adverse impact on the public.

Family impact

Please assess the impact of the emergency regulatory action on the institution of the family and family stability.

No impact on families in Virginia has been identified as resulting from the proposed regulations.